# EXECUTIVE SUMMARY
# UNITED STATES DEPARTMENT OF JUSTICE
## Federal Bureau of Investigation

Date: 05/30/2013

Report of: IIC Christopher Davis Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271788-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
NEW YORK FIELD OFFICE
07/18/2012

Investigative Period: 07/18/2012 – Present

**Synopsis**

On July 18, 2012, at approximately 5:15 a.m., an Agent-involved shooting occurred in Queens [redacted], New York. The Agent involved, SA [redacted] assigned to the New York Field Office (NYO) Special Operations and Cyber Branch, Surveillance Operations [redacted], was off-duty at his residence, [redacted] New York. b6 -1 b7C -1

At approximately 5:00 a.m., SA [redacted]'s [redacted] heard a car alarm. Upon looking out of a second story window of their residence, she observed two unidentified males attempting to burglarize her vehicle. The vehicle was parked directly in front of their residence. [redacted] began to bang on the window in an attempt to stop the subjects. SA [redacted] asleep in an adjacent room, was awakened by the commotion and was advised by [redacted] their vehicle was being burglarized. SA [redacted] looked out of the window, began yelling verbal commands at the subjects and identified himself as a law enforcement officer. One subject turned toward SA [redacted] The subject reached to his waistband area and made suspicious movements directed toward SA [redacted] SA [redacted] armed with his Bureau issued firearm, fired one shot at the subject through the window screen of his second story bedroom window. b6 -1,2 b7C -1,2

Video footage from [redacted]s security camera revealed two subjects approaching the vicinity of SA [redacted]'s personally owned vehicle. Approximately two minutes later, the footage shows two subjects attempting to flee from the vicinity of SA [redacted]'s vehicle. One subject fell to the ground alongside a light colored truck parked between SA [redacted]'s Bureau vehicle and personally owned vehicle. The second subject ran back to the first subject and dragged him down the street out of the surveillance camera's view. Subsequent investigation by the NYPD revealed both subjects entered a vehicle at the corner of [redacted] and the vehicle departed the scene. b6 -1,2 b7C -1,2

[redacted] called 911. NYPD officers responded to the residence. SA [redacted] advised them he fired his weapon one time. He surrendered his Bureau-issued firearm, as well as the shell casing from the fired round to the NYPD. SA [redacted] was uninjured, but was taken to a local hospital for evaluation as a precautionary measure. b6 -1,2 b7C -1,2

Shortly after the incident, an individual identified as [redacted] arrived at [redacted] Hospital, Brooklyn, NY for treatment of a gunshot wound to his back. NYPD investigators responded to the hospital and identified [redacted] as the individuals who transported [redacted] to the hospital. b6 -2,7 b7C -2,7

[redacted] departed the area of the hospital with the vehicle and was not seen until 07/22/2012 when he surrendered to the NYPD's 106th Precinct to address charges related to the incident.

**Details**

The SIRT dispatched to the NYO during the evening hours of 07/18/2012. Contact was made with NYPD upon arrival at SA [redacted]'s residence. NYPD officials provided the SIRT with the following information: b6 -1 b7C -1

At approximately 5:15 am, an Agent-involved shooting occurred in [redacted] (Queens), New York. SA [redacted] assigned to the NYO Special Operations and Cyber Branch, Surveillance Operations [redacted] was off-duty at his residence, [redacted] New York, when the shooting occurred. At approximately 5:00 a.m., [redacted] while attending to [redacted] heard a car alarm activate. Upon looking out of her second story window, she observed two unidentified males attempting to burglarize the family's vehicle, a [redacted] The vehicle was parked directly in front of their residence. [redacted] began to bang on the window in an attempt to stop the burglary. SA [redacted] asleep in an adjacent room, was awakened by the commotion, and was advised by [redacted] their vehicle was being burglarized. SA [redacted] went to the bedroom window, raised the blinds and observed a black male wearing a white t-shirt at the rear of their vehicle "pulling" on the trunk. SA [redacted] observed a "shiny" object in the right hand of the subject, which he described as either a ratchet or a knife. SA [redacted] opened the window and yelled "Police, what the fuck are you doing?" SA [redacted] stated he yelled the command twice. The subject did not respond and continued to pull on the trunk. SA [redacted] advised the subject took his left hand and placed it in the area of his waistband, while still pulling on the trunk with his right hand. Based on his experience and training, SA [redacted] believed the waistband area to be a location where weapons were kept. Upon seeing this, SA [redacted] went to a drawer beneath his bed and removed his Bureau issued service weapon from its holster, a Glock 23 (SN# [redacted]). SA [redacted] returned to the window with his firearm and found the subject still pulling on the trunk. SA [redacted] again shouted at the subject to move away from his vehicle. Immediately following the command, the subject looked up at SA [redacted] reached to his waistband area and made suspicious movements directed towards him. In response to the subject's actions, SA [redacted] fired one shot from his weapon. Following the shot, the subject fled westbound on [redacted] b6 -1,2 b7C -1,2

SA [redacted] went outside and found his vehicle had been burglarized and recalled seeing the passenger side window lying on the grass. Additionally, he looked westbound and b6 -1 b7C -1

observed a male lying near the crosswalk of [redacted] The subject looked towards him and stated, "You're killing me man." SA [redacted] was unsure how many other subjects were in the area and did not go further. Video footage from a [redacted] revealed a subject, later identified as [redacted], returning to the subject on the ground. [redacted] pulled [redacted] across the crosswalk and both men entered a waiting vehicle. SA [redacted] reported seeing a dark colored vehicle, possibly a [redacted] make a u-turn near the intersection of [redacted] A male exited the passenger side and pulled [redacted] from the ground into the backseat. All subjects entered the vehicle and drove away westbound on [redacted]

b6 -1,2,7
b7C -1,2,7

Upon re-entering his residence, SA [redacted] found [redacted] to be on the telephone with a 911 dispatcher. NYPD officers arrived on-scene within minutes and SA [redacted] identified himself as an FBI Agent. SA [redacted] advised a NYPD Sergeant he shot someone who was dragged into a [redacted] SA [redacted] described the individual he shot as a black male, with a shaved head, wearing a white T-shirt and dark shorts. After being questioned about the status of his weapon, SA [redacted] relinquished it, along with the spent shell casing, to the Sergeant.

b6 -1,2,7
b7C -1,2,7

Shortly after the incident, [redacted] arrived at [redacted] Hospital, Brooklyn, NY for treatment of a gunshot wound in his back. NYPD investigators responded to the hospital and identified [redacted] as the individuals who transported [redacted] to the hospital. [redacted] departed the area of the hospital with the vehicle and was not seen until 07/22/2012 when he surrendered to the NYPD's 106th Precinct, to address charges related to the incident.

b6 -2,7
b7C -2,7

The SIRT interviewed SA [redacted] Surveillance Team Leader for SA [redacted] SA [redacted] advised he received a call from SA [redacted] who told SA [redacted] he had been involved in a shooting. SA [redacted] unable to reach SA [redacted]'s immediate supervisor, contacted SA [redacted] a squad member of SA [redacted] and instructed him to respond to SA [redacted]'s residence.

b6 -1
b7C -1

The SIRT interviewed SA [redacted] who advised he arrived at SA [redacted]'s residence and observed him to be visibly shaken. He asked SA [redacted] where the shooting incident occurred, in an attempt to determine if the residence was a crime scene. He was unable to remember SA [redacted]'s response, but recalled he mentioned someone breaking into his car, and feeling he had to shoot. He requested SA [redacted] not provide any further details. He advised on scene NYPD officers he wanted SA [redacted] to go to the hospital and requested they contact an ambulance. He accompanied SA [redacted] in the ambulance to [redacted] Hospital, [redacted] Queens, New York.

b6 -1
b7C -1

The above-noted information regarding the interviews of SAs [redacted] was documented via FD-302.

b6 -1,2,7
b7C -1,2,7

As part of the SIRT investigation, a digital copy of a 911 call made by [redacted] on 07/18/2012 was received from the NYPD. As the 911 recording began, [redacted] was heard to yell "shoot the car." She identified herself as [redacted] to the 911 operator, provided her address, and told the operator two black males attempted to burglarize her vehicle. She told the 911 operator a [redacted] was headed down [redacted] and "they" picked

someone up. She stated there were two or three black males and one of them was possibly injured. She noted [redacted] would be able to tell the police if one of the men was injured. She told the 911 operator [redacted] was outside looking at her car and "they" stole her radio. She then identified [redacted] as an FBI Agent. The 911 operator asked her if any weapons were involved. [redacted] stated [redacted] drew his weapon and fired one shot. She told the 911 operator she did not know if "they" drew a weapon and the incident occurred less than five minutes before the 911 call.

b6 -1,2
b7C -1,2

NYO, squad [redacted] began pursuing an AFO investigation ([redacted]) Agents responded to SA [redacted]'s residence, [redacted] Hospital, and [redacted] Hospital on the morning of the shooting. SAs [redacted] responded to [redacted] Hospital and learned [redacted] was treated for a gunshot wound to the back. The bullet was not removed during surgery due to its proximity to [redacted]'s spine. [redacted] was cleared for interview upon release from surgery at approximately 8:15 a.m. on 07/18/2012. During the interview with SAs [redacted] stated he went to Queens with his girlfriend and two friends. He told the Agents he was walking in a crosswalk and "got shot." He then terminated the interview due to discomfort from the surgery.

b6 -1,7
b7C -1,7
b7E -7
b7A -1

On 07/19/2012, in exchange for immunity from prosecution, SA [redacted] made statements to representatives of the Queens County District Attorney's Office (QCDAO) and the NYPD. SA [redacted]'s statement was consistent with his statement to NYPD on the morning of the shooting. [redacted], Attorney for SA [redacted] advised neither SA [redacted] would be available for an interview with the SIRT. As a part of the ongoing 89B investigation, NYO obtained a copy of the NYPD and QCDAO interview of SA [redacted] These interviews were made part of the SIRT's investigation.

b6 -1,2
b7C -1,2

As a part of the ongoing 89B investigation, NYO SA [redacted] met with the QCDAO and the attorney for [redacted] on 07/22/2012. In exchange for immunity from prosecution for [redacted] provided the following information to the QCDAO, which conflicted with the information provided by [redacted] to the FBI on 07/18/2012: [redacted] travelled to [redacted], Queens, in the early morning of 07/18/2012 to steal a car stereo and navigation system from a [redacted] similar to the one driven by [redacted] All four men met near the back of SA [redacted] took up look-out positions at the opposite ends of [redacted] used tools, to include a screwdriver, to burglarize the car. [redacted] heard someone shouting at him and [redacted] and then heard a gunshot. All four men began to flee the scene. [redacted] realized [redacted] was injured and assisted him as they entered [redacted] After dropping off [redacted] at [redacted] Hospital, [redacted] drove away in [redacted]'s vehicle.

b6 -1,2,7
b7C -1,2,7

To date, the SIRT is not aware of any evidence indicating the subjects were armed.

Pursuant to a SIRT team request, on 07/19/2012, NYO ERT completed photographs and video of the outside of SA [redacted]'s residence and began Total Station processing.

b6 -1,2,3
b7C -1,2,3

On 09/17/2013, in exchange for immunity from prosecution for violation of Title 18, United States Code, Section 1001, [redacted] made statements to the SIRT, the USAO for the Eastern District of New York, and [redacted] Special Legal Counsel, Civil

Rights Division, DOJ. [redacted] were interviewed separately in the presence of their attorney, [redacted] stated he, [redacted] and two friends were searching for a [redacted] similar to the vehicle owned by [redacted] Once they located the [redacted] owned by [redacted] they devised a plan to break into the vehicle to steal the stereo so it could be placed in the [redacted]'s vehicle. [redacted] and one of the friends acted as lookouts while [redacted] broke the passenger side window of the [redacted] and entered the vehicle. [redacted] attempted to disarm the vehicle's alarm with a small ratchet. [redacted] used a screwdriver to access and remove the radio. During this time, [redacted] moved to the rear wheel of the driver's side of the vehicle. [redacted] heard a male banging on a window and yelling, "What the fuck are you doing?" [redacted] handed the radio to one of the friends who ran away with the stereo. [redacted] hit the horn with his feet while exiting the vehicle, causing the alarm to go off and the lights to flash on the vehicle. He began to run down the street when he heard a gunshot and then [redacted] said "I got shot." Prior to hearing the gunshot, the last time he saw [redacted] was at the rear of the driver's side of the [redacted] He ran to [redacted] who was lying in the street. [redacted] observed a male approach pointing a handgun at them. [redacted] told the male, "You shot me, you really shot me." The male did not say anything to [redacted] then pulled [redacted] to a sidewalk where one of his friends picked them up in a [redacted] and they took [redacted] to a nearby hospital.

b6 -2,7
b7C -2,7

In a separate interview, [redacted] stated he, [redacted] (identified as [redacted] by the NYPD) were driving around neighborhoods in two vehicles on the morning of 07/18/2012, looking for a [redacted] so they could steal the radio and install it in [redacted]'s vehicle. Once they found a [redacted] which met their criteria, they parked the vehicles and approached the vehicle on foot. [redacted] attempted to disarm the alarm with a screwdriver while [redacted] broke the passenger side window and entered the vehicle. [redacted] moved to the rear of the driver's side of the vehicle to act as a lookout. At some point, [redacted] activated the vehicle alarm, causing the lights to flash and the horn to go off. [redacted] noticed blinds move in an upstairs window of a house located near the vehicle and heard banging on the window. [redacted] ducked down behind the vehicle. [redacted] heard [redacted] yell, "Let's go," and [redacted] began to run up the street. He heard one shot and fell to the ground. He thought he was shot but did not feel it immediately. [redacted] told [redacted] he was shot and looked back in the direction of where it occurred. He saw a male with a gun pointed in his direction and told the male, "You fucking shot me." [redacted] could not recall if the male responded. [redacted] helped [redacted] into a [redacted] and they drove to the hospital.

b6 -2,7
b7C -2,7

The Subjects were:

| Name | [redacted] | |
|---|---|---|
| Position | Rear of car | Unknown |
| Sex | Male | Male |
| Race | Black | Black |
| Height | 5'10" | 5'10" |
| Weight | 161 lbs | 155 lbs |
| Hair | Black | Black |
| Eyes | Brown | Brown |
| DOB | [redacted] | |
| SSAN | | |
| FBI # | | |

b6 -7
b7C -7

**Substantive Case Files**

The following substantive case was opened regarding this incident:

**Title:** [redacted] b6 -1,7
UNSUB(S); b7C -1,7
[redacted] - VICTIM; b7A -1
07/18/2012
[redacted]

**Enclosures**

All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Christopher W. Davis
Inspector Thomas P. Ravenelle b6 -1
Assistant Inspector (AI)/Team Leader (TL) [redacted] b7C -1
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]

B. **Shooting Incident Review Protocol**

On 07/18/2012, IIC Davis communicated with NYO Special Agent in Charge (SAC) April D. Brooks to arrange logistics for the SIRT. SAC Brooks served as the point of contact for the SIRT. The SIRT arrived during the evening hours of 07/18/2012. On 07/19/2012, IIC Davis and Inspector Ravenelle met with the NYO Assistant Director in Charge (ADIC) Janice K. Fedarcyk to discuss SIRT protocols. IIC Davis was informed the NYPD was conducting a parallel investigation and would provide their reports to the SIRT. ADIC Fedarcyk was advised all statements taken by the SIRT would be provided to the NYPD for inclusion in their investigative file.

On 07/19/2012, IIC Davis met with all SIRT personnel, members of the NYO executive management as well as the squad conducting the Assault on a Federal Officer (AFO) investigation. IIC Davis introduced members of the SIRT and outlined the SIRT protocols. There was an opportunity for dialogue regarding concerns, clarification, or questions prior to the investigation commencing. On 07/19/2012, SIRT team members visited the scene of the shooting along with members of the investigative squad [redacted] and a representative of the NYO Evidence Response Team (ERT). b7E -7

SA [redacted] through the advice of his attorney [redacted] appeared for an interview with the NYPD and the QCDAO. The SIRT was provided a copy of a summary of the b6 -1,2 b7C -1,2

interview. SA [redacted] refused to provide a Signed Sworn Statement to the SIRT. Additional interviews, events and observations were documented in FD-302s. FBI personnel were interviewed and allowed to read the FD-302 documenting their interview and confirm the accuracy of the information provided. b6 -1 b7C -1

Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor the FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The interviews of witnesses were conducted voluntarily. FD-927's (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) were executed for each Agent interview.

On 07/22/2012, an exit brief was provided by IIC Davis to ADIC Fedarcyk and SAC Brooks.

## C. Personnel Involved in the Shooting

SA [redacted] (fired weapon) b6 -1 b7C -1

## D. Firearms Training

The NYO provided qualifications records for SA [redacted]. INSD analysis revealed he was in compliance with all firearms requirements.

## E. Deadly Force Training

CDC [redacted] advised FBI Deadly Force Policy Training was conducted on 12/12/2011. This training was memorialized via Electronic Communication (EC) dated 11/09/2011, 66F-NY-9318, ("Schedule for Uniform Course of Legal Instruction for Third and Fourth Quarter 2011"). This EC included the topic of "DOJ Policy re Use of Force." CDC [redacted] provided the NYO Legal Instruction sign-in sheet, dated 12/21/2011, which included the signature of SA [redacted] b6 -1 b7C -1

## F. Use of Body Armor and Law Enforcement Identifiers

SIRT investigation did not obtain information regarding SA [redacted]'s use of body armor during the incident. SA [redacted] did not provide a statement to the SIRT. b6 -1 b7C -1

## G. FBI Indices and National Crime Information Center (NCIC)

National Crime Information Center (NCIC), New York State (NYS) Division of Criminal Justice Services, Data Integration and Visualization System (DIVS), and [redacted] checks for [redacted] revealed numerous entries which are detailed below. Additionally, FBI indices checks were completed for all subjects and returned with negative results. Copies of the arrest reports were placed in the 1A section of the file. b6 -7 b7C -7 b7E -8

Name: [redacted] (wounded subject) b6 -7
Date of Birth: [redacted] b7C -7

Sex: Male
Race: Black
Arrest Date: [redacted] b6 -7 b7C -7
Arrest Charges: Robbery-1st degree: Cause Serious Injury;
Criminal Possession of a Weapon-2nd degree: Loaded Firearm-Other Than Person's Home/Business; Attempted Assault 2nd Degree: Intent to Cause Physical Injury with Weapon/Instrument;
Criminal Possession Stolen Property-4th degree: Property Value Exceeds $1000; Robbery-1st degree: Forcible Theft Armed with a Deadly Weapon; Criminal Possession of a Weapon-2nd degree: Loaded Firearm-Other Than Person's Home/business; Criminal Possession Stolen Property-5th Degree

Name: [redacted] wounded subject)
Date of Birth: [redacted]
Sex: Male
Race: Black
Arrest Date: [redacted] Arrest Charges: Robbery-1st: Cause Serious Injury; Criminal Possession of a Weapon-2nd: Loaded Firearm-Other Than a Person's Home/Business; Assault 2nd Degree: Intent To Cause Physical Injury with Weapon/Instrument; Criminal Possession Stolen Property-4th degree: Property Value Exceeds $1000; Robbery-1st degree: Forcible Theft Armed With A Deadly Weapon Criminal Possession; Criminal Possession of Stolen Property-5th Degree b6 -7 b7C -7

Name: [redacted]
Date of Birth: [redacted]
Sex: Male
Race: Black
Arrest Date: [redacted]
Arrest Charges: Possession Of Burglary Tools; Reckless Driving
Moved From Lane Unsafely; Traffic Device Violation - Passed Red Light

Name: [redacted] b6 -7 b7C -7
Arrest Date: [redacted]
Arrest Number: K11626268
Arrest Charges: Reckless Endangerment-1st Degree, Unlawful Fleeing Police Officer In Motor Vehicle-2nd: Cause Serious Injury Aggravated Unlicensed Operation Motor Vehicle-2nd Degree Reckless Driving Failure To Obey Traffic Control Device

Copies of the aforementioned printouts were placed in the 1A section of the file.

## H. Evidence Recovery and Laboratory Division Reports

Prior to the arrival of the SIRT, NYPD Detective [redacted] Tax ID# [redacted] accepted custody of SA [redacted]'s Bureau-issued weapon from NYPD Sergeant [redacted] who initially took custody of the weapon, and entered it into NYPD: b6 -1,4 b7C -1,4

Detective [redacted] also accepted custody of one (1) Glock model 23 magazine and 13 Winchester .40 caliber cartridges from Sergeant [redacted] All the items were taken to the NYPD Police Lab for analysis under voucher #6000002175 (a copy of which will be maintained in the 1A section of the file). Two (2) cartridges were test fired at the NYPD Lab by NYPD Det. [redacted] Tax ID# [redacted], and were retained as evidence at the NYPD Firearms Analysis Section (FAS), under laboratory #2012-084272. No mention was made of the spent shell casing collected by the Sergeant [redacted] from SA [redacted] within the NYPD Property and Evidence Tracking System (PETS), voucher #600002175. A copy of this report was included in the 1A section of the file.

b6 -1,4
b7C -1,4

On 07/18/2012, SA [redacted]'s Bureau-issued weapon and 11 cartridges were released to NYPD TFO Detective [redacted] Squad [redacted] NYO pursuant to an official written request from the NYO. TFO [redacted] released the items into the custody of SSA [redacted] Squad [redacted] on 07/18/2012. SSA [redacted] relinquished custody of the weapon on 07/20/2012 to firearms instructor SA [redacted] NYO Firearms Training Unit (NYO FTU), who accepted the weapon for storage.

b6 -1,4
b7C -1,4

The NYPD Crime Scene Unit (CSU) processed the scene following the shooting incident. On 07/20/2012, Bureau Chief [redacted] Career Criminal Major Crimes Bureau, QCDAO, met with IIC Davis. [redacted] provided IIC Davis with crime scene photographs of SA [redacted]'s residence. NYPD conducted a forensic examination of the second story window screen from the residence. Based on an analysis of the threads from the window screen, NYPD was of the opinion the shot fired by SA [redacted] was directed towards the rear portion of the [redacted] owned by [redacted] Based upon the forensic examination of the window screen and the supporting photographs, NYPD concluded the shot was angled towards the rear of the vehicle.

b6 -1,2,4
b7C -1,2,4

Also, on 07/20/2012, the following members of the NYO ERT responded to SA [redacted]'s residence at the request of the SIRT: Special Agent (SA) [redacted] NYO ERT Senior Team Leader, SA [redacted] SA [redacted] SA [redacted] and SA [redacted] Also present was NYO Photographer [redacted]

b6 -1
b7C -1

NYO ERT and Photographer documented the exterior of the residence and the surrounding area, through individual and spherical photography. They also collected digital sketching data via Total Station. The original photographs were forwarded to the case file and digital Total Station data was submitted to FBI Operational Projects Unit (OPU) for processing. [redacted] refused the SIRT request for entry into SA [redacted]'s residence. This precluded the SIRT from obtaining the necessary data to complete Total Station Processing.

b6 -1,2
b7C -1,2

I. **Medical Report**

**FBI Agents Involved in the Shooting:**
No injuries.

**Subjects:**
Shortly after the incident, an individual identified as [redacted] arrived at [redacted] Hospital, Brooklyn, NY for treatment of a gunshot wound in his back. NYPD investigators

b6 -7
b7C -7

responded to the hospital and identified [redacted] as the individuals who transported [redacted] to the hospital. b6 -7 b7C -7

J. **Declination by the Civil Rights Division**

Upon completion of the on-site inquiry, IIC Davis coordinated SIRT investigative findings with [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division. By letter dated 10/04/2013, Mr. [redacted] stated the evidence did not "support a prosecutable violation of federal law" and noted the USAO for the Eastern District of New York concurred with the recommendation to close the matter. b6 -3 b7C -3

K. **Local Prosecution Opinion**

In exchange for their statements, SA [redacted] brothers were granted immunity by the QCDAO. As a result, QCDAO was unable to present this information before a Grand Jury, absent a signed and executed waiver by the affected parties. The attorneys representing SA [redacted] and the [redacted] reached an agreement in which neither party would testify against the other. Due to this, on 03/05/2013, QCDAO dismissed all charges against SA [redacted] and the [redacted] b6 -1,7 b7C -1,7

L. **Inspector's Observations**

The SIRT identified the following issues:

**OBSERVATION:** SA [redacted] surrendered his weapon without consulting NYO CDC or EM, and did not adhere to NYO's Crisis Response Plan. b6 -1 b7C -1

**ANALYSIS:** MIOG, Part 12, Section 11.2, Guidelines for Intervention at the Shooting Scene, states the following:

*(4) If the Agent's weapon is secured for evidence or ballistics tests, another will be issued immediately unless there is cause not to issue a weapon. The Principal Legal Advisor, Office of General Counsel, FBIHQ, or the United States Attorney's Office should be consulted if questions arise regarding whether an Agent's weapon should be surrendered to local authorities.*

The Crisis Response Plan for the NYO, updated 03/29/2012, documents the procedure to be followed in the NYO in the event of an Agent involved shooting. The relevant section of Annex D is cited as follows:

*Crisis Response Plan New York Division*

*Annex D: Shooting Incident Response and Notification*
*The policy below addresses and assigns responsibility for notification and immediate follow-up response to shooting incidents. Given the unique circumstances associated with each incident, this policy is intended to serve as a guide to ensure that the NYO response to each incident is appropriate, timely and effective.*
*Any NYO employee, on or off duty, within or outside the NYO territory, who discharges a firearm or who is fired upon, whether or not injuries occur, will immediately notify the NYO*

*Operations Center (NYOC).*

***For the agent involved in the incident:***
*1. Ensure your safety and that of fellow personnel.*
*2. Contact 911, if necessary.*
*3. Contact the senior NYOC Duty Agent* [redacted] b7E -5,9
*4.* [redacted]
*5. Remain at the scene unless a pursuit occurs.*
*6. Secure the scene and protect evidence related to the shooting and the crime*
*7. Secure all weapons involved in the shooting; both yours and the subject's.*
*8. Make no statements to the authorities outside the FBI other than advising of current needs.*
***For the On-Scene Commander (OSC):***
*1. Ensure that the scene is secure tactically, physically, and for the conduct of the investigation that will follow regarding the shooting itself and the criminal matter preceding it.*
*2. Ensure that FBI personnel are properly cared for physically, mentally, and emotionally. The OSC will determine if Critical Incident Response Team (CIRT) members should respond on scene.*
*3. Request medical assistance and FBI personnel as needed.*
*4. Coordinate jurisdictional matters and investigative responsibilities with local authorities.*
*5. DO NOT SURRENDER ANY WEAPONS TO AUTHORITIES OUTSIDE THE FBI. If there is any question concerning this, contact the CDC.* (NYO emphasis added)

SIRT interviews and analysis of NYPD reports indicated relinquished possession of his Bureau-issued weapon to an outside agency without consulting the appropriate personnel.

Additionally, SIRT interviews revealed SA [redacted] contacted SA personnel, but did not contact the NYOC Duty Agent, [redacted], and did not secure the scene. b6 -1 b7C -1 b7E -9

**INSTRUCTION 1a:**

ADIC, NYO will ensure all Special Agent personnel are aware of MIOG, Part 12, Section 11.2, Guidelines for Intervention at the Shooting Scene, as well as the Crisis Response Plan, New York Division, Annex D: Shooting Incident Response and Notification.

**RECOMMENDATION 1b:**

ADIC, NYO should consider changing the Crisis Response Plan, Annex D, #8, to more accurately reflect acceptable statements between the Agent(s) involved in the shooting incident and responding law enforcement personnel.

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident New York Division **Date:** 02/18/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271697-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the meeting held on 11/20/2013.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 10/25/2013 by former Inspector In Charge (IIC) Christopher W. Davis. This communication does not provide a complete account of the original INSD Shooting Incident Report. A copy of the INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Report dated 05/30/2013

**Details:**

This communication serves to memorialize the SIRT Investigation of the captioned shooting incident involving New York Field Office (NYO) SA [redacted] and the results of the 11/20/2013 SIRG meeting. b6 -1 b7C -1

On 07/19/2012, the SIRT traveled to SA [redacted]'s residence, [redacted] Queens, New York, to review the scene of the

shooting. NYPD's Evidence Response Team processed the scene on 07/18/2012. The SIRT was not allowed entry into SA [redacted]'s residence. Federal Law Enforcement Officers Association (FLEOA) attorney, [redacted] who represented SA [redacted] advised the SIRT he would not allow SA [redacted] to provide a voluntary statement. b6 -1,2 b7C -1,2

The New York Police Department (NYPD) provided the SIRT a compilation of reports, the [redacted] 911 call, and video surveillance. The SIRT did not interview SA [redacted] The following three paragraphs summarize the shooting incident: b6 -1,2 b7C -1,2

At approximately 5:15 am, on 07/18/2012, an Agent-involved shooting occurred in [redacted] (Queens), New York. SA [redacted] assigned to the NYO Special Operations and Cyber Branch, Surveillance Operations [redacted] was off-duty at his residence, [redacted] New York, when the shooting occurred. At approximately 5:00 a.m., SA [redacted] while attending to [redacted] heard a car alarm activate. Upon looking out of her second story window, she observed two unidentified males attempting to burglarize the family's vehicle, [redacted] began to bang on the window in an attempt to stop the burglary. b6 -1,2 b7C -1,2

SA [redacted] asleep in an adjacent room, was awakened by the commotion, and was advised by [redacted] their vehicle was being burglarized. SA [redacted] went to the bedroom window, raised the blinds and observed a black male wearing a white t-shirt at the rear of their vehicle "pulling" on the trunk. SA [redacted] observed a "shiny" object in the right hand of the subject, which he described as either a ratchet or a knife. SA [redacted] opened the window and yelled "Police, what the fuck are you doing?" SA [redacted] also yelled get away from my car. The subject did not respond and continued to pull on the trunk. SA [redacted] advised the subject took his left hand and placed it in the area of his waistband, while still pulling on the trunk with his right hand. b6 -1,2 b7C -1,2

Based on his experience and training, SA [redacted] believed the b6 -1 b7C -1

waistband area to be a location where weapons were kept. Upon seeing this, SA [redacted] went to a drawer beneath his bed and removed his Bureau issued service weapon from its holster. SA [redacted] returned to the window with his firearm and found the subject still pulling on the trunk. SA [redacted] again shouted at the subject to move away from his vehicle. Immediately following the command, the subject looked up at SA [redacted] reached to his waistband area and made suspicious movements directed towards him. In response to the subject's actions, SA [redacted] fired one shot from his weapon. Following the shot, the subject fled westbound on [redacted]

b6 -1
b7C -1

On 07/18/2013, as part of the Assault on a Federal Officer (AFO) investigation, NYO Agents responded to [redacted] Hospital. [redacted] was being treated for a gunshot wound which entered the right rear side of his body. It was later determined [redacted] was burglarizing the vehicle of SA [redacted] when he was shot.

b6 -1,7
b7C -1,7

On 07/19/2012, in exchange for immunity from prosecution, SA [redacted] and [redacted] provided statements to representatives of the Queens County District Attorney's Office (QCDAO), and NYPD. As part of the ongoing AFO investigation, NYO obtained a copy of SA [redacted] and [redacted] statements.

b6 -1,2
b7C -1,2

On 07/22/2012, NYO Agent [redacted] met with the QCDAO and [redacted] Attorney [redacted] In exchange for immunity from prosecution for [redacted] provided the following statement to the QCDAO:

b6 -1,4,7
b7C -1,4,7

[redacted] and [redacted] travelled to [redacted] Queens, in the early morning of 07/18/2012. They intended to steal a car stereo and navigation system from a [redacted] similar to the one driven by [redacted] All four met near the back of SA [redacted]'s [redacted] took up look-out positions at the opposite ends of [redacted] used

b6 -1,7
b7C -1,7

b6 -7
b7C -7

tools, to include a screwdriver, to burglarize the car. heard someone shouting at him and and then heard a gunshot. All four men began to flee the scene. realized was injured and assisted him as they entered After dropping off at Hospital, drove away in vehicle.

b6 -1,2,3
b7C -1,2,3

On 07/02/2013 Special Counsel, Civil Rights Division, United States Department of Justice (USDOJ), requested SA provide a voluntary statement through his attorney declined to allow SA to provide a voluntary statement unless compelled.

b6 -1,3,7
b7C -1,3,7

On 09/17/2013, in exchange for immunity from prosecution for violation of Title 18, United States Code, Section 1001, and made statements to the SIRT, composed of INSD Team Leaders and AUSA Eastern District of New York, and Special Legal Counsel, Civil Rights Division, United States Department of Justice (USDOJ). The statements of and were consistent with the previous statement provided by to the QCDAO.

**SIRG Deliberations**:

b6 -1,2
b7C -1,2

DAD Morgan began by providing each voting member with a copy of the USDOJ Deadly Force Policy, which was reviewed by the SIRG members. OGC SIRG member also reviewed with SIRG members language from the United States Supreme Court in Graham v. Connor, 490 U.S. 386 (1989) regarding the test of "reasonableness" under the Fourth Amendment. A presentation of the known facts of the Agent-involved shooting, as detailed above, was made to the SIRG by Team Leader via a Power Point presentation. The Power Point included photographs of the scene taken by the NYPD, an FBI Laboratory Diagram of the scene, a recording of the 911 call made by and a copy of the video from as taken on the

morning of 07/18/2012, which depicts a male running from the direction of [redacted]'s vehicle and subsequently falling on [redacted] b6 -2 b7C -2

The SIRG voted regarding the application of deadly force. Eight of 12 voting members determined the use of deadly force by SA [redacted] violated the DOJ Deadly Force policy. b6 -1 b7C -1

The DOJ Deadly Force Policy provides a core principle that agents "may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person."

The United States Supreme Court has explained that "the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application." Graham, 490 U.S. at 396. The Court advised that "proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." Id. The Court also stated that reasonableness "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and that the "calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount fo force that is necessary in a particular situation." Id.at 396-97. The ultimate question is "whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Id. at 397.

Some of the factors, while not all-inclusive, cited by the voting members in evaluating the objective reasonableness of SA [redacted] use of deadly force and the application of the DOJ Deadly Force Policy core principle included: (1) insufficient facts showing b6 -1 b7C -1

it was reasonable for SA [redacted] to believe that the subject out on the street posed an imminent danger of death or serious bodily injury to SA [redacted] or others; (2) [redacted] was involved in a minor property crime out on the street while SA [redacted] and his family were inside the house on the second floor of the residence; and (3) the actions of SA [redacted] to include the presence of the structure in which SA [redacted] resided, verbal commands issued by SA [redacted] and SA [redacted] ability to safely move away from the window to retrieve his weapon prior to re-engaging the subject and using deadly force. b6 -1,7 b7C -1,7

In particular, the verbal commands issued by SA [redacted] were "Police, What the fuck are you doing," and to get away from his car; these commands did not indicate that SA [redacted] believed that there was an imminent danger to himself or others, but rather that he was concerned about his car. While particular language for verbal commands is not required by the DOJ Deadly Force policy, it was noted during the SIRG that the standard language taught to all new SAs by PAU is "FBI, don't move," followed by commands to the subject such as "FBI, show me your hands," in order to clearly address a threat posed to the agent or others by the movement of a subject. SA [redacted] verbal commands, in contrast, reflected a concern about protecting his vehicle and its contents. b6 -1 b7C -1

Four members of the SIRG requested further information from SA [redacted] in the form of a voluntary statement, to determine if additional circumstances existed which might be relevant to determining whether SA [redacted]'s use of deadly force was reasonable. The four voting members who requested additional information agreed that if SA [redacted] did not provide an additional statement that they would have to rely upon the existing record, and based upon the existing record, they would be unanimous in their decision that SA [redacted] failed to adhere to the DOJ deadly force policy. b6 -1 b7C -1

Chief Inspector Shields contacted [redacted] the attorney representing SA [redacted] on 12/10/2013, in an attempt to allow SA b6 -1,2 b7C -1,2

training:

**Observation 2**: SA [redacted] surrendered his weapon without consulting NYO CDC or EM, and did not adhere to NYO's Crisis Response Plan. b6 -1 b7C -1

**Analysis**: The Crisis Response Plan for the NYO, updated 03/29/2012, documents the procedure to be followed in the NYO in the event of an Agent involved shooting. The relevant section of Annex D is cited as follows:

***For the agent involved in the incident:***

*6. Secure the scene and protect evidence related to the shooting and the crime*

*7. Secure all weapons involved in the shooting; both yours and the subject's.*

*8. Make no statements to the authorities outside the FBI other than advising of current needs.*

***For the On-Scene Commander (OSC):***

*4. Coordinate jurisdictional matters and investigative responsibilities with local authorities.*

*5. DO NOT SURRENDER ANY WEAPONS TO AUTHORITIES OUTSIDE THE FBI. If there is any question concerning this, contact the CDC.* (NYO emphasis added)

SIRT interviews and analysis of NYPD reports indicated relinquished possession of his Bureau-issued weapon to an outside agency without consulting the appropriate personnel.

Additionally, SIRT interviews revealed SA [redacted] contacted SA personnel, but did not contact the NYOC Duty Agent, and did not secure the scene. b6 -1 b7C -1

**Instruction 2a**: ADIC, NYO will ensure SA [redacted] is provided remedial training regarding the application of the deadly force policy. b6 -1 b7C -1

**Instruction 2b**: ADIC, NYO will ensure all Special Agent personnel are aware of the Crisis Response Plan, New York Division, Annex D: Shooting Incident Response and Notification.

**Recommendation 2c**: ADIC, NYO should consider changing the Crisis Response Plan, Annex D, #8, to more accurately reflect acceptable statements between the Agent(s) involved in the shooting incident and responding law enforcement personnel.

4. **Provide recommendations for administrative action if deemed necessary.**

This matter is being referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential administrative action.

Deputy Assistant Director (DAD) Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields Jr., Office of Inspections (OI)(INSD); [redacted] Trial Attorney, Criminal Division, USDOJ; [redacted] USDOJ; Section Chief (SC) Jayne Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit (SOU), Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] b6 -1,3 b7C -1,3

Title: (U) Shooting Incident New York Division
Re: 297-HQ-A1271697-D, 02/18/2014

[redacted] Office of the Inspector General, USDOJ; Inspectors David Paul Gelios and Shawn Stroud, OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst [redacted] Inspection Management Unit, INSD. b6 -1,3 b7C -1,3

**Procedures for Responding to the Instruction**

ADIC, New York Division, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

ADIC, New York Division, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow- up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 -1 b7C -1

Title: (U) Shooting Incident New York Division
Re: 297-HQ-A1271697-D, 02/18/2014

◆◆

[redacted] to provide a voluntary statement. [redacted] again stated his client would not be available for an interview, absent being compelled. Accordingly, the 12 members voted unanimously regarding the SA [redacted]'s failure to adhere to the deadly force policy. b6 -1,2 b7C -1,2

**SIRG Observations**

On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 07/18/2012 was not in compliance with the Department of Justice's deadly force policy. The SIRG made the following observation: b6 -1 b7C -1

**Observation 1:** SA [redacted] did not adhere to the deadly force policy. b6 -1 b7C -1

**Analysis:** The SIRG voted unanimously regarding SA [redacted]'s failure to adhere to the deadly force policy. As such, the SIRG recommended SA [redacted] be provided remedial training regarding the application of the deadly force policy, and the matter be referred to the Internal Investigations Section (IIS). b6 -1 b7C -1

**Instruction 1:** AD, INSD, will refer this matter to the IIS for action deemed appropriate.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint.**

The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 -1 b7C -1

3. **Provide recommendations concerning training and/or safety issues** . The SIRG made the following observation requesting additional

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-52-1162 Date: Oct 4, 2013

To: Chief, Criminal Section

Re: FBI Agent [redacted] b6 -1,7 per FBI
[redacted] Victim b7C -1,7 per FBI
Queens, New York
144-52-1162
CIVIL RIGHTS

This matter should be closed for the reasons described below:

1. Date of the Incident: July 18, 2012

2. Synopsis of the Facts and Reasons for Closing:

On July 18, 2012, around 5: 15 a.m., in Queens, New York, FBI Special Agent [redacted] b6 -1,7 per FBI
[redacted] shot and wounded [redacted] while he was involved in the theft of a car radio b7C -1,7 per FBI
from the agents' family vehicle parked outside his home. The agent shot through a window screen from a second story room striking [redacted] in the right rear side of his body. [redacted] survived the wound without significant lasting adverse consequences.

The agent claims that, after he was awakened by [redacted]'s screams from the next roo b6 -1,7 per FBI
he looked out the window and saw [redacted] bent down behind the car with a shiny tool, while b7C -1,7 per FBI
another man was inside the car. The agent identified himself as "police," ordered the intruders away from the car, and grabbed his service weapon beneath his bed. According to the agent, rather than obey the commands, the man at the rear of the car turned toward the agent with the shiny object in his right hand and reached to his waist band with his left hand for what the agent

/S/
[redacted] b6 -3 per FBI
Special Legal Counsel b7C -3 per FBI

---

To: Records Section
Office of Legal Administration

The above numbered file has been closed as of this date

Date

Chief, Criminal Section
FORMERLY CVR-3 FORM CL-3

thought might be a gun. Fearing for himself and [redacted] at the window in th[redacted] room, the agent fired one shot at the man. [redacted] and [redacted] (inside t[redacted] removing the radio) both claim that [redacted] was running away in the street about a car length away from the subject's car when he was shot. Forensic evidence, on the other hand, supports the fact that [redacted] was at or near the rear of the car when the agent fired and wounded him.

b6 -1,2,7 per FBI
b7C -1,2,7 per FBI

The Civil Rights Division and the United States Attorney's Office for the Eastern District of New York carefully reviewed the evidence from the federal investigation and the independent Queens District Attorney's office (Queens DA) investigation to determine whether there was sufficient evidence to prove a federal criminal civil rights violation of the applicable statute, 18 United States Code, Section 242. That evidence included the Queens DA interviews of the agent, [redacted], and the [redacted]; an FBI/Department attorney interview of the [redacted] [redacted]; the FBI Lab enhancement of a video that recorded the events that appear to occur ju[redacted] after the shooting; and the ballistics testing and analyses performed by the Firearms Analysis Section of the NYPD Lab. The Queens DA declined a criminal prosecution of the FBI agent for any violation of state law.

b6 -2,7 per FBI
b7C -2,7 per FBI

A violation of the federal criminal civil rights statutes requires proof beyond a reasonable doubt that a subject law enforcement officer acted willfully, that is, with the intent to do something that he knew to be unlawful. Mistake of fact, and even seriously bad judgment, would not establish such willful intent. There is insufficient evidence to refute the agent's claim that he fired his weapon in order to counter what he believed to be a threat to himself and to [redacted] [redacted] in the window next to him – a thief appearing to be reaching to his waistband to draw a handgun. Accordingly, with the concurrence of the United States Attorney's Office for the Eastern District of New York, it is recommended that there is insufficient evidence to support a violation of Title 18, United States Code, Section 242 beyond a reasonable doubt and the matter should be closed.

b6 -2 per FBI
b7C -2 per FBI

3. Predication and Allegations Investigated:

The matter was immediately investigated by the FBI Inspections Division and the Queens District Attorney's office. The agent and [redacted], represented by counsel, were interviewed [redacted] Queens DA attorneys and New York Police Department (NYPD) investigators. After [redacted] [redacted] was located in a hospital, he was interviewed by the FBI. Later, both he and [redacted] both represented by counsel, were also interviewed by the Queens DA and NYPD investigators.

b6 -2,7 per FBI
b7C -2,7 per FBI

A neighborhood investigation revealed there were no other witnesses to the shooting. Significantly, there was a video recording of events on the street in front of the agent's home at the time of the shooting. The frame of the video recording included the front bumper of the [redacted]'s car, but nothing further to the rear of the car. The video was enhanced by the FB[redacted] laboratory, providing a slightly better resolution of the recorded events.

b6 -2 per FBI
b7C -2 per FBI

Additionally, the agent reenacted the shooting in his bedroom and provided local law enforcement with the window screen through which he fired. Local law enforcement investigators took crime scene photographs of both the inside of the residence as well as the

outside street area. They made measurements of relevant distances and conducted ballistics testing on the screen. FBI Inspectors, local investigators, and attorneys from Queens DA and DOJ visited the scene.

[redacted] The Queens DA declined prosecution of the agent and of the [redacted]

b6 -2,7 per FBI
b7C -2,7 per FBI

[redacted] are represented by an attorney in potential civil litigation. Both [redacted] agreed to be and were interviewed by FBI inspectors and Department attorneys. The attorney representing the agent refused to permit either the agent or [redacted] to be interviewed by the FBI/DOJ.

4. Subject's Version of the Events:

The agent's [redacted] advised the Queens DA that she was awake and [redacted] room adjacent to the couple's bedroom on the second floor in the front o when she heard her car alarm go off at about 5:15 a.m. Looking out the window, she observed two individuals breaking into her car. She yelled to her husband who was asleep in bed in the next room.

b6 -2 per CRT DOJ, FBI
b7C -2 per CRT DOJ, FBI

The agent advised the Queens DA that, after he was alerted by [redacted] he looked out the window and saw one man inside the car and a second man at the rear of the car, holding a silver object. The agent opened the left-hand-most pane of a three-paned bay window and yelled, "Police, get away from the car (or words to that effect)." The men ignored the command.

The agent reached under his bed for his service handgun and pointed it tow repeating his command. The man behind the car (later identified as [redacted] still holding the object that appeared to the agent to be a tool in his right hand, and reached towards his left rear waistband area, turning his body towards the agent. According to the agent, he believed the man was reaching for a weapon and feared for himself and [redacted] in the adjoining room. He fired one shot at the man.

b6 -2,7 per DOJ CRT, FBI
b7C -2,7 per DOJ CRT, FBI

After he fired the shot, the agent ran downstairs and out the front door. Once outside, he observed a man dragging another man to an automobile in a nearby intersection. Upon seeing more men, the agent returned to his house. [redacted] called 911. On a 911 recording, the [redacted] reports the shooting to the dispatcher. On the same recording, she can be heard yelling to [redacted] imploring him to shoot at the men getting away in a car.

An attorney representing the agent and [redacted] was present when they were both interviewed by the Queens DA office. The agent also conducted a reenactment of the shooting in his bedroom for the Queens DA, again with his attorney present. On that occasion, he also permitted the Queens DA to take custody of the screen with a gunshot hole for examination.

5. Witness Accounts:

Initially, when questioned by FBI agents at the hospital, [redacted] claimed that he was shot while innocently walking in a crosswalk. Later, while represented by counsel, he and [redacted] provided a proffer to the Queens DA in which they admitted that they were involved in a theft from the car at the time of the shooting. Later, when interviewed separately by the Queens DA, the [redacted] accounts evolved. They were initially deceptive about their actions on the night of the incident. Also, their stories were inconsistent. At first, [redacted] told the Queens DA that he was merely passing by the location when he observed another individual breaking into the car and that, when as a good Samaritan he sought to stop him, he was shot. [redacted] later admitted to being actively involved in breaking into the car and trying to steal the radio. After claiming it was a crime of opportunity, [redacted] ultimately admitted that the car had been spotted on a previous day.

b6 -7 per FBI
b7C -7 per FBI

Months later, after the federal government made assurances that [redacted] would not be prosecuted for previously making a false statement to a federal officer, both [redacted] were interviewed in the presence of their attorney by an FBI Inspector and Department attorneys. [redacted] candidly admitted that, with the help of two accomplices, they broke into the car parked in front of the agent's home and stole its radio. Using a screwdriver, [redacted] attempted to disable the alarm at the front of the car. He then went to stand at the rear of the car, leaning against it to appear less conspicuous to passers-by. Meanwhile, [redacted] broke out the side window, crawled into the car, removed the radio, and handed it outside to a confederate.

b6 -7 per FBI
b7C -7 per FBI

Both [redacted] were alerted to a pounding on the second floor window of the house in front of which the car was parked. [redacted] heard pounding only. [redacted] heard someone yell "get the F - away from the car (or words to that effect)." Both insisted they did not hear anyone yell "police."

b6 -7 per FBI
b7C -7 per FBI

[redacted] claims that he ducked down, trying to hide behind the car, when he heard the pounding at the window. He still had the tool that he used to attempt to disarm the alarm in his hand or pocket. [redacted] believed that [redacted] was in possession of a ratchet tool, not the screwdriver, which he [redacted] carried into the car. Significantly, [redacted] insisted that he never reached for his waist band when he was behind the car.

Both [redacted] ran away from the car in the same direction – [redacted] on sidewalk and [redacted] in the street. Both claimed they heard a loud boom, later determined by them to be a gunshot. [redacted] estimated that he had run from the rear of the car to a place in the street adjacent to the vehicle parked immediately in front of the burglarized car, when he heard a boom. [redacted] corroborated that, when he heard the boom, he saw, in his peripheral vision, [redacted] running and falling at the approximate same spot in the street.

b6 -7 per DOJ CRT,FBI
b7C -7 per DOJ CRT, FBI

When interviewed by federal authorities, [redacted] recalled falling at the sound of the boom immediately upon being struck by a bullet. However, when [redacted] was interviewed earlier by the Queens DA, he stated that, while he had begun to run from the rear of the car, he did not specifically remember where he was when the bullet struck him. [redacted] confirmed [redacted]'s later claim that he fell immediately when he was shot at previously indicated location.

Both [redacted] advised that [redacted] came to the aid of [redacted] and helped him to the nearby intersection. Before getting to the intersection, both men saw a man came out of the house. He was holding a gun and pointing it at them. The man did not say anything. [redacted] ran to get a car parked nearby and with the help of a confederate put [redacted] inside the car at the intersection and drove him to a hospital. b6 -7 per FBI b7C -7 per FBI

[redacted] was treated for a gunshot wound that entered the right rear side of his body with a trajectory that took the bullet near the spine and causing minor liver damage. He has fully recovered and demonstrates no significantly adverse lasting effects of having been shot.

The Queens DA interviewed the confederates who acted as lookouts during the crime. They concocted conflicting accounts. While it is believed that they were nearby at the time of the shooting, it is not believed that they actually witnessed the shooting.

6. Video and Physical and Forensic Evidence:

Significant physical evidence was collected and forensically analyzed. As part of a canvass by police, video was obtained from a building across the street from the agent's residence. Additionally, the victim's sandals and a silver ratchet tool were found in the street adjacent to a truck parked immediately in front of the agent's car in the direction that the [redacted] ran. Finally, the agent provided the window screen with a hole through it from the gunshot he fired to the Queens DA for forensic analysis. b6 -7 per FBI b7C -7 per FBI

The video does not appear to capture the actual shooting, but it does show [redacted] running and then falling to the ground. It initially appeared that the video recorded [redacted] fall to the ground as he was shot. However, other forensic evidence contradicts such an assumption and supports the agent's contention that [redacted] was near the rear of the car when he was shot and then ran a few steps before he fell. In any event, in light of the totality of the physical evidence, the agent's contention that he shot at a man when he was behind the car – and turning toward him with a hand at his waistband, as the agent further contends – cannot be refuted beyond a reasonable doubt.

The stationary video camera ran continually. The video frame does not include the agent's residence. Instead, it records in its frame a portion of the street in front of the agent's home. The frame includes only the front of the agent's car on the right-hand edge of the frame. The remainder of the frame includes a view of the street from that point forward in the direction that the [redacted] ran towards the intersection a half-block away. b6 -7 per FBI b7C -7 per FBI

The recording shows figures approaching the agent's car. Then, a few seconds after the car alarm engages, a figure, later determined to be [redacted] runs on the street into the frame from its right-hand edge. The figure falls as it crosses in front of a truck parked immediately in front of the agent's car. Thereafter, the video records another figure ([redacted]) drag the figure that fell down the street to the intersection where a car eventually arrives to carry everyone away.

The distance at which the figure fell is twelve feet from the rear of the agent's car. In that same vicinity, [redacted]'s sandals were discovered in the street next to one another, as well as a silver ratchet. A blood drag was also discovered in the street from that spot to the intersection. b6 -7 per FBI b7C -7 per FBI

An examination of the agent's bedroom window revealed a tear consistent with a bullet hole in the left-side bay window screen. Weeks later, the agent conducted a reenactment of the shooting for the Queens DA. For the reenactment vehicles were placed where crime scene photographs pictured them at the time of the shooting. Measurements of distances and angles were made from the window to the location at the rear of the car the night of the shooting, as well as to the location where [redacted]'s sandals were discovered, and the same estimated location where he fell on the video recording. Thereafter, the Firearms Analysis Section of the NYPD Lab conducted forensic ballistic testing with the window screen. Also of forensic significance, there is a large fully-leafed curbside tree in the front yard of the agent's residence that partially blocks the view from the bay window.

We concur with the opinion ultimately reached by the Queens DA. First, after multiple, careful reviews of the FBI lab enhancement of the video, the image is consistent with [redacted] [redacted] tripping on his sandals, causing him to fall, rather than [redacted] falling from the impact of a bullet strike. Such a bullet impact would have jarred both his body and his feet forward. Instead, in the video recording, [redacted]'s body falls forward while his feet remain stationary on the street. b6 -7 per FBI b7C -7 per FBI

Second, the agent had a clear line of site from the window screen through which he shot to the rear of [redacted]'s car. At the same time, the agent's view of the area from the rear of the car to the location on the street where [redacted] fell would have been obscured by the curbside tree in addition to the window frame and window blinds covering the other parts of the bay window. Due to obstructions, it is highly unlikely that the agent would have been able to hit [redacted] with a gunshot if he shot while [redacted] was in the vicinity where he fell, twelve feet away from the rear of the car. Because of trajectory angles, it seemed almost impossible that the agent could have shot [redacted] anywhere on the street other than at the location at the rear of the [redacted]'s car.

Finally, to further confirm this conclusion, forensic testing was conducted on the window screen. The actual window screen with the bullet tear hole was taken to the Firearms Analysis Section of the NYPD Lab. Upon examination of the window screen, the bullet hole from the incident was identified and marked. The screen fibers disturbed by the round passing through it were photographed. Then, the angles of fire that were consistent with both the agent's statement and the location at which [redacted] fell, as indicated on the video and by the location of his sandals, were replicated. A weapon and ammunition, which were identical to that used by the agent during the incident, were used to fire through the window screen in an attempt to replicate the hole created at the time of the incident. b6 -7 per FBI b7C -7 per FBI

The results of the ballistic testing revealed that a hole generated by firing through the screen at an extreme angle (as if to shoot [redacted] where he fell in the videotape) was inconsistent with the hole created during the incident. In fact, it could not have been more

different. The hole was much bigger and the fibers when disturbed by the bullet at the extreme angle bent interior on the top and exterior on the bottom of the hole. Yet, the hole created by firing through the screen at an angle consistent with firing toward the rear of the car (the agent's version of the events) generated a tear nearly identical to the original hole in both size and direction of disturbed fibers, all bending outward. Accordingly, the ballistics experts opined that the hole created during the incident was consistent with the agent's account of where the victim was located when the agent fired at him.

7. Legal Issues

To prove a violation of 18 U.S.C. § 242, the applicable federal criminal civil rights statute, the government must prove, beyond a reasonable doubt, that a police officer subject willfully used more force than was reasonably necessary under the circumstances. This burden of proof has both an objective and a subjective component. The reasonableness of the amount of force used is determined objectively and from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. Graham v. Connor, 490 U.S. 386, 396 (1989). Allowance must be made for the fact that law enforcement officials are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. Id. 396-97.

Even if there is evidence of unreasonable force, the government must further show that an officer acted willfully, that is with a bad purpose to violate the law. Screws v. United States, 325 U.S. 91 (1945). Accident, mistake, misperception, fear, or even poor judgment, do not constitute willful conduct prosecutable under the statute. The officer must intend to do that which he knew to be wrong.

8. Conclusion

There is insufficient evidence to refute beyond a reasonable doubt the agent's claim that he fired his weapon in order to eliminate what he believed to be a threat to himself and to [redacted] b6 -2,7 per FBI
[redacted] in the window next to him – a car thief appearing to be reaching to hi b7C -2,7 per FBI
waistband to draw a handgun. Forensic evidence supports the agent's claim that he fired one shot at [redacted] when [redacted] was at the rear of [redacted]'s car. [redacted] admits that he was bent down behind the car when confronted by the agent, just as the agent claims to have seen him. [redacted] admits, and the evidence confirms, that he likely had a silver object in one hand. Even if [redacted] is correct, that he did not reach toward his waist band, the agent's contention that he believed that he saw such a movement cannot be disproven. Further, the agent's claim that he was afraid for himself and his family similarly cannot be disproven.

While it is difficult to understand why the agent chose to shoot rather than to remove himself and [redacted] from harm's way, such second guessing does not prove the specific criminal intent beyond a reasonable doubt necessary to prosecute the agent under Title 18, United States Code, Section 242. As indicated in the previous section, accident, mistake, misperception, fear, or even poor judgment, do not establish willful conduct. Accordingly, the evidence does not support a prosecutable violation of federal law and it is recommended that the matter should be closed. The United States Attorney's Office for the Eastern District of New York concurs with this recommendation.

**U.S. Department of Justice**

Federal Bureau of Investigation

Washington, D.C. 20535-0001

December 16, 2015

PERSONAL

b6 -1
b7C -1

Mr. [redacted]
Federal Bureau of Investigation
New York, NY

Dear Mr. [redacted]

On May 8, 2015, the Office of Professional Responsibility (OPR) proposed dismissing you from the rolls of the FBI based on its finding that you: (1) intentionally fired your weapon outside the scope of the Deadly Force Policy, in violation of FBI Offense Code 5.15 (Misuse of Weapon – Intentional Discharge); (2) conducted yourself unprofessionally while off duty when you entered into an agreement with criminals to not testify against them in exchange for them to not testify against you regarding this shooting incident, in violation of FBI Offense Code 5.21 (Unprofessional Conduct – Off Duty); (3) you failed to comply with FBI guidelines for shooting incidents when you voluntarily relinquished your weapon to the local police department and did not contact your supervisor or another FBI manager to report the incident, in violation of FBI Offense Code 5.23 (Violation of Miscellaneous Rules/Regulations); and (4) you lacked candor in your interview with the New York District Attorney's Office and New York Police Department regarding this shooting incident, in violation of FBI Offense Code 2.5 (Lack of Candor/Lying – No Oath). As the deciding official in this matter, I have given full and impartial consideration to all documentation and evidence upon which your proposed dismissal was based, your written response, dated October 30, 2015, and your oral presentation on November 6, 2015. Based on a preponderance of the evidence, I conclude allegations (1) and (4) are substantiated. I do not find, however, that allegations (2) and (3) are substantiated and those allegations will not be further discussed. Based on the circumstances of this case, for the efficiency of the service, and considering the 12 *Douglas* Factors, including, but not limited to, consistency with precedent, the Penalty Guidelines, prior disciplinary history, and aggravating/mitigating factors, I am dismissing you from the rolls of the FBI.

## DISCUSSION

### I. Summary

In the pre-dawn morning of July 18, 2012, at approximately 5:00 a.m., you confronted an African American male (Individual), who was breaking into your [redacted] personally owned vehicle (POV) parked on the street in front of their residence. Individual's [redacted] (Individual's [redacted]) was assisting Individual with the break-in. You were off duty and

b6 -2,7
b7C -2,7

inside your residence during the confrontation when you fired your FBI-issued weapon a single time from your second story bedroom window, striking Individual in the back.[1] Individual fled the area, sought medical attention, and survived his injuries. The initial shooting investigation was conducted by the FBI Shooting Incident Review Team (SIRT) prior to the initiation of an investigation by the U.S. Department of Justice – Office of Inspector General (DOJ-OIG). Prior to DOJ-OIG's investigation, the DOJ-Civil Rights Division (DOJ-CRD), U.S. Attorney's Office (USAO), and the local District Attorney's Office (DA) all declined prosecution.[2]

You and [redacted] refused to cooperate with the FBI SIRT, FBI Internal Inspection Section, Inspection Division (IIS), DOJ-CRD, and DOJ-OIG investigations.[3] The case file indicated you cooperated with local police department (PD) and DA only under condition of immunity from prosecution and agreed to interviews with DA under those conditions. Even with immunity from prosecution, you then entered into an agreement with the Individual and Individual's [redacted] that neither party would testify against the other. During your oral presentation, your counsel denied there was an immunity agreement with either the DA's office or Individual and Individual's [redacted] I will address this later in this letter. Suffice it to say, your refusal to testify in the DA's case with or without immunity resulted in the DA dropping its charges against Individual and Individual's [redacted][4] These agencies' decisions not to prosecute all occurred before DOJ-OIG compelled you to speak with DOJ-OIG agents on May 1, 2014. b6 -2,7 b7C -2,7

## II. The Incident

On July 18, 2012, at approximately 5:00 a.m., before sunrise, [redacted] [redacted] when she heard a car alarm. She looked out a second story window of your residence and saw two males attempting to break into the POV, which was parked directly in front of the residence.[5] [redacted] banged on the window in an attempt to stop the subjects; she may also have called out to you; you were asleep in the adjacent bedroom. You awoke, heard from [redacted] that someone was breaking into the POV, went to the bedroom window and pulled up the blinds. You observed Individual at the rear of the vehicle attempting to break into the trunk with some sort of metal object or tool.[6] You opened the window and yelled at Individual to get away from your car. You yelled about three times but Individual showed no reaction and continued to work at opening the trunk of the car. b6 -2 b7C -2

[1] During your oral presentation on 11/06/2015, your counsel contended you did not shoot Individual in the back. From the description of the injury and the photograph, the entry of your bullet was in the lower right side of Individual's back.

[2] DOJ-OIG ROI, page 1. According to SIRT report, page 10, DOJ-CRD declined prosecution with concurrence of USAO on 10/04/2013. The SIRT report was dated 10/25/2013.

[3] DOJ-OIG had to compel your statement. [redacted] refused to speak with DOJ-OIG. b6 -2 b7C -2

[4] SIRT report, page 10. The DA dropped charges on 03/05/2013.

[5] Video footage later obtained from [redacted]'s security camera shows two subjects approaching the vicinity of your POV. Approximately two minutes later, it shows the two individuals fleeing from that vicinity. One individual fell to the ground and the other individual ran back to the first and dragged him down the street out of the camera's view. Subsequent investigation revealed both individuals entered a vehicle and departed the scene. SIRT report, page 1.

[6] The tool was later determined to be a screwdriver.

Mr. [redacted] b6 -1 b7C -1

When Individual did not respond to your shouts, you left the window to get your FBI issued weapon, which was a few feet away by the bed.[7] You returned to the window and again yelled at Individual to get away from the car. This time, Individual started to turn towards you. You claimed Individual then moved his left hand near his waist, while still working on the trunk with his right hand. You fired one shot at Individual through the window screen of your second story bedroom window; Individual fled down the street.

You went outside, examined the POV, and found its passenger-side window had been removed and the radio had been stolen. You looked westbound and observed Individual lying near the crosswalk of your street and a cross street. Individual stated, "You're killing me, man." You were unsure how many other subjects were in the area and did not say anything or go further. Individual's [redacted] came up to Individual and pulled him across the crosswalk and then they both entered a waiting vehicle and left. b6 -7 b7C -7

[redacted] called 911 after you ran outside and PD officers responded to your residence. At the beginning of the call, [redacted] can be heard yelling, "Shoot the car." She identified herself as the [redacted] of a federal agent to the 911 operator, provided her address, and told the operator two black males attempted to break into her vehicle. She told the operator a black car was headed down the street and "they" picked someone up. She said there were two or three black males and one of them was possibly injured and that [redacted] would be able to tell the police if one of the men was injured. [redacted] further told the operator that [redacted] was outside looking at her car and "they" stole her radio. She then identified [redacted] as an FBI agent. When the 911 operator asked whether there were any weapons involved, [redacted] replied that [redacted] drew his weapon and fired one shot. She did not know if "they" drew a weapon and the incident occurred less than five minutes before the 911 call.[8] b6 -2,7 b7C -2,7

When PD arrived, you advised them you fired your weapon once. You voluntarily surrendered your FBI issued weapon to PD, along with the casing from the fired round.[9] You did not inform the PD officer you were not permitted to relinquish your weapon to anyone other than an FBI agent.[10] PD Evidence Response Team processed the scene that same day, July 18, 2012.

Shortly after the incident, Individual arrived at a local hospital for treatment of a gunshot wound to his back. Individual underwent surgery but doctors did not remove the bullet because it was too close to Individual' spine.[11]

To date, there is no evidence that either Individual or Individual's [redacted] was armed at the time of the shooting. b6 -7 b7C -7

[7] Your statement to PD and DA differs here from your statement to DOJ-OIG about Individual's response or lack of response prior to the shooting and the reason for your decision to get your weapon. This difference will be discussed later in this letter.
[8] SIRT report, pages 3 – 4.
[9] PD released your service weapon, magazine, and 11 of the 13 cartridges you had surrendered to PD earlier that day. The remaining two rounds had been test fired by PD Lab and retained as evidence by PD Lab. FD-302 dated 07/20/2012.
[10] You later claimed you had not been informed that it was FBI policy to decline to turn over one's weapon after a shooting incident to anyone other than FBI agents.
[11] SIRT report, page 4.

### III. Initial FBI Division Response and SIRT investigation

Shortly after the shooting, you called a Special Agent (SA) who was your close friend and colleague on your squad (Friend) and told Friend that you were involved in a shooting.[12] After asking you a couple of times without getting a response as to whether you were going to call the Supervisory Special Agent (Supervisor), or if you wanted Friend to call Supervisor, Friend told you he would contact Supervisor. Friend thereafter called Supervisor but could not reach him. Friend then called another SA squadmate (SA), because Friend knew SA was on an early shift and would be available to respond to your residence. Friend also proceeded to the residence.[13]

On his way to your residence, SA contacted an Assistant Special Agent-in-Charge (ASAC) to inform her of the shooting. ASAC advised she would start making the appropriate notifications.[14]

When SA arrived at your residence, at approximately 6:00 a.m., he identified himself to PD officers on scene and went inside to you. SA observed you were visibly shaken. When SA asked you where the shooting incident occurred, in an attempt to determine if the inside of the residence was a crime scene, you said something to the effect of someone had been breaking into your car and you felt you had to shoot, the individual ran away, two people assisted the individual into a car, and they drove away. SA advised you not to provide him with any further details. SA asked you where your duty weapon was and you told SA you had surrendered it to PD.[15]

SA advised the on-scene PD officers that he wanted you to go to the hospital and requested an ambulance. SA accompanied you to the hospital and the ambulance delivered you to the hospital's [redacted] SA insisted you be taken to the emergency room (ER) because, SA said, you were visibly shaking and SA was concerned you were showing signs of shock. Supervisor arrived on scene and also requested you be transferred to the ER. You were subsequently transferred from the [redacted] to the ER.[16] b6 -1 b7C -1

As part of standard FBI shooting protocol, your division's Associate Deputy Counsel (ADC) reported to the hospital and spoke with you in her capacity as emergency interim counsel. Later that day, ADC confirmed that you had gotten independent counsel by obtaining your attorney (Counsel) to represent you.[17]

---

[12] Friend was your team leader and friend who socialized frequently with you and [redacted] outside of work. Supervisor was Friend's and your squad supervisor. b6 -2 b7C -2

[13] Friend FD-302.

[14] SA FD-302.

[15] Id.

[16] Id. In your oral presentation on 11/06/2015, your counsel made much of the fact that you were shaken by this incident. It is understandable that one would be shaken after a shooting, regardless of the circumstances or intent. Therefore, I will not consider it a factor either in your favor or against you.

[17] ADC FD-302. The SAC contacted your counsel, at about 8:00 a.m., who advised he would represent you (SAC FD-302).

Mr. [redacted] b6 -1 b7C -1

Once you were cleared by the hospital for release, Supervisor drove you to the off-site to relax and later transported you to a hotel.[18]

Intense media coverage descended upon your residence. The growing media attention required agents to move [redacted] out of the residence via a van they parked in the rear of the residence. The media later cleared out only because of a storm. Agents had to stand guard that night at your residence as well as relocate your two dogs that could not be taken to the hotel.[19] b6 -2 b7C -2

Your division opened an assault on a federal officer (AFO) case and continued to follow its protocol for shootings and AFO investigations, including conducting interviews and assisting SIRT in its investigation.

The SIRT was activated on July 18, 2012 and made contact with PD upon SIRT's arrival at your residence that evening. PD provided SIRT with an overview of the events.

The following morning, July 19, 2012, SIRT was denied entry to your residence to examine the scene and your counsel advised SIRT that you and [redacted] would not provide voluntary statements.[20] PD provided SIRT with a compilation of reports, the 911 call made by [redacted] and video surveillance. At no time in SIRT's investigation would you or [redacted] cooperate with SIRT, or later SIRG and DOJ-OIG, or agree to interviews.[21] b6 -2 b7C -2

On July 20, 2012, the division's Evidence Response Team (ERT) and division photographer responded to your residence at SIRT's request. ERT and the photographer documented the exterior of the residence and the surrounding area, through individual and spherical photography. They also collected digital sketching data via Total Station. SIRT, ERT,

---

[18] Supervisor FD-302.

[19] Friend FD-302.

[20] I acknowledge that your refusal to provide a voluntary statement to the FBI or DOJ may be due to advice of counsel in order to avoid self-incrimination that could be used against you in a criminal case. I find your lack of cooperation throughout this investigation to be significant and of grave concern as it impeded the internal administrative process. Even after you were informed there would be no criminal prosecution (and therefore no longer had a 5th Amendment right to refuse to cooperate in an administrative proceeding), you and [redacted] refused to cooperate with DOJ-OIG. b6 -2 b7C -2

[21] After DOJ-CRD and USAO had declined prosecution, FBI Chief Inspector contacted your counsel to again allow you to provide a voluntary statement. Counsel again stated you would not be available for an interview, absent being compelled. Four of the 12 SIRG members requested a voluntary statement by you in order to ascertain whether additional information could be relevant to determining whether your use of deadly force was reasonable. Without additional information from you, SIRG relied on the existing record and unanimously decided that you failed to adhere to the DOJ deadly force policy. Inspection EC dated 02/06/2014, pages 6 – 7. During the oral presentation, your counsel acknowledged the Chief Inspector verbally informed him in October 2013 that there would be no criminal prosecution. Counsel also stated that, even if there was no risk of criminal prosecution, you could still refuse a voluntary statement because it was not insubordination to do so and not misconduct. While your counsel may be correct that it did not constitute insubordination, he is incorrect regarding whether it constituted other misconduct: Failure to cooperate in an administrative proceeding is a violation of FBI Offense Code 2.10 and will be discussed later in this letter. I note here, however, that you not only failed to cooperate by refusing to be interviewed voluntarily, you also failed to cooperate by refusing the FBI and DOJ-OIG access to your home or to conduct a re-enactment.

and the photographer were denied entry into your residence by Counsel and thus were unable to obtain the necessary data to complete the Total Station Processing.[22]

## IV. Interviews of Individual and Individual's [redacted] and Physical Evidence

b6 -2,7 b7C -2,7

FBI SAs interviewed Individual and Individual's [redacted] a couple of times. Initially, they lied to agents but eventually, in exchange for immunity from prosecution for violation of Title 18 United States Code, Section 1001, they provided some details that seemed more accurate, although still with conflicting information, to FBI, USAO, and DOJ-CRD.[23] Essentially, the two [redacted] said the following[24]: in the early morning hours of July 18, 2012, the Individual and two of their friends targeted your POV because it was similar to one owned by Individual's [redacted]. They devised a plan to break into the POV to steal the stereo so it could be placed in Individual's [redacted]'s vehicle. Individual's [redacted] and Individual broke into the POV and Individual's [redacted] broke the passenger window and removed the stereo with a screwdriver while Individual moved to the rear of the vehicle. From this point onward the two [redacted]' stories differ in certain aspects, although both maintained they did not hear anyone yell "Police."

According to Individual's [redacted] once he was inside the POV, he then heard a male banging on a window and yelling, "What the fuck are you doing?" Individual's [redacted] handed the radio to one of the co-conspirator friends who ran away with it. Individual's [redacted] got out of the vehicle, triggering the car alarm while so doing, and started running down the street when he heard a gunshot and then Individual say "I got shot." Individual's [redacted] ran to Individual lying in the street and observed a male approach pointing a handgun at them. Individual told the male something to the effect of, "You shot me, you really shot me." The male did not say anything to either of the [redacted] and Individual's [redacted] then pulled Individual to a sidewalk where one of their friends picked them up in a blue car. They took Individual to a nearby hospital.

b6 -7 b7C -7

According to Individual, once he and Individual's [redacted] were at the POV, Individual attempted to disarm the alarm with a screwdriver while Individual's [redacted] broke the passenger side window and entered the vehicle. Individual moved to the rear of the driver's side of the POV to act as a lookout. At some point, Individual's [redacted] activated the alarm and Individual noticed blinds move in an upstairs window of a house located near the POV and heard banging on the window. Individual claimed he ducked down behind the vehicle, shouted to Individual's [redacted] "Let's go," and began running up the street. Individual then heard one shot and fell to the ground. Individual told Individual's [redacted] he was shot and looked back in the direction from where the shot came. He saw a male with a gun pointed in his direction and told the male, "You fucking shot me." Individual could not recall if the male responded. Individual's [redacted]

b6 -7 b7C -7

---

[22] SIRT report, page 9. Again, I note your refusal to cooperate in the federal investigation.

[23] Both Individual and Individual's [redacted] as well as their two co-conspirators, have criminal histories. The [redacted] were arrested on 12/30/2009 for robbery and a weapons violation. However, the weapons charge for Individual's [redacted] was later dropped. It is unclear whether it was dropped for Individual as well since the file documentation did not include some of the same criminal history documents for Individual as it did for Individual's [redacted] regarding the same matter (see "Real Time Person File for [Individual's [redacted]" in tab III of the SIRT report).

b6 -7 b7C -7

[24] SIRT report, pages 4 – 5.

helped Individual into a blue car and they drove to the hospital. Significantly, Individual insisted that he never reached for his waist band when he was behind the POV. b6 -7 b7C -7

Both [redacted] ran away from the car in the same direction – Individual's [redacted] on the sidewalk and Individual in the street. Both claimed they heard a loud boom, later determined to be a gunshot. Individual estimated he ran from the rear of the car to a place in the street adjacent to the vehicle parked immediately in front of the POV when he heard a boom. Individual's [redacted] corroborated that, when he heard the boom, he saw in his peripheral vision his [redacted] running and falling at the approximate same spot in the street.[25]

Individual was treated for a gunshot wound that entered the right rear side of his body with a trajectory that took the bullet near the spine and caused minor liver damage.[26]

Physical evidence that was collected and forensically analyzed could not definitively confirm whether you shot Individual in the back when Individual had already started to flee or when Individual was still at the rear of the POV. As part of a canvas by PD, video was obtained from a building across the street from your residence. Individual' sandals and a silver ratchet tool were found in the street adjacent to the vehicle immediately in front of the POV in the direction that the [redacted] ran. You provided the window screen with a hole through it from the gunshot you fired to the PD for forensic analysis. b6 -7 b7C -7

The video did not record the actual shooting but it did show Individual running and then falling to the ground. It initially appeared the video recorded Individual's fall to the ground as he was shot. However, other forensic evidence contradicted this assumption and supported your contention that Individual was near the rear of the car when he was shot and then ran a few steps before he fell.

The video further revealed Individual fell twelve feet from the rear of the POV and Individual's sandals were found in the same vicinity, along with a silver ratchet and a blood drag in the street from that spot to the intersection. However, with FBI lab enhancement of the video, it appears that it was possible Individual's fall was caused by him tripping on his sandals, rather than falling from the impact of a bullet strike.[27]

An examination of your bedroom window screen revealed a tear consistent with a bullet hole in the left-side bay window screen.[28] Weeks after the event, you conducted a reenactment of the shooting for DA.[29] Thereafter, the PD Lab conducted forensic ballistic testing with the window screen. The angles of fire consistent with your statement and the location where Individual fell, as indicated in the video and by the location of his sandals (and as Individual claimed), were replicated. The same type of weapon and ammunition as those of yours were used to fire through the window screen in an attempt to replicate the hole created at the time of

[25] When Individual was interviewed earlier by the DA, he did not specifically remember where he was when the bullet struck him. Individual's [redacted] confirmed Individual's later claim that he fell immediately when he was shot near the vehicle parked in front of the POV. b6 -7 b7C -7

[26] According to the summary DOJ-CRD "Notice to Close File" summary, page 5, Individual fully recovered and did not demonstrate any significant adverse lasting effects from the gunshot wound.

[27] DOJ-CRD summary, page 6.

[28] You did not provide the window screen to the FBI, you provided it to PD.

[29] You refused to conduct a reenactment for the FBI and DOJ-OIG, even after being informed at your compelled interview (at the latest) there would be no criminal prosecution.

Mr. [redacted] b6 -1 b7C -1

the shooting. The ballistic testing revealed that a hole generated by firing through the screen at an extreme angle, as if to shoot Individual where he fell in the video tape, was inconsistent with the hole created during the shooting. The hole created by firing through the screen at an angle toward the rear of the POV (as you said you did) generated a tear consistent with the original hole created by the round you fired.

## V. [redacted]'s Statements to PD and DA on 07/18/2012 b6 -2 b7C -2

[redacted] was interviewed on July 18, 2012.[30] [redacted]'s memory of the incident was similar to yours but did have a few differences: she was [redacted] at about 5:00 a.m. when she heard a car alarm going off. When she looked out the window, she saw two black males by the POV. One of the males was at the trunk of the car and another was in the street by the car. One of the males was wearing a white t-shirt. [redacted] began to bang on the window to stop the men from breaking into her vehicle. You were in the adjoining bedroom sleeping but awoke and asked [redacted] what was going on. [redacted] told you someone was breaking into the POV. You went to the bedroom window, opened it, and yelled, "Police, what the fuck are you doing." [redacted] then heard a single gunshot. Then, you ran downstairs and out the front door. [redacted] was downstairs by the time you reentered your residence. [redacted] recalled you told her to call 911 and she subsequently did.[31]

Notably, in neither interview report does [redacted] indicate hearing you yell for a second time before firing your weapon. [redacted]'s interviews also indicate that you ran outside very quickly.[32] b6 -2 b7C -2

## VI. Your Statement to DA on 07/31/2012[33]

You were interviewed on July 31, 2012, by DA and PD.[34] SIRT obtained a draft interview report. You described the events essentially as outlined above: Your exterior house light was not on and the nearest street light was about three houses away. At approximately 5:00 a.m., you were awakened by [redacted] alerting you to the fact someone was breaking into the POV. [redacted] was in the adjacent room and you got out of bed, drew up the window blinds, and saw a black male wearing a white t-shirt at the rear of the POV "pulling" on the trunk.[35] You saw something shiny in the right hand of Individual, possibly a ratchet or knife. You cranked open the window of your second floor bedroom and began to yell through the screen "Police, what the fuck are you doing." You yelled this twice but Individual did not move and continued to work on the trunk of the POV. b6 -2,7 b7C -2,7

---

[30] The PD interview report indicates two Assistant Deputy Attorneys (ADAs), two PD detectives, and your counsel were at the interview.

[31] The first PD interview report of [redacted] conducted at 5:15am on 07/18/2012, does not include the details regarding you going to the bedroom window, opening it, or yelling anything. b6 -2 b7C -2

[32] This contradicts your statement to DOJ-OIG that you waited for a spell after shooting Individual before moving methodically through the residence, clearing it as you went.

[33] Draft/unapproved PD interview of you, dated 07/21/2012. During your oral presentation on 11/06/2015, your counsel explained the dates on this document were incorrect and the interview was actually on 07/31/2015. He also stated you spoke to PD and DA voluntarily without immunity. He did not clarify, however, whether you had a proffer agreement or any other type of agreement that your interview would not be used against you.

[34] The PD interview report indicates six ADAs were present, along with the PD detective and your counsel.

[35] Later identified as Individual.

Mr. [redacted] b6 -1 b7C -1

You stated that, then, Individual took his left hand and put it by his waistband and continued to work on the trunk with his right hand with the shiny object. You said that, from your training and experience, you knew the waistband to be an area where people keep weapons.[36] You then went to retrieve your weapon, located in a drawer under your bed. You unholstered the weapon, with your finger off the trigger, and pointed the gun at the window screen and yelled for Individual to get away from your car.

After you yelled this, Individual "did look up at [you] also with his left hand coming from his waistband coming towards [you]."[37] You fired one round at Individual, who was still at the trunk of the POV. Individual then fled westbound.

You said you did not know at that moment if you had hit someone but you went downstairs and outside. Outside, you observed that the POV had been broken into and the passenger side window had been removed and was lying on the grass beside the POV. You then looked westbound and saw Individual lying in the crosswalk, saying, "You're killing me, man." You did not move closer to Individual because you were unsure how many people were outside.[38] You began moving backwards towards your residence. You noticed a dark colored vehicle pull out of a spot and make a U-turn. A male exited the passenger side of the auto and pulled Individual into the backseat of the vehicle. The car then drove away.

You went back inside your home to find [redacted] on the telephone with 911. You called Friend and then went upstairs and put on your pants, holster, handcuffs, and identification. You came back downstairs and the police were onsite. You spoke with the sergeant and relinquished your weapon to the sergeant, along with the shell casing from the one round you fired at Individual. b6 -2 b7C -2

In the PD draft report of your statement to DA, you did not mention Individual's [redacted] returning to where Individual was laying on the ground after you shot Individual or that Individual's [redacted] pulled Individual across the crosswalk to where the vehicle picked them up.[39] b6 -2,7 b7C -2,7

Nowhere in the PD report does it mention that you feared for the safety of [redacted] or that you gave [redacted] any form of commands to get away from the window or to seek cover, or checked on her before running outside. The report indicates that even after the

[36] At the time, you had about three years of FBI experience. You had previously served in the military.

[37] The SIRT report, page 2, indicates on 07/18/2012 PD provided SIRT with details of the event, including that Individual looked up at you, "reached to his waistband area and made suspicious movements directed towards [you]. In response to the subject's actions, [you] fired one shot from your weapon."

[38] In a PD document "Complaint-Follow up, Informational Report-General Investigation," a detective wrote that one of the PD Officers who responded to your residence, was told by you that four males broke into your car and fled westbound. This is not consistent with everything else in the documentation, which is that two individuals (the [redacted] were the ones breaking into the POV and two others helped them escape, including your statements to DA and DOJ-OIG. As this discrepancy appears to be a mistake or misunderstanding by either the speaker or writer, rather than due to any lack of candor, I will consider it as such and rely on the other documentation. b6 -7 b7C -7

[39] In the SIRT report, page 3, it is noted that video footage from a residence across the street showed Individual's [redacted] returning to Individual on the ground and dragging him through the crosswalk to the vehicle.

shooting, your first interest was the POV as upon exiting the residence you went to examine the POV even before looking westbound and seeing Individual.[40]

**Your Compelled Statement to DOJ-OIG on 05/01/2014[41]**

You refused to speak with DOJ-OIG voluntarily.[42] In a compelled interview on May 1, 2014, you stated prior to your Bureau experience, you served as an army officer from 2002 to 2007. While in the army, you served two tours in Iraq, one between 2003 and 2004 and the other between 2005 and 2006. You advised that during those two tours, you fired your weapon in "excess of 20 times" in real life situations where you felt you did so in defense of your own life or others' lives.[43] You had no law enforcement experience before coming to work for the FBI and this was your first shooting incident as an FBI employee.

You recounted the shooting incident of July 18, 2012. You had been asleep in the master bedroom on the second floor of your residence for just a few hours when at approximately 5:00 a.m., you were awakened by [redacted] who told you someone was breaking into the POV.[44] [redacted] was in the adjoining room, [redacted] and could see the same events through the window in that room as you could see from the bedroom window. b6 -1 b7C -1

You got out of bed and went to the bedroom window where you observed Individual, whom you did not know, attempting to open the POV's trunk.[45] Individual was using some sort of tool with both of his hands to try to open the trunk.[46] You estimated the horizontal distance between yourself and Individual at approximately 30 feet and the vertical distance to be between 10 and 25 feet.[47]

---

[40] Agents are provided regular training, at the academy as well as through field firearms drills, to always scan the entire area before deciding if a threat is eliminated after firing one's weapon.

[41] Compiled from DOJ-OIG ROI dated 01/05/2015, transcript of recorded compelled interview on 05/01/2014, and recording of compelled interview on 05/01/2014.

[42] DA, USAO, and DOJ-CRD had all declined prosecution months before your compelled interview so you no longer had a 5th Amendment concern about providing a voluntary statement. At the beginning of the compelled interview, the interviewing DOJ-OIG agent stated the prosecuting entities had declined prosecution and the interview was purely for administrative purposes. At the end of the interview, DOJ-OIG again requested an interview with [redacted] and a re-enactment of the shooting incident. After this interview, you and [redacted] again refused to cooperate with DOJ-OIG in these matters. At this point, if not at the time the FBI Chief Inspector informed your counsel there would be no prosecution, you no longer had a right to refuse cooperation in an administrative proceeding. b6 -2 b7C -2

[43] OIG compelled interview transcript, page 119 – 120. You did not provide a more accurate estimated range of shootings, or elaborate on the circumstances of any of these shootings, nor did you explain your or the army's definition for the appropriate use of deadly force.

[44] You had worked a late surveillance shift the night before and also had a [redacted] at the time. In your compelled interview, you stated you had at least four hours of sleep at the time of the incident (page 38). However, you also stated that getting up around 5:30a.m. was normal for your squad (page 115). Although you had not received much sleep by most standards, you did not indicate in your compelled interview that lack of sleep was a factor in your decision making process and, therefore, I will not treat it as a mitigating factor. b6 -2 b7C -2

[45] You did not see anyone else until you went outside after the shooting.

[46] OIG compelled interview transcript, page 40.

[47] Looking at the photograph of the location of the vehicle in comparison to your house and second story window, however, the distances appear to be greater than your estimate.

Mr. [redacted] b6 -1 b7C -1

You acknowledged that what you saw was a property crime: someone breaking into the POV, and that it was your goal at that point to get that person to leave.[48] You did not have any concern for your safety at this time.[49] Only when asked directly by the interviewer whether you had concern for the safety of [redacted] in the adjoining room, you said "yes."[50] When asked why, you stated, "*Well, this is a property crime*. And usually people that commit property crimes, in our line of work, we know that they are probably into some sort of reselling of the equipment, either for drugs or just for money. And they probably carry weapons. They have a high probability of carrying weapons. And that there are multiple people usually involved. So he's probably not alone. . . And it concerned me that I couldn't see anyone else."[51] When asked what, at this point in the situation, would have constituted a threat, you replied, "They, they could have discharged a weapon in the vicinity of [redacted]' who was near a window in the adjoining room.[52] b6 -2 b7C -2

The interviewing agent asked why, if your concern was for [redacted]'s safety, was your first response not to simply remove them from the situation, as it was only a property crime and the most danger that would happen would be for the subjects to get away with the car radio. You replied, "Because I just wanted him to get away from the car. I didn't think it was going to be that—."[53] b6 -2 b7C -2

It was dark outside and you raised the blinds ("I wanted to be seen. . . It was an overt movement—."[54]), opened the window ("ensuring there's only a screen between my mouth and his ear"[55]), and shouted at Individual something like "Get the fuck away from the car!" You shouted this about three times, with increasing volume, with the intent to alert Individual to your presence so that Individual would flee the area. Individual, however, showed no response to your shouts and continued the motion that appeared to you to be of trying to break into the POV. You felt Individual should have heard and reacted to your command.

You stated that you felt that because Individual did not react in any way to your shouts but continued working on the trunk and, in your mind, Individual now knew of your presence yet did not flee, the situation was "escalating."[56] Even still, you did not choose to move [redacted] to a safer location in the residence than the adjoining room. Instead, your goal remained to get Individual away from the POV.[57] b6 -2 b7C -2

The interviewing agent asked you whether, at this point in the events, you felt you were in imminent danger of death or serious injury. You replied, "I, I know that now I'm dealing with someone that is not compliant."[58] The interviewing agent stated this was because, in your opinion, you had yelled loud enough that Individual should have been able to hear you. You

[48] OIG compelled interview transcript, page 40.
[49] OIG compelled interview transcript, page 41.
[50] OIG compelled interview transcript, page 41.
[51] OIG compelled interview transcript, page 41, emphasis added.
[52] OIG compelled interview transcript, page 42.
[53] OIG compelled interview transcript, page 46.
[54] OIG compelled interview transcript, page 49.
[55] OIG compelled interview transcript, page 22.
[56] OIG compelled interview transcript, page 24.
[57] OIG compelled interview transcript, page 50.
[58] OIG compelled interview transcript, page 51.

replied, "At least look up and acknowledge me."[59] You emphasized this again later in the interview, stating that "Maybe even if he [Individual] looked around to try to determine where the sound was coming from, that would have been okay with me. But there was nothing."[60] And, again, "I was looking for any kind of movement at all at that point, too."[61]

Because Individual did not acknowledge you, you claimed "Now it's a police action,"[62] You briefly stepped away from the window to retrieve your FBI issued weapon from the drawer under your bed about three feet away and unholstered it. To do so, you did not maintain a visual on Individual but completely turned away from him and the window for perhaps about five seconds.[63] When the interviewing agent asked you whether it was your intent to affect an arrest or still to drive Individual away from the POV, you acknowledged it was to drive Individual away.[64]

Only when the interviewing agent asked whether you still had the same safety concern for [redacted] did you say it had now "escalated" to yourself as well, despite having just acknowledged your intent was still to drive Individual away from the POV.[65] The interviewing agent again asked you why, if the situation was escalating, did you not direct [redacted] to take some type of action to remove herself from the situation. You were not clear about why you did not do so, offering suggestions that perhaps it was your dazed state of mind or your assumption that [redacted] would walk towards the back of the house. You acknowledged that, at that point, you did not know whether [redacted] was still near the window in the adjacent room. You did not know this, you said, because "I'm, I'm focused on him [Individual]."[66] You then added, "And, and I'm just wondering what else is going on. How many other people are involved?"[67] b6 -2 b7C -2

You stated that at this point you felt your life was in danger because Individual was a "noncompliant criminal,"[68] because there was a pattern of crime in the area, there were "heavy gangs" to the east, there were known drug transactions in the vicinity of your house, and because you did not know what "they're carrying or, or what they're doing. There's a high probability they have a weapon on them."[69] You added that over the two-year time that you and [redacted] had lived in that residence prior to this shooting incident, that was the pattern you had seen. I note you did not state – either in this compelled DOJ-OIG interview or in your written or oral responses – that you were aware of any of the neighborhood crimes involving guns or deadly force situations. You mentioned there had been multiple car burglaries. b6 -2 b7C -2

The interviewing agent observed that there was a difference between an agent's role and duty as a law enforcement agent who has to go make an arrest, who therefore must engage in action with a subject, and this personal property crime. The interviewing agent again asked you

[59] OIG compelled interview transcript, page 51.
[60] OIG compelled interview transcript, page 73.
[61] OIG compelled interview transcript, page 74.
[62] OIG compelled interview transcript, page 52.
[63] OIG compelled interview transcript, page 75.
[64] OIG compelled interview transcript, page 52.
[65] OIG compelled interview transcript, page 52.
[66] OIG compelled interview transcript, page 53.
[67] OIG compelled interview transcript, page 54.
[68] OIG compelled interview transcript, pages 54 – 55.
[69] OIG compelled interview transcript, page 55.

why, at this point in the incident (once you had yelled and Individual did not respond but before you retrieved your weapon and shot Individual), did you not simply remove yourself, [redacted], and [redacted] from the situation by just getting away from the windows; from where did you think the danger was coming? You replied, "Now I've announced myself."[70] b6 -2 b7C -2

You went on to speculate that whoever else was involved, and that it may not be Individual, had time to take up a position of advantage and shoot. You now claimed that all you could think about was ricochet.[71] You explained that your house was not very big, it had multiple points of entry, especially through the bay window at which you stood, and there was "enough opportunity for any round, once it hits drywall, to, to ricochet around."[72] Hence, you felt you could not retreat. I note you did not see anyone else and the person on whom you were focused (Individual) still did not appear to have heard you. Therefore, I find your statements lack credibility.

After you got your weapon from the bedside drawer, you returned to the window and pulled the blinds the rest of the way up because you ". . . wanted to be seen. I wanted to be heard."[73] You got in the "low ready" position[74] to ensure the weapon was visible to Individual[75] and again yelled at Individual, this time adding "police" and saying something like "Police, get away from the vehicle." You had an unobstructed line of site to Individual and believed Individual would be able to clearly see you and your weapon as there was a night light in your bedroom that provided back lighting on you. However, I observe from your statement to DOJ-OIG that you were fully aware Individual had not actually seen you or your weapon because he had not turned to face you.

The interviewing agent asked you at this point in the incident, what was the imminent danger posed that you chose to announce yourself as police when you yelled for Individual to get away from the POV. You maintained Individual was continuing to escalate the situation by his lack of response. "Now I've announced that I'm a police officer. . . And he is still not acknowledging me."[76] Later in the interview, when the interviewer asked you how long after yelling at Individual with including the announcement "police" before Individual started the motion of turning towards you, you contradicted this earlier statement when you replied, "That one was almost, that one was almost immediate."[77] You said that as soon as you yelled "police, get away from the vehicle," Individual started turning towards you, at which time Individual's left arm moved, and that was when you fired.[78]

When Individual started to turn towards you, this was the first acknowledgement that Individual heard you. While Individual's right hand stayed on the tool he was using on the trunk

[70] OIG compelled interview transcript, page 57.
[71] OIG compelled interview transcript, page 58.
[72] OIG compelled interview transcript, page 58.
[73] OIG compelled interview transcript, page 28.
[74] OIG compelled interview transcript, page 28. It appears you are referring to what FBI firearms instructors also call position 3. This is when the weapon is drawn and held in both hands in front of the body, partially raised in preparation for quickly extending to eye level into the full shooting position 4.
[75] OIG compelled interview transcript, page 59.
[76] OIG compelled interview transcript, page 60.
[77] OIG compelled interview transcript, page 76.
[78] OIG compelled interview transcript, page 76.

of the POV, as Individual began to turn his head and upper body towards you, you said you saw Individual's left arm drop away to his waist. You said, based on "our experience, in our line of work, that's the felony carry area. So, the next logical thing is he's going for a weapon."[79] At this point, prior to Individual completing his turn or even yet making eye contact with you, you fired your FBI issued weapon one time at Individual because, you said, you feared imminent death or serious physical injury to yourself or others.[80] You later added that you believed Individual was going to take aim at you because, "The whole time, he hasn't looked at me. The one time he starts to look at me, his hand drops to his waistband."[81] You claimed Individual was attempting to acquire a target.[82]

After you fired the one round, Individual turned toward the street and disappeared from your view. You felt "the threat [was] subdued."[83] You went to check on [redacted] and then went downstairs.[84] You said that, when you came out of the front of the residence, you "immediately" "figured he [Individual] was gone."[85] Later in the interview, you claimed you first scanned "everything" to make sure the scene was safe before assessing the POV. You also claimed you scanned the downstairs of your residence, in case someone had "breached downstairs"[86] and you "[redacted]"[87] when you opened the front door before exiting. You still kept your weapon in "low ready" and went "straight for the [POV]" to assess whether it had been broken into and/or damaged.[88] b6 -2 b7C -2 b7E -1

After looking around the POV and discovering the removed side window and "ravaged" center console, only then did you look to your right to start scanning the area for witnesses or the

---

[79] OIG compelled interview transcript, page 29.

[80] You did not claim that you saw Individual retrieve any form of weapon from his waistband area. According to your compelled interview, you raised your weapon from the "low ready" position to eye level, got a sight picture, and fired one round (page 29). While this is a series of movements that can be done very quickly by someone trained in firearms, I note that this indeed would have been done extremely fast if you had in fact reacted to Individual' movement – rather than acted first – if you started to fire only after seeing Individual move his left hand towards his waistband but before Individual could complete his turn in your direction to look up at you. I note the timing is also consistent with the shooter's finger already being on the trigger and firing from position 3 (rather than raising the weapon to position 4, acquiring a sight picture, and then firing), or with firing first as opposed to firing in reaction to any movement by Individual as reaction time takes longer than initiating action.

[81] OIG compelled interview transcript, page 62. I note that earlier in the interview, you were upset that Individual would not even look at you. Here, Individual starts to turn to look at you as you wanted, albeit Individual's left arm dropped as he turned, a natural movement when someone is turning to look up at you.

[82] OIG compelled interview transcript, page 62. I note Individual had not finished turning or looking up at you, nor had his left arm or hand apparently made more movement indicative of reaching for a weapon and/or "acquiring a target" than to have dropped down near his waistband. No evidence suggests Individual was "acquiring a target." Nor does it suggest he even had the opportunity to see you and/or your weapon before you shot him.

[83] OIG compelled interview transcript, page 65. I note this contradicts your earlier statements where you maintained that you were concerned about other subjects that you could not see and that someone besides Individual could appear and shoot, harming [redacted] b6 -2

[84] Later in the interview, you recalled first standing still for about 15 – 20 seconds after shooting Individual, looking for a car or other people, or any type of response from the neighborhood. OIG compelled interview transcript, pages 76 – 77. b7C -2

[85] OIG compelled interview transcript, page 31.

[86] OIG compelled interview transcript, page 68.

[87] OIG compelled interview transcript, page 68. [redacted] is a tactical procedure utilized by agents to identify possible threats on the other side of a doorway. b7E -1

[88] OIG compelled interview transcript, page 31.

getaway car.[89] You heard someone say, "You're killing me, man" and you then noticed Individual and his "buddy" who had dragged Individual along the street, leaving blood on the sidewalk. They then got into a dark sedan, which did a U-turn and drove slowly past you before driving away.[90] You estimated you were outside, staring at the POV and its removed window, for over a minute before you heard and saw Individual.[91]

You both at the time of the incident and in the compelled interview were focused on the POV and the fact the subjects removed an entire window. You stated, "I just stood up there. I couldn't believe the window. I'm still focused on this window. And the trunk was up. And I'm just trying to assess, like, what happened. And, and I'm looking around. And it was, it was over a minute."[92]

You then went back inside your residence[93] and [redacted] was downstairs on the telephone with 911. [redacted] when she came downstairs and when you went back inside the residence. Two PD officers arrived and took the initial assessment. One of the officers told you he needed your weapon. You unloaded your weapon and relinquished it to the officer. You also retrieved the casing from the fired round and gave that to the officer as well. You acknowledged that you voluntarily surrendered your FBI issued weapon to PD and that PD merely requested the weapon but was not insistent and did not pressure you to relinquish the weapon. You claimed you were not aware that you were not supposed to relinquish the weapon to any other authorities outside of the FBI and that no one ever told you not to do so.[94] However, you said you did know that you were not permitted to give a statement to PD.[95] b6 -2 b7C -2

You claimed you called your supervisor to notify the FBI of the shooting and that was when the supervisor came to your residence. This "supervisor" also accompanied you in an ambulance to a hospital because you were shaking uncontrollably by the time the supervisor arrived on scene.[96] You later identified the "supervisor" you notified of the shooting was Friend.[97] However, further into the interview, you acknowledged that your squad supervisor was Supervisor and that Friend contacted Supervisor.[98] You did not contact your division's operations center and stated you were not aware you were required to do so. Later in the interview, you affirmed that you were aware of the requirement to notify one's supervisor of a shooting incident and said that you were trained on this about once a quarter.[99] You were not familiar at the time of the requirement to notify your division's operations center and said the

[89] OIG compelled interview transcript, page 32.
[90] OIG compelled interview transcript, page 33 - 34.
[91] OIG compelled interview transcript, page 78.
[92] OIG compelled interview transcript, page 78.
[93] You, through many leading questions and statements by the interviewing agent, also described your actions to take cover or put yourself in a tactically sound position when you saw and heard Individual and watched as Individual was dragged and loaded into the car and the car drove slowly by you. See OIG compelled interview transcript, pages 79 – 84.
[94] OIG compelled interview transcript, page 110 – 112, 113.
[95] OIG compelled interview transcript, page 113.
[96] OIG compelled interview transcript, page 35-36.
[97] OIG compelled interview transcript, page 109.
[98] OIG compelled interview transcript, page 112.
[99] OIG compelled interview transcript, pages 102 – 103.

main focus in training was to notify one's supervisor who would then assist the reporting agent through the rest of the process, such as notifying the operations center.[100]

The interviewing agent reviewed the DOJ Deadly Force Policy with you. You were familiar with the policy and acknowledged you received training in it "at least quarterly."[101] You also advised that with any type of arrest or search warrant briefing, "Any type of operation we do, we brief it [the deadly force policy] verbally."[102]

The interviewing agent asked you to articulate how the facts and factors of this shooting incident fit within the deadly force policy as an authorized use of deadly force. You explained the factors you considered at the time that led you to conclude it was appropriate to use deadly force were: There was a high rate of crime in the area, including car thefts on your block;[103] you thought there was a high probability these individuals were armed and there were possibly others that were posing a danger; the "escalation" of Individual's noncompliance with your shouts; and Individual's "furtive movement towards his waistband, which is a common felony carry area."[104] Additionally, you applied each of the subcategories of the deadly force policy and how you were not in violation of those, including that you did not fire a warning shot at Individual because, you said, "I took aim" at Individual.[105]

When asked in this compelled interview whether it was your opinion that you were in compliance with the deadly force policy in this shooting incident, you firmly answered, "Yes, I am."[106] In answering the interviewer's leading questions, you maintained that you did not shoot Individual solely to prevent the property crime involving the POV but rather because you felt your life and the lives of those around you were in imminent danger.[107]

Again, the interviewing agent asked you why you felt there was no time during this incident to withdraw from the window and just allow the property crime to occur, and to call PD. You maintained it was due to "possible accomplices that were armed and could gain a position of tactical advantage. And from my experience clearing houses in small villages in the Middle East, there's a high probability of ricochet. . . there really was no safe area inside the house."[108]

During this discussion of whether there was a realistic option to seek safety in your house, your counsel commented that the deadly force policy does not impose a duty to retreat.[109] Counsel also noted that the issue to retreat would only come up "concurrently with the movement of this individual to his waist, because that's when his behavior rose to the level of

[100] OIG compelled interview, page 102. As part of this discussion, your counsel raised a question of the relevancy of the FBI Inspection Division Shooting Incident Guide because, although you used your service weapon to shoot Individual, it was not a "mission-related" shooting and was "outside the scope of [your] official duties" (pages 103 – 104).
[101] OIG compelled interview transcript, page 87.
[102] OIG compelled interview transcript, page 87.
[103] OIG compelled interview transcript, page 94.
[104] OIG compelled interview transcript, pages 89 – 90.
[105] OIG compelled interview transcript, page 92.
[106] OIG compelled interview transcript, page 93.
[107] OIG compelled interview transcript, pages 94 – 95.
[108] OIG compelled interview transcript, page 96.
[109] OIG compelled interview transcript, page 98.

imminence to justify the shooting. . .we're not suggesting that he, that sense of imminence existed prior to that movement to the waist—."[110]

The interviewer, again through leading statements and questions, addressed the possible argument that you yourself escalated the situation when you went to get your weapon. To counter that argument, the interviewer allowed for the possibility that you "felt that there was no safe place to retreat in the house, that may be a, a factor in that decision." You replied, "That's correct."[111] I again note you were a sizeable distance from Individual and on the second floor inside your house while he was outside on the street. When the interviewer asked if you felt it was tactically sound, before retrieving the weapon, to get [redacted] and move them further into the residence and call PD, you then said, "I wasn't sure if there was a breach in the main floor. So if somebody had entered the house and was making their way up. . . none of the rest of the house had been cleared."[112] The interviewer also offered you the idea of whether this incident could have been connected to work, to your assignment of organized crime cases, and related to a vendetta. You then answered that it was "always" a consideration and "yeah."[113] b6 -1 b7C -1

The interviewing agent provided you with the opportunity to conclude the interview by providing any additional information you would like someone reviewing this interview recording to know. You stated, "Not that I can think of, other than, you know, once, once one shot was fired, it was, everything for me was deliberate. It was, the, the threat was subdued, so you stop firing. And, and that was it. That was it for me. Yeah."[114]

At the end of the interview, the interviewing agent requested to interview [redacted] and that you re-enact the event at your residence for DOJ-OIG in order to document all the facts. After the interview, you declined to do so.[115] b6 -2 b7C -2

**Your Written Response Dated 10/30/2015 and Your Oral Hearing on 11/06/2015**

Your counsel provided a lengthy written response on October 30, 2015 to OPR's proposal for your dismissal. In the first footnote, in the summary section of the written response, your counsel stated you "voluntarily allowed the screen from [your] window to be removed from [your] residence for forensic examination. SIRT and OPR subsequently reviewed this matter."[116] I take exception with this characterization of your supposed cooperation, not only in this footnote but elsewhere in the written response and in your oral presentation on November 6, 2015. At all times, you were uncooperative with the FBI and DOJ-OIG and the FBI and DOJ-OIG had to obtain all evidence in this matter from the PD and DA because you consistently refused to cooperate, even after being advised the DA, USAO, and DOJ had all declined prosecution. In your oral presentation, your counsel acknowledged the FBI Chief Inspector had informed him verbally in October 2013 that all entities had declined prosecution. He further acknowledged

[110] OIG compelled interview transcript, page 98.
[111] OIG compelled interview transcript, page 99.
[112] OIG compelled interview transcript, page 101.
[113] OIG compelled interview transcript, page 101.
[114] OIG compelled interview transcript, page 116.
[115] OIG compelled interview transcript, page 118. You and [redacted] later maintained your refusal to cooperate with DOJ-OIG, despite the fact that – if not earlier – you had been informed in this compelled interview that there would be no criminal prosecution and this was strictly an administrative proceeding. b6 -2 b7C -2
[116] Written response, page 2.

DOJ-OIG informed you of this as well at your compelled interview on May 1, 2015. Simply because the FBI was able to obtain the evidence from elsewhere does not alter the fact you refused to cooperate at all stages of this process. Failure to cooperate in an administrative matter, such as the SIRT investigation and the DOJ-OIG investigation, is a separate FBI Offense Code (2.10), the only sanction for which is dismissal. I am, however, going to consider your refusal to cooperate as an aggravating factor in this matter rather than a separate violation.

The written response stated this office was "conflating two separate issues and analyzing one to prove the other" regarding your use of force. Your counsel then attempted to separate the circumstances to justify his argument that you did not violate the deadly force policy, rather than review them under the required "totality of the circumstances" and "reasonable person" criteria. He elaborated that you arming yourself was completely separate from the analysis of whether justification to shoot was present and that there was no rule against you arming yourself when someone was committing a crime in your presence.[117] He also stated your testimony indicated you had your weapon at the "low ready" position and gained a sight picture and fired your weapon in a split second reaction to Individual's "threatening movements (despite notice to the [Individual] to be compliant and stop his felonious activity), NOT in response to a property crime. [You] pointed and fired [your] weapon in response to an imminent threat, not a property crime."[118] However, your counsel's statement is in direct contradiction to your statements to DOJ-OIG, under oath, that Individual up until that point had made no movement indicating he heard you and that you *wanted* him to turn around and in some way acknowledge you.

The written response discussed various statistics regarding theft of automobile parts and organized crime and concluded there is a relationship between these property crimes and violence. It claimed DOJ-OIG and OPR attempted to paint the crime of Individual breaking into your POV as a "crime of opportunity" rather than possibly a crime committed by experienced, organized thieves. I take exception to this characterization: the proposal fully addressed the planned nature of the crime by Individual and his companions, and detailed their past criminal history. Additionally, neither you nor your counsel addressed in writing or orally your comment in your compelled DOJ-OIG interview that Individual's activities with your vehicle could have been a personal vendetta. Nor did you ever state that there had been violent crimes committed in your neighborhood. Given your variance on your stance about your thought process at the time, I find it difficult to credit your and your counsel's focus in the written and oral responses about your concern at the moment that Individual was part of some larger and more dangerous organized crime group.

Your counsel, in the written statement and the oral presentation, explained you were legally authorized to utilize *physical* force under state law in this situation and arrest Individual. He then attempted to rationalize that because SIRT, DOJ-OIG, and this office did not find your use of *deadly* force reasonable and inquired as to why other options were not utilized instead, the government was somehow trying to enforce a duty to retreat. This is yet another mischaracterization of the facts and of applying facts to standard legal analysis.

---

[117] I note that "in your presence" in this instance was outside, across the steps and sidewalk, to the street from where you were located inside your house on the second story.

[118] Written response, page 4.

Contrary to these mischaracterizations, when you retrieved your weapon and pointed it in the low ready position towards Individual is relevant to evaluating your actions under the totality of the circumstances. Not only does it go to whether your mindset was reasonable at the time, it is also relevant whether you were candid in the initial PD/DA investigation because you told them a different scenario than you told DOJ-OIG. This will be addressed further in this letter.

I find no relevance to the argument that state law's permissiveness to use *physical* force to stop a property crime was somehow related to you drawing a deadly weapon on Individual a floor level away vertically, and across the stoop, stairs, walkway, and sidewalk away horizontally, when you had no indication he was an imminent threat to your life and when you stated under oath you were just trying to get him away from your car. The issue of the appropriateness under state law of using physical force would only have arisen had you been outside and in close proximity to Individual; but physical force is an entirely different matter than deadly force.

Likewise, the various examples provided in both the written response and the oral hearing of when law enforcement officers, in the normal course of their on-duty responsibilities, became involved in deadly force situations that had begun as routine, non-deadly circumstances, entirely miss the mark. In the examples, none of the officers resorted to deadly force before seeing a weapon or before shots were fired. All of these examples were of law enforcement officers on duty who came into close proximity of the subjects. You, in contrast, were in the second story of your house while Individual was outside on the street, across the distance of your porch steps, walkway, and sidewalk. Individual was intent on breaking into the POV and was not making any movement to indicate he even heard you or saw you until immediately before you shot him in the back as he was beginning to twist around to respond to your shouting.[119] While you and your counsel made much, both in the written response and oral presentation, of the history of auto break-ins in the neighborhood, you provided no evidence of crimes involving physical or deadly force, or involving weapons or gunshots.

The written response quoted *People v. Benjamin, 51 N.Y. 2d 267 (1980)* to support the argument that a law enforcement officer does not need to await the "glint of steel" of a weapon before he could act to preserve his safety. This case is unpersuasive because it is not on point for the use of deadly force and actually rules against his argument that I must, when I evaluate your use of deadly force, divorce the surrounding circumstances from the immediate moment you decided to pull the trigger. *People v. Benjamin* was a case regarding at what point an officer could conduct a stop and frisk. Justification for conducting a pat down is a far cry from using deadly force. This case would have been appropriate to cite had you been outside with Individual, rather than inside on the second floor of your house, and needed to articulate a reason to conduct a stop and frisk. *Benjamin* did focus on articulating the totality of the circumstances standard and applying it to the fact the officer had received a call regarding men with guns combined with the officer being on the same ground level as the subject, in a close proximity of about 10 feet to the subject, and the subject's motion of stepping back and using both hands to

[119] Again, I note you told DOJ-OIG that you wanted Individual to turn, to look at you, or to some way acknowledge you. While you and your counsel frequently used the term "noncompliant" regarding Individual's lack of acknowledgment of your shouts, the more accurate term would be "unresponsive." This is because there is no evidence Individual was intentionally ignoring your shouts, and therefore refusing to comply, as he made no reaction at all.

grab at something at his waist. Thus, *Benjamin* affirms the need for evaluating all of the circumstances leading up to your decision to pull the trigger.

Your written response attempted to state your circumstances as those that a reasonable officer would perceive as an imminent threat to his safety. It not only was unsuccessful, it contradicted your previous statement under oath to DOJ-OIG. The written response stated the Individual had been "consistently non-compliant" with your commands to get away from the POV, had "looked up" at you, and "made a furtive movement with his hand near his waistband" and it was at this point you perceived a deadly threat and shot Individual. The response also stated Individual was engaged in a crime with others which was traditionally linked to organized crime, "and yes violence" and acted "in a manner consistent with an individual drawing a weapon." Your written response argued that all of these "reasonably perceived facts" gave rise to "justification in the use of force."[120] However, these statements were in direct conflict with the evidence in the record:

- You told DOJ-OIG Individual made no motion or indication he had even heard you, so there is not conclusive evidence he was noncompliant rather than oblivious (evidence such as him looking at you and then going back to his task – as you told the PD, or yelling something back at you, etc. would indicate noncompliance).

- Your written response stated Individual "looked up" at you but this is untrue according to your sworn statement to DOJ-OIG: you stated Individual had not moved or looked up at you, or in any way acknowledgd your presence, and that it was when he *started* to turn as if to look at you that his left hand dropped towards his waist and you shot him. By your own testimony, you acknowledged Individual had not looked at you before this.[121]

- As for the "furtive movement," in your DOJ-OIG interview, you clarified Individual's left hand dropped towards his waist area *as he began to turn towards you.* To use the classic phrase "furtive movement" towards his "waistband" after claiming Individual looked up at you when he had not yet done so is to paint a different picture than your sworn testimony to DOJ-OIG that indicated Individual may have been making a natural movement as he began to turn to acknowledge your presence – the very thing you told DOJ-OIG you wanted him to do.

- While Individual was engaged in criminal activity of a property crime and there was a history of property crime in your neighborhood, you did not provide any evidence of an awareness of previous violent crime or shootings in your neighborhood. Nor were you aware at the time you chose to shoot Individual of other people involved in the criminal activity other than Individual.

[120] Written response, page 8.

[121] During your oral presentation, you and your counsel maintained one of the factors in your belief that deadly force was reasonable was Individual had looked at you and had seen you holding your weapon but still did not comply. This directly contradicts your testimony during your sworn statement to DOJ-OIG.

Mr. [redacted] b6 -1 b7C -1

## ANALYSIS

### A. Misuse of Weapon – Intentional Discharge

According to FBI Offense Code 5.15, employees are prohibited from "[p]urposefully or willfully discharging a weapon in violation of the deadly force policy.

The DOJ Deadly Force Policy states in relevant part:

> Law enforcement officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief[122] that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.
>
> A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.
> B. Firearms may not be fired solely to disable moving vehicles.
> C. If feasible and to do so would not increase the danger to the officer or others,
> D. A verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.
> E. Warning shots are not permitted.
> F. Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy.

In the written response, your counsel argued the evidence and applicable test under *Graham v. O'Connor* (the analysis used by SIRT and DOJ to determine whether the DOJ deadly force policy was violated), indicates your action fell within DOJ guidelines. Your counsel provided an example of the application of the "objectively reasonable" standard of *Pittman v. Nelms*. Again, you rely on a case that is not on point. In *Pittman,* while conducting a traffic stop, an officer reached into the vehicle and the vehicle began to flee, entangling the officer's arm in the vehicle and dragging him with it for 25 – 30 feet before the officer was thrown free of the vehicle. After being freed from the vehicle, the officer's partner fired, striking the passenger. The court determined the shooting officer did not use excessive force. Your counsel erroneously stated that these facts of *Pittman* justify your response in your situation with Individual.[123] *Pittman* is not the correct measure for analysis in your case because it dealt with the actual use of deadly force by the subject in close proximity to the officer, actually entangling the officer with the vehicle and subjecting him to the actual risk of serious bodily injury or death. The officer's partner's use of deadly force was in reaction to the subject's use of deadly force of utilizing the vehicle to inflict serious bodily injury upon the officer. I am at a loss as to how you believe this case to be applicable to your situation when you were on the second story of your house rather than close proximity to Individual, and Individual had not just demonstrated – as in *Pittman* – the complete disregard for human life by the use of a vehicle in such an intentionally unsafe manner.

---

[122] DIOG Appendix F defines "reasonable belief" as being synonymous with probable cause and to be determined "by the totality of the facts and circumstances known to agents at the time, and the logical inferences that may be drawn from them."

[123] Written response, pages 9 – 10.

Both SIRG and DOJ-OIG reviewed the investigation findings and both concluded you violated the DOJ Deadly Force Policy when you shot Individual.[124] You had not been compelled to speak to DOJ-OIG at the time of SIRG's decision and, therefore, SIRG had only your version you told to PD/DA to rely upon for understanding your perspective on the matter.[125] Of the two versions of events you told, the one you told PD/DA, if anything, would have provided more reason for SIRG to find the possibility that probable cause existed that Individual posed an imminent danger of death or serious physical injury to you or your family. This is because you told PD/DA that you retrieved your weapon from under your bed *in response to Individual making a furtive movement to his waistband with his left hand.*[126] You told PD that you fired your weapon when Individual had already moved his hand to his waistband, turned to you, and then started to make a threatening gesture with the hand at his waistband by bringing it towards you.[127] Even with this misinformation in your favor, SIRG's review of the totality of the circumstances revealed that your use of deadly force was not objectively reasonable and they unanimously decided you violated the deadly force policy.[128]

Specifically, SIRG did not find it objectively reasonable that Individual, who was involved in a relatively minor property crime on the street in front of your residence, posed a risk of imminent death or serious bodily injury to you or your family on the second floor of the residence. They also considered the facts that you and your family were in a solid structure and you had time to move from your window, retrieve your firearm, and re-engage Individual. SIRG noted you did not give any commands consistent with the training all FBI agents receive that reflect a clear effort to address a threat posed by a subject such as "FBI, don't move" and to keep one's hands visible and raised. To the contrary, your commands reflected your concern for your property rather than a belief of imminent threat of death or serious injury to yourself or your family, as your shouts consisted of telling Individual to get away from the POV.

In your compelled DOJ-OIG interview, you admitted you retrieved your weapon specifically because Individual was committing a property crime and you wanted to get him away from your POV. FBI agents are trained to always keep their weapons pointed in a safe direction and to not point it at someone unless justified. Human safety is the justification to point a weapon at someone, not a property crime. This is a significant change from your statement to PD about retrieving your weapon because, you told them, Individual looked at you and put his hand to his waist. However, you acknowledged in your compelled DOJ-OIG interview that you were not retrieving your weapon and pointing it at Individual for safety

[124] See the SIRG report and the DOJ-OIG ROI for their analyses.

[125] As previously noted, SIRG gave you another opportunity prior to its final ruling (and after criminal prosecution was declined) to provide a voluntary statement. You refused.

[126] You acknowledged to DOJ-OIG that Individual made no movement or in any way acknowledged you the first few times you yelled at Individual. Because Individual made no movement or acknowledgement of you, you retrieved your weapon. This information indicates you had even less of an objectively reasonable belief that Individual posed an imminent threat than in the version of events you gave DA/PD.

[127] This is contrary to your DOJ-OIG compelled interview, where you said you shot Individual as his hand "dropped" to his waist as he began to turn (he had not yet looked up at your, nor had he already put his hand to his waistband, nor was there a second movement of his hand toward you).

[128] In the oral presentation, your counsel noted the draft PD reports relied upon by SIRT/SIRG of your interview had incorrect dates. Although counsel attempted to use the mistake of dates as a way to cast doubt on the content of the report, they provided no evidence or pointed to any particular part of the content that they could identify as not accurate. Therefore, except for the date of the interview, I will accept the content of the report as an accurate summary of what you told the PD and DA.

reasons, you were pointing your deadly weapon, in the "low ready" position at Individual for a property crime happening outside of your house on the ground floor, across the porch, steps, walkway, and sidewalk while you were inside on the second floor.

Your counsel, in the oral presentation, attempted to claim that the FBI was simply arguing over tactics and that which tactics you did or did not use were irrelevant to evaluating whether you were justified in shooting Individual. I disagree and I accept SIRG's reliance on these factors as part of the analysis of the totality of the circumstances. Rather than being meant as a critique of tactics, the mention of how agents are trained to respond versus how you responded is relevant to determining whether a law enforcement officer in your situation would have reasonably believed the totality of the circumstances warranted the use of deadly force. Your actions and/or inactions aid in determining whether you reasonably feared for your life, even though you were on the second story inside your house. Raising the blinds, turning on the light, and actually trying to be seen by Individual as clearly as possible and wanting Individual to turn around and look at you (as you state in your DOJ-OIG interview) would make you an easy target, rather than shouting safety commands (to raise his hands, etc.) and instinctively seeking cover/concealment even if you decided not to retreat.[129] SIRG and DOJ-OIG considered these circumstances along with the other factors, and concluded not only was your behavior not that of someone who reasonably believed Individual posed an imminent danger of death or serious physical injury to himself or those near him, but that the totality of the circumstances did not warrant such a belief and therefore the use of deadly force was not necessary .

DOJ-OIG likewise found your use of deadly force to be unreasonable and a violation of policy. Unlike in your PD/DA interview, you admitted to DOJ-OIG in your compelled interview that you retrieved your weapon from under your bed *because Individual was unresponsive to your shouts to get away from the POV and it was still your goal to get Individual away from the POV.* You stood in the window with your weapon in the low ready and the blinds pulled all the way up because you "wanted to be seen" and "wanted to be heard." Only this second time did you announce yourself as law enforcement by shouting "police"[130] and, even then, still commanded Individual to get away from the POV – rather than to not move or to raise his hands above his head, etc.[131]

In arriving at its finding of violation of the deadly force policy, DOJ-OIG took into consideration the facts as articulated by you, the relevant background information known to you before the shooting, your perception of events preceding your decision to employ deadly force, the tactics you employed during the encounter, and the account you provided of your actions during your compelled interview. DOJ-OIG concluded it was not reasonable to assume the property crime in which Individual was involved carried a presumption of violence similar to

[129] In both the written response and the oral presentation, your counsel equates the government's observation that you could have stepped aside with an implied duty to retreat. Again, your counsel is inaccurate. As you are aware from your FBI training, seeking cover and concealment is not at all the equivalent of retreating.
[130] In the PD/DA interview, you maintained that you identified yourself as "police" from the outset of your shouting to Individual to get away from the POV.
[131] This supports your admission that your goal was to get Individual to flee from the POV, rather than your later statements, often at the interviewing agent's prompting, that you feared for your and your family's safety, your concern about ricochet, and/or concern that an accomplice of Individual may have entered the residence downstairs.

that of armed robbery or narcotics trafficking, as you claimed.[132] DOJ-OIG also noted that you never stated you observed Individual in any clothing you knew to be indicative of a local street gang.[133]

DOJ-OIG found your statements about believing your position in the window offered insufficient and limited cover from Individual, should Individual (who had not yet even shown indication he heard you) fire upon you; about there being no safe location inside your residence to which you and your family could seek safety because you did not know if Individual had an accomplice who had broken into the residence; and because the structure was constructed in a way that would put you and your family in danger of a ricochet, to all be objectively unreasonable and unsupported by evidence. I likewise find your claims to lack credibility. When first asked why you went for your weapon rather than remove [redacted] from the situation, you replied, "Because I just wanted him [Individual] to get away from the car." In fact, when originally asked directly if you feared for your safety because Individual did not give any indication of acknowledging you, you instead said that now you were dealing with a noncompliant person and you at least wanted Individual to look your way and that you were "looking for any kind of movement at all at that point, too." However, when Individual did just that – *start* to turn and look in your direction, you shot Individual. b6 -2 b7C -2

DOJ-OIG notes, and I concur, that your decision to leave the window to retrieve your firearm and then return to the window is evidence that you were able to go to a position of safety prior to the moment that you claimed you believed Individual made a "furtive gesture" with his left arm toward his waistband. Additionally, as DOJ-OIG observed, if you actually believed your own statements about a possible accomplice breaking into the residence downstairs, it was not objectively reasonable for you to return to the window to continue shouting warnings to an oblivious Individual about the POV rather than to address the potential threat of an intruder.

Without considering the mischaracterizations of your written response and oral presentation (when you and counsel also stated you believed Individual could see you holding your weapon), the circumstance with which we are left is some sort of movement of Individual's left hand near his waist as he began to turn towards you in response to your shouts when he was committing a property crime some distance away from you and a floor below you. While this is a factor a reasonable law enforcement officer would take into consideration, it is the only factor and, even according to your counsel's cited case of *Benjamin*, is not in and of itself – especially given your distance from Individual – sufficient justification for the use of force.[134]

I agree with SIRG's and DOJ-OIG's questioning of your judgment in your decision to confront Individual with your weapon over a property crime. A deadly weapon is not within the

[132] I agree, especially in light of your answer to DOJ-OIG's suggestion that it could have been in retaliation, and in light of the fact you never provided any evidence of violent crimes or use of weapons in your neighborhood.
[133] In your written response, it stated it was unknown that it was a requirement of gang members to display certain colors at all times or whether the observation of a certain color is dispostive of gang affiliation. I note that, if you had observed some sort of indication of gang affiliation, it would have been another factor DOJ-OIG would have weighed when evaluating the totality of the circumstances.
[134] *Benjamin* explained that it was the multiple factors of the officer's receipt of a call regarding men with guns, his close proximity of about 10 feet on the same groundlevel as the subject, combined with the subject's motion of not only grabbing something at his waist with both hands but simultaneously stepping back that provided the totality of circumstances to justify a stop and frisk.

realm of the permissible use of physical force in a property crime as you attempted to argue. I also agree with DOJ-OIG's questioning of your veracity regarding whether you actually feared for your or your family's safety rather than shooting Individual over a property crime, especially given the totality of the circumstances. You admitted multiple times in your compelled DOJ-OIG interview that your goal was to stop Individual from breaking into the POV. Your actions support this as your motive rather than self-defense, especially making sure the blinds were all the way up, the window open, and that your presence with your weapon in full view in the window would be visible to Individual.[135] Given these circumstances, the factor in favor of your action being that of a reasonable law enforcement officer – the hand dropping towards the waist – is not in and of itself significant reason to use deadly force.[136]

Furthermore, after shooting Individual, your actions contradict your claim that you were concerned Individual was a noncompliant armed criminal reaching for a weapon to use against you: you rushed outside and went straight to the POV to assess it for damage and theft. You did not secure your residence, or even notice Individual nearby until Individual cried out. Rather than issuing commands to the man you thought was armed and ready to shoot you, you stood silently by and allowed Individual and Individual's [redacted] to continue their actions unimpeded, thus leaving control of the situation in their hands. As DOJ-OIG concluded, your actions were not indicative of a law enforcement officer's reaction to dealing with armed and dangerous subjects. b6 -7 b7C -7

Likewise, [redacted] call to 911 indicates no concern for the safety of herself, [redacted] or you. In the recording of her 911 call, [redacted] is heard yelling to you to shoot the car (presumably the car that picked up the [redacted] after the shooting). Although she told the operator that [redacted] fired one round and there may be an injured person, [redacted] seemed more focused on the POV, reporting the subjects had broken into the POV, [redacted] was outside looking at the POV, and "they" stole the radio. This does not indicate concern, present or immediately prior to the call, of imminent physical harm. b6 -1,2,7 b7C -1,2,7

In your written response, you stated there was "insufficient evidence to refute [your] claim that [you] fired [your] weapon in order to counter what [you] believed to be a threat to [yourself] and [you] [redacted]"[137] The only evidence you presented that contributes to a reasonable belief of imminent danger of death or serious bodily injury appears to be the movement of Individual dropping his left hand as he began to turn in response to your shouts. As *Benjamin* explains, the case cited in your written response, the movement of the hands towards the waistband alone is not sufficient for a law enforcement officer to justify taking safety measures to protect himself. If that one action alone is not enough for an officer to pat down someone, it certainly is not enough for an officer to use deadly force against someone. b6 -2 b7C -2

All FBI agents are extensively trained on the DOJ Deadly Force Policy, both at their initial training at Quantico and then regularly in their assigned field office. You acknowledged that you received training in the deadly force policy "at least quarterly." You also noted that the

[135] Such actions are the opposite of what a reasonable person in fear for his and his family's safety would do, which would include seeking cover and concealment and issuing commands to stop and keep one's hands in view, rather than framing oneself in an open window for a possible shooter to have a clear shot.
[136] Including in light of *Benjamin* and *Pittman*.
[137] Written response, page 9.

policy was reviewed in the briefings for every arrest and/or search warrant execution operation. Your division confirmed you attended the legal training in which the policy was covered in December 2011. I assess you were very familiar with the DOJ Deadly Force Policy at the time of this incident.

In addition to the DOJ Deadly Force Policy, agents are also routinely trained in the "cardinal rules of safety" of firearms. These rules include keeping one's finger off the trigger of the weapon until one is ready to shoot and not pointing one's weapon at anything one is not prepared to shoot. I note that you had your weapon pointed at Individual, in the "low ready" position, for a property crime.[138]

When asked in your compelled interview whether you were comfortable that your actions in this shooting incident were within policy, you maintained that you were. You claimed you did not shoot Individual solely to prevent a property crime involving your POV but because you felt your life and the lives of those around you were in imminent danger.

During your oral presentation, after discussing with you the multiple factors and totality of the circumstances surrounding this shooting incident, I asked you to state for me why you believed Individual, who was on the street, was a threat to you when you were inside on the second floor of your house, to the point you felt it was necessary to shoot him in the back. You responded, "Because I'm a law enforcement officer and that's what I signed up to do."

Despite the preceeding discussion of the totality of the circumstances, your counsel stated you did not understand my question. He clarified for you that I was asking why you believed at the moment you pulled the trigger why Individual was a threat to you. You responded, "Because people who are reaching for their waist are reaching for guns. And he had an intent to shoot me."

When I asked you to explain your concern in relation to the fact that you were on the second floor of your locked house while Individual was a distance away on the street, your counsel interrupted and claimed I was supposed to isolate the exact moment of when you decided to pull the trigger from all the other factors.[139] That is incorrect. I believe you are attempting to parse out the totality of the circumstances because when considered as a whole, you were not justified in shooting Individual.

However, even examining only your thoughts at that exact moment, the result is the same, that you were unjustified in shooting Individual: You stated you shot Individual because, at that moment, his hand was dropping to his waist and "Because people who are reaching for their waist are reaching for guns. And he had an intent to shoot me." To consider only these

[138] Although the record does not indicate one way or the other whether you had your finger on the trigger, the timing of events – that you shot Individual in the back before Individual could finish turning to face you – indicates this is a likely possibility.

[139] Specifically, your counsel said I was broadening the various factors that could have been considered but not necessarily were considered and that asking you to consider your distance from Individual on the second floor and other factors at the time Individual's hand moved towards his waist was a problem. Your counsel also stated such other factors may never have crossed your mind at the moment you shot Individual. That is exactly the issue here: a reasonable law enforcement officer has to decide *under the totality of the circumstances at the time,* whether he is in imminent danger of death or serious bodily injury.

thoughts at just that moment would be to conclude that anyone whose hand went near his waistband had a gun and intended to shoot you. Obviously, this is preposterous.[140]

I join DOJ-OIG in questioning your judgment in this very serious violation of the DOJ Deadly Force Policy. I also have grave concern about your lack of either ability or willingness to acknowledge your mistake and learn from it. The ability to exercise good judgment under pressure and to acknowledge when one does make a mistake is vital to an FBI Special Agent. Armed agents are frequently placed in situations where they must make critical decisions in a split second. It is understandable that occasionally mistakes will be made. When that happens, it is essential the agent be willing and able to accept the consequences and learn from the mistake so that it may not be repeated in the future. Your compelled DOJ-OIG interview, wherein you contradicted your own story and still maintained you were within policy, occurred almost two years after you shot Individual while Individual was committing a property crime.

I note Counsel's statement in your compelled interview that the DOJ Deadly Force Policy does not impose a duty to retreat and that the issue to retreat would only come up "concurrently with the movement of this individual to his waist, because that's when his behavior rose to the level of imminence to justify the shooting. . .we're not suggesting that he, that sense of imminence existed prior to that movement to the waist—."[141] Both the SIRG decision and the DOJ-OIG conclusion take into account all the factors that led to the conclusion that – contrary to Counsel's assertion – there was not a level of imminence at any stage in the incident to justify the shooting.[142] Furthermore, while the policy does not impose a duty to retreat, neither does it permit an FBI agent to himself create the deadly force situation over a property crime.[143]

Based on a preponderance of the evidence, I conclude you violated Offense Code 5.15.

**B. Lack of Candor/Lying – No Oath**

According to FBI Offense Code 2.5, employees are prohibited from "[k]nowingly providing false information when making a verbal or written statement, not under oath, to a supervisor, another Bureau employee in an authoritative position, or another governmental agency, when the employee is questioned about his conduct or the conduct of another person.

---

[140] Under this belief, leaving out the totality of the circumstances as you suggest I do, you would be justified in shooting anyone whose hand goes towards his waist, including all of your fellow agents who reach for their Bureau issued cell phones worn on their waists.

[141] OIG compelled interview transcript, page 98.

[142] As part of their deliberations on this incident, SIRG reviewed *Graham v. Connor*, 490 U.S. 386 (1989) regarding the test of "reasonableness" under the 4th Amendment. In reviewing all of the facts and factors in this case to arrive at their final decision, SIRG applied *Graham*. *Graham* states that "proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." Id. "[Reasonableness] must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. . .[the] calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation." Id. at 396-97. The ultimate question is "whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Id. At 397.

[143] I observe the prohibition on using deadly force to address a property crime is covered in the first year of law school.

'False information' includes false statements, misrepresentations, the failure to be fully forthright, or the concealment or omission of a material fact/information."

Some of your statements to PD/DA, when compared to your compelled DOJ-OIG interview, are at best misleading.[144] While it is not unusual for minor details to be recalled differently two years after a stressful event[145] from when originally recounted shortly after the event (the PD/DA interview), a change from some of your statements to PD/DA are significant, two statements in particular. You told PD/DA that you retrieved your weapon *because* Individual made a movement with his left hand towards his waistband. You also stated you shot Individual when Individual made a motion of his left hand coming towards you from the waistband area. However, in the compelled DOJ-OIG interview, you admitted you retrieved your weapon precisely because Individual made *no* movement or indication that he heard you. In the DOJ-OIG compelled interview, you said you shot Individual when Individual dropped his left arm towards his waist – rather than your claim to PD/DA that the left hand was already at his waist (the reason, you originally said, you went for your gun) and from there made a motion as if to bring the left hand towards you.

These are serious material misstatements to PD/DA as they go to the heart of your perception of the circumstances that led to your decision to first get your gun and then your decision to shoot Individual. As your counsel explained in the oral presentation, your lack of cooperation in the FBI investigation was, at least in part, for the purpose of having one statement to be used by all investigating agencies. You therefore knew the PD report of your statement would be provided to the FBI by DA. You also refused to cooperate with FBI and DOJ-OIG, not only for an interview (you had to be compelled even after your counsel was informed there would be no criminal prosecution), but you also refused to provide a re-enactment or access to your home for the FBI to gather the needed information for complete forensic analysis.[146] Therefore, the evidence indicates you made misrepresentations in an attempt to still paint yourself in the best light possible for the federal investigation and obstructed all investigative activity that could provide greater and/or contradictory information than what you chose to provide to the PD.[147] This calls into question your judgment and character as an FBI employee.

Your counsel, in the written response and oral hearing, attempted to cast doubt on the accuracy of the PD report. He noted the date of interview on the report, July 19, 2012, was inaccurate because you and he did not meet with the PD and DA until July 31, 2012. Therefore, the draft date for the report was also incorrect. As discussed in the oral presentation, the PD was conducting multiple interviews and tasks related to investigating this matter during that timeframe and it was believed the author of the report had simply mixed up the dates. However, beyond correcting the date of interview, neither you nor your counsel could point to anything

[144] At the worst, they are blatantly untruthful.
[145] The compelled DOJ-OIG interview occurred almost two years after you shot Individual.
[146] SIRT report, page 5.
[147] Other than the difference in recollection over whether you told [redacted] to call 911, [redacted]'s memory of events as told to the PD/DA was remarkably similar to your statements to PD/DA. b6 -2 b7C -2

else in the report that was inaccurate. Therefore, aside from the date of the interview and report, I credit the PD report as accurate.[148]

Your counsel also attempted to argue at your oral presentation that even though your statements to the PD and DOJ-OIG were different, the threat was the same. He stated the threat was that Individual was "noncompliant," he turned towards you, and his hand went towards his waist.[149] Therefore, you and your counsel would have me conclude, you made no material false statement and I should not find that you lacked candor. I disagree, not only regarding the materiality of your false statements to PD, but also that any lack of materiality should nullify your lack of candor.

I note that Individual's "noncompliance" in your PD interview could possibly be interpreted as noncompliance, as in that scenario he looked up at you, thereby acknowledging your presence, only then moved his hand to his waistband, and then returned to his task. After you retrieved your weapon in that scenario, Individual then made a movement towards you with the hand that had already been at his waist. This is significantly different from the perceived threat you described in your compelled DOJ-OIG interview. In the compelled interview, Individual was not "noncompliant" but, rather, unresponsive. Individual had never acknowledged even hearing you and his hand did not make a movement towards you, nor was the movement that of reaching or grabbing for something at his waistband. Rather, you explained under oath that his hand "dropped" toward the waist as Individual began to turn in direction of your shouts. In no way are these two threats the same, as you and your counsel argued.

You also called your close friend on your squad (Friend), rather than Supervisor, to report the shooting.[150] In your compelled DOJ-OIG interview, you claimed Friend was your supervisor. While Friend was the team leader of your group at the time, this is not a supervisory position. Friend even asked you multiple times whether you were going to contact Supervisor. When Friend did not get a response from you, Friend told you he would go ahead and contact Supervisor.

I find your statement to the PD and the claims regarding contacting your supervisor to be incredulous and lacking in candor.

Based on a preponderance of the evidence, I conclude you violated Offense Code 2.5.

---

[148] Your counsel implied the fact the PD report was a summary of your interview, rather than a verbatim account, brought into question its accuracy. As both you and your counsel are aware, summaries of interviews (including FBI FD-302s) are the accepted legal standard, even in criminal court where the burden of proof is much higher than it is here (proof beyond a reasonable doubt rather than a preponderance of evidence).

[149] Your counsel would have me exclude the other factors involved in this situation, arguing that "totality of the circumstances" is not the appropriate analysis. It is indeed the appropriate analysis, even according to *Benjamin*, the case upon which you rely in your written response, and something I presume you understood as well because you otherwise would not have felt the need to lie to the PD about these particular details in the hopes of better justifying the shooting.

[150] It is not clear from the documentation whether this phone call to Friend was even meant to serve, in your mind, as the notification to a supervisor.

Mr. [redacted] b6 -1 b7C -1

## PENALTY DETERMINATION

When determining an appropriate penalty, I considered the 12 *Douglas* Factors, including, but not limited to, consistency with precedent, the FBI's Penalty Guidelines, prior disciplinary history, and aggravating/mitigating factors.

**A. Misuse of Weapon – Intentional Discharge**

The investigation establishes you violated FBI Offense Code 5.15 (Misuse of Weapon – Intentional Discharge). The standard penalty is a 30-day suspension. Mitigating factors warrant a five-day to 14-day suspension, and aggravating factors warrant a 45-day suspension to dismissal.

I have considered all mitigating factors supported by the record, including, but not limited to, your "successful" and "excellent" performance ratings, the fact you were awakened from sleep at the beginning of this incident, and the stress a law enforcement officer feels at the prospect of himself being subject of a criminal investigation as well as a potential civil lawsuit by the Individual. A shooting incident is an extremely stressful time for an agent and an agent may need time to mentally process what happened.

Notwithstanding all relevant mitigating factors, I find aggravation is appropriate because you still refuse to accept responsibility for your actions over two years later and at all times remained completely uncooperative with all federal entities investigating this matter, including FBI and DOJ-OIG. Your refusal to cooperate continued even after you were informed there would be no criminal prosecution and you therefore no longer had a Fifth Amendment concern about cooperating in the administrative proceeding.[151] Furthermore, you received a three-day suspension for a loss of weapon violation after the incident in question when, about a year later, you left Bureau issued weapons in the trunk of your vehicle parked in your same neighborhood as the shooting incident and the vehicle was stolen. This clearly shows that you still have not learned appropriate weapon handling and safety.

If you could not by the time of the compelled DOJ-OIG interview, after it was confirmed for you that you were no longer facing the possibility of any criminal prosecution, admit that your actions in this situation were objectively unreasonable, I believe you will never be able to candidly examine your actions and acknowledge mistakes when you make them. This is a significant risk to the FBI for multiple reasons, two of which are: the same mistake or poor judgment may be made again; and when a mistake is made that could impact an investigation and the employee is not willing to admit it (for example, accidental evidence mishandling), it could lead to negatively impacting an FBI case and preventing justice from being done.

I am also extremely concerned about your inability to appropriately apply the DOJ Deadly Force Policy, given not only the events of this case but your reliance on your military tactical training as part of your reasoning for believing certain factors contributed to thinking that deadly force was appropriate (such as bullet ricochets as you experienced in small Middle Eastern villages), and your extensive use of deadly force under a non-DOJ policy during your

[151] Refusal to cooperate in an administrative proceeding is itself a violation of the FBI Offense Code and is punishable only by dismissal.

military career ("in excess of 20 times"). From the evidence presented, you applied a different standard for using deadly force than what is acceptable for an FBI agent and the FBI's mission. While the military's standard is appropriate for its soldiers' roles in combat zones, New York is not a combat zone, nor is it a small Middle Eastern village. You are now an FBI agent in the United States and it is FBI and DOJ policies by which you must abide. You must also abide by the law, which includes refraining from using deadly force outside the scope of DOJ's deadly force policy. The FBI employs numerous military veterans who have provided many significant contributions to the FBI and the FBI appreciates the breadth of experience and dedication they bring to their positions in the FBI. Most of these employees have transitioned well from their military mission to the FBI mission. However, because you are either unrepentant and/or incapable of acknowledging the severity of your actions in this situation, I am concerned you will continue to justify the use of deadly force under a standard not appropriate for the FBI and an FBI Special Agent.

Your conduct of refusing to testify in a grand jury and refusing to cooperate with the FBI and DOJ-OIG was entirely unacceptable and reprehensible for an FBI employee.[152] Furthering this disgrace and dishonor was the fact your refusal to testify against Individual and [redacted] b6 -7 b7C -7 effectively destroyed DA's ability to bring a case against them; hence, you obstructed justice, conduct that seriously calls into question your judgment and character, especially given your employment as an FBI Special Agent. Should you have to testify in any FBI cases in the future, the fact that you refused to testify and cooperate with this administrative process may have to be disclosed. This will not only impeach your credibility, and therefore negatively impact FBI cases, but it will also embarrass the FBI and undermine its standing with the public.

Based on the circumstances in this case, I am dismissing you from the rolls of the FBI for your 5.15 offense.

**B. Lack of Candor/Lying – No Oath**

The investigation establishes you violated FBI Offense Code 2.5 (Lack of Candor/Lying – No Oath). The standard penalty is a seven-day suspension. Mitigating factors warrant an oral reprimand to a five-day suspension, and aggravating factors warrant a 10-day suspension to dismissal.

I have considered all mitigating factors supported by the record, including, but not limited to, your "successful" and "excellent" performance ratings, the fact you were awakened from sleep at the beginning of this incident, and the stress a law enforcement officer feels at the prospect of himself being subject of a criminal investigation as well as a potential civil lawsuit by the Individual. A shooting incident is an extremely stressful time for an agent and an agent may need time to mentally process what happened.

Notwithstanding all relevant mitigating factors, I find aggravation is appropriate because you still refuse to be forthcoming about the differences in your statements to PD and DOJ-OIG and to accept responsibility for your actions over two years later. Additionally, you at all times

[152] I again note that failure to participate in an administrative proceeding and obstructing justice are both violations of the FBI Offense Code. Rather than charging you with those separate violations, I am considering your conduct as an aggravating factor.

remained completely uncooperative with all federal entities investigating this matter, including FBI and DOJ-OIG. Your refusal to cooperate continued even after you were informed there would be no criminal prosecution and you therefore no longer had a Fifth Amendment concern about cooperating in the administrative proceeding.[153]

Your misrepresentations to the PD/DA were material and go to the heart of your articulation of why you believed, however still unreasonably, you were justified to use deadly force against Individual. These misrepresentations painted a more favorable picture for your decision to shoot Individual than what you acknowledged the circumstances to be to DOJ-OIG once the possibility of criminal prosecution was gone. Furthermore, candor is essential for an FBI agent for the integrity of FBI investigations.

You have refused to accept responsibility for your violations of the DOJ Deadly Force Policy and you lacked candor in claiming you complied with the requirement to notify your supervisor when you called Friend rather than Supervisor.

Based on the circumstances in this case, I am dismissing you from the rolls of the FBI for your 2.5 offense.

## CONCLUSION

In sum, a preponderance of the evidence substantiates that you violated Offense Codes 5.15 and 2.5. Violations of Offense Codes 5.15 and 2.5 both warrant dismissal. As a result, the penalty of dismissal is appropriate. Your conduct, as set forth herein, represents a willful and intentional violation of Bureau rules and regulations. As a result, I am dismissing you from the rolls of the FBI. This action is necessary and warranted to promote the efficiency of the FBI.[154]

## APPEAL RIGHTS

If you wish to appeal, **within ten (10) calendar days following notification of OPR's *final* decision, you must forward a brief statement that you intend to appeal** to the Assistant Director, Human Resources Division, Room 10903, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue, Northwest, Washington, D.C. 20535-0001. You may also fax your notice of appeal to HRD's Appellate Unit at 202-324-9312. You will then be provided an opportunity to review the file and submit a brief based on a deadline set by HRD. Your division head must be notified at the time you file an appeal. If an appeal is filed for any

[153] Refusal to cooperate in an administrative proceeding is itself a violation of the FBI Offense Code and is punishable only by dismissal.

[154] You are admonished not to discuss this matter with anyone other than the Inspection Division's Internal Investigations Section (IIS), OPR, the Human Resources Division's Appellate Unit (APU), the Security Division, the FBI's Employee Assistance Program, the FBI's Ombudsman, or an attorney who has signed the appropriate Nondisclosure Agreement. Neither you, your attorney, nor anyone acting on your behalf should contact any witness or potential witness about this inquiry without first obtaining approval from IIS, OPR, or APU. In addition, you are admonished that any redacted materials or other FBI documents you review in connection with this inquiry are the property of the FBI, and you are prohibited from photocopying or removing such documents from FBI space. You may take notes concerning the content of such material, but those notes may be used only to facilitate your participation in this disciplinary inquiry and for no other purpose.

action other than a dismissal, the OPR disciplinary penalty will be held in abeyance pending the appellate decision.

If you are appealing a suspension of fourteen (14) calendar days or less, the AD, HRD, will decide the appeal. If you are appealing a suspension of more than fourteen (14) calendar days, demotion, or dismissal, the Disciplinary Review Board (DRB) will decide the appeal. The standard of review on appeal in examining OPR's factual findings and penalty is the substantial evidence standard of review. The penalty set by OPR cannot be increased on appeal by either the AD, HRD, or the DRB. In the rare instance that the AD, HRD, or the DRB identifies factors that require additional investigation and/or adjudication, the case will be remanded to the Inspection Division and/or OPR for additional action.

Should you wish to retain an attorney to assist you in your appeal, you must ensure that the enclosed forms are completed prior to disclosing any Bureau information to the attorney handling your appeal. If you and the attorney who will assist you have already completed and provided these disclosure forms to the Bureau in connection with this case, you do not have to re-submit them. You are referred to Corporate Policy Directive 0235D (Disciplinary Appeals Process) for additional details pertaining to appeals.

As a preference-eligible veteran, appeal to the AD, HRD, does not abrogate your right to petition the Merit Systems Protection Board (MSPB), in matters of suspension for more than fourteen days, dismissal, or demotion, in accordance with the instructions contained in 5 Code of Federal Regulations (CFR), Part 1201. An appeal to MSPB may be filed on line or by mail, facsimile, commercial overnight delivery, or personal delivery to the MSPB Regional Office covering your geographic area, as specified in Appendix II of 5 CFR 1201. The facsimile number listed is TDD capable; however, calls will be answered by voice before being connected to the TDD. Appeals must be filed no later than thirty calendar days from the effective date of this action or thirty days after the date of receipt of this decision, whichever is later. Enclosed for your assistance is a copy of the MSPB appeal form. For further information regarding the MSPB appeal process, please visit their website at http://www.mspb.gov.

## REFERRAL TO OTHER DIVISIONS

In accordance with established policy, the results of this administrative inquiry will be shared with other divisions, as appropriate. Thus, a copy of this communication is being provided to the Security Division as it may be relevant to your retention of a Top Secret security clearance.

## NOTICE TO SEPARATED EMPLOYEE REGARDING FEDERAL EMPLOYEES HEALTH BENEFITS COVERAGE

Your Federal Employees Health Benefit (FEHB) coverage will automatically continue at no cost to you for 31 days after your separation.

Under authority of 5 U.S.C. § 8905a and 5 C.F.R. § 890.1112, the Benefits Unit, Human Resources Division, has determined that this separation is for "gross misconduct" as defined by 5

Mr. [redacted] b6 -1 b7C -1

C.F.R. § 890.1102. As a result, the Bureau intends to deny you Temporary Continuation of Coverage eligibility. This means your FEHB coverage will end 31 days after your separation and you would not be allowed to enroll for continued Federal Employees Health Benefits coverage. You may appeal this determination to the Personnel Officer, HRD, FBI Headquarters, Room 10903, and a final decision on this matter will be issued in writing. An appeal must be filed within ten calendar days following notification of your separation from the Bureau.

Sincerely yours,

Candice M. Will
Assistant Director
Office of Professional Responsibility

Enclosures
1 - Office of the Inspector General, Department of Justice
1 - ADIC, New York (Personal Attention) - Enclosure (See Note Pages 34-35)
[redacted] b6 -1 b7C -1
1 - AD, OPR
1 - Security Division (Attn: Unit Chief, AIU, PAT-2/P-602) (For SecD records only--Do not forward to RMD)
3 - HRD (Attn: Unit Chief, P/PAPU, Room 10997)
(Attn: Unit Chief, APU, Room 10283)
(Attn: Unit Chief, Benefits Unit, Room 10373) Insurance Matter
1 - Tickler Copy, OPR
Based on New York EC to OPR, 02/10/2015; OPR ROI, dated 04/16/2015; written response from employee, dated 10/30/2015; and oral presentation on 11/06/2015.
[redacted]

**NOTE to ADIC:** This notice of dismissal is to be personally delivered to the employee by you or your designated representative within seven calendar days from the date the Division receives this letter. The Division should send OPR Unit Chief [redacted] an email advising of b6 -1 b7C -1 the date on which the Division presented the letter to the employee. The date and time of delivery will serve as the effective date and time of this dismissal action. The employee should be given a reasonable amount of time to secure personal belongings and thereafter be escorted from the premises. Ensure the employee fully understands the reason for the Bureau's action in this matter, as well as the appeal rights, as outlined in the enclosed letter.

Furnish employee with a copy of Standard Form 8, Notice to Federal Employee about Unemployment Compensation.

You should also telephonically provide the effective date and time of this action to the Unit Chief, Payroll/Personnel Actions Processing Unit, HRD, 202-324-8159, in order for that unit to expeditiously determine if any debt is owed to the Bureau by the employee.

Mr. [redacted]

b6 -1
b7C -1

Conduct exit interview and forward to the Unit Chief of the Payroll/Personnel Actions Processing Unit of the HRD, JEH Room 10997.

It is your responsibility to ensure that the SF-52, Request for Personnel Action, is electronically entered into HR Source for this dismissal action. It is imperative that the effective date and time submitted on the exit interview match the information entered on the SF-52. The Division shall enter the following information in the "Justification" section of HR Source: "Adjudication of disciplinary action."

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 03/18/2014

Report of: IIC Dena Choucair Office: FBIHQ – INSD

(U//~~FOUO~~) Case ID#: 297-HQ-A1271699-D

(U//~~FOUO~~) Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
TAMPA FIELD OFFICE, ORLANDO RESIDENT AGENCY
05/22/2013

(U//~~FOUO~~) Investigative Period: 05/22/2013 – 03/14/2014

(U//~~FOUO~~) Reference: E-mail on 05/22/2013 from Tampa Field Office A/SAC [redacted] to Chief Inspector Robert J. Shields, Jr. b6 -1 b7C -1

---

(U//~~FOUO~~) **Synopsis:**

(U//~~FOUO~~) Report of a shooting incident which occurred on 05/22/2013 involving Ibragim Abdulbakiyevich Todashev (Todashev) and FBI Boston (BS) Field Office Agent [redacted] Massachusetts State Police (MSP) Troopers [redacted] and [redacted] and FBI Tampa (TP) Task Force Officer (TFO) [redacted] of the Orlando Police Department (OPD). b6 -1,4 b7C -1,4

(U//~~FOUO~~) **Details:**

(U//~~FOUO~~) On 04/21/2013, after the Boston Marathon bombing, the TP Orlando Resident Agency (ORA) received an immediate lead regarding Todashev. The lead referenced telephonic contact between Todashev and Boston Marathon bombing suspect Tamerlan Tsarnaev. TP ORA TFO [redacted] along with another TP ORA FBI Agent conducted an interview of Todashev on 04/21/2013. The interview was initially conducted at Todashev's residence and then was moved to the OPD. The purpose of this interview was to identify the nature of the relationship between Todashev and Tsarnaev. During the interview, Todashev stated he had trained as a Mixed Martial Arts (MMA) fighter with Tsarnaev in Boston. Todashev voluntarily provided his DNA and signed consent to search forms for his computer and five cellular telephones. On 04/23/2013, TP ORA initiated a Full Investigation (FI) on Todashev. b6 -4 b7C -4

(U//~~FOUO~~) Todashev was a certified MMA fighter in both Florida and Massachusetts with a prior history of assault which was known to TP, Agent [redacted] and the MSP Troopers. He held a Florida State Boxing Commission license, number FED#: 129-225 with an expiration date of 08/08/2017, and a State of Florida, Department of Business and Professional Regulation, b6 -1 b7C -1

MMA Participant, license number PART4184, with an expiration date of 12/31/2012. In addition, Todashev held a Massachusetts – Department of Public Safety State Athletic Commission MMA Amateur License, number: A3105, with an expiration date of 07/18/2012. Information obtained from local law enforcement reports and a National Crime Information Center (NCIC) report documented Todashev's prior alleged involvement in violent interactions. Specifically, in a Boston Police Department (PD) report of an incident on 02/11/2010, Todashev was charged with Disorderly Person, Resisting Arrest, Reckless Driving, and Weaving. In an Osceola County Sheriff's Office (SO) statement dated 07/07/2012, Todashev was mentioned as a participant with another individual, [redacted] in a Simple Battery incident involving the attack on an employee of the Ali Baba Hookah Café. Todashev was not arrested or charged in this incident. Most recently, an Orange County SO Incident Report of an incident on 05/04/2013, stated Todashev was arrested for Aggravated Battery (causing bodily harm or disability to another), a Second Degree Felony. In addition, MMA fights involving Todashev were posted on YouTube and had been observed by TP, Agent [redacted] and the MSP Troopers.

b6 -1,9
b7C -1,9

(U//~~FOUO~~) Through BS's investigation, additional information was obtained indicating Todashev's possible involvement in a triple homicide in Waltham, Massachusetts on 09/11/2011. Based on this information, BS requested a second interview which was conducted by TFO [redacted] along with another TP ORA FBI Agent. Agent [redacted] and Trooper [redacted] observed the interview which was conducted at the OPD on 05/16/2013. The interview strategy focused on establishing Todashev's timeline in the Boston area in September 2011 and his association with Tsarnaev. During the interview, Todashev provided information which indicated his presence in the Boston area on about 09/10/2011, as well as further clarification on his contacts. Todashev also mentioned a tentative plan to leave the country, however no date was provided.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) It was during this interview that TP contacted Citizenship and Immigration Services (CIS) regarding [redacted] as Todashev was being interviewed. [redacted] This action by CIS was not well received by Todashev and Todashev blamed the FBI for [redacted]

b6 -2
b7C -2

(U//~~FOUO~~) After the interview, TP obtained information indicating Todashev had tentative travel plans to return to Russia on 05/24/2013. Due to Todashev's possible departure from the U.S., CTD requested another interview for the purpose of solidifying Todashev's timeline in the Boston area in September 2011 and to subsequently confront Todashev with forensic evidence associated with the homicides. On 05/21/2013, TFO [redacted] arranged an interview with Todashev for later that evening at OPD. While preparing for the interview, Agent [redacted] and Troopers [redacted] and [redacted] learned Todashev did not want to meet at the OPD due to [redacted] during his prior interview with the FBI. However, Todashev agreed to meet at his apartment. Todashev's residence was an apartment with a standalone address of 6022 Peregrine Avenue, Orlando, Florida. Agent [redacted]'s supervisor had been briefed the interview would take place at OPD. TFO [redacted]'s supervisor was also briefed the interview would take place at OPD; however, was subsequently informed the interview location changed to Todashev's residence.

b6 -1,2,4
b7C -1,2,4



NYT-66

(U//~~FOUO~~) For the 05/21/2013 Todashev interview, no operational or arrest plan was documented and there was no plan in place to arrest Todashev. In addition, no communications plan was established to provide operational updates to the appropriate FBI personnel on the progress of the interview.

(U//~~FOUO~~) While making arrangements for the interview and due to the change in venue, Troopers [redacted] briefly discussed recording Todashev's interview. Both Troopers mentioned the recording devices they both possessed. On the way to the interview, the MSP Troopers, Agent [redacted] and TFO [redacted] briefly discussed whether Florida was a one or two party consent state. No decision was made to record the interview. SIRT later determined Florida is a two party consent state with a law enforcement exception. b6 -1,4 b7C -1,4

(U//~~FOUO~~) On 05/21/2013, at approximately 7:35 p.m., TFO [redacted] Agent [redacted] and Troopers [redacted] met in the parking lot of Todashev's residence with Todashev and his friend [redacted] Todashev led the MSP Troopers and Agent [redacted] into his apartment while TFO [redacted] who had no involvement in the Waltham homicide investigations, remained outside of the apartment with Todashev's friend [redacted] Prior to entering Todashev's apartment, the law enforcement officer's observed an image of an AK-47 at the top of Todashev's front door. TFO [redacted] provided perimeter security for the duration of the interview. b6 -1,2,4 b7C -1,2,4

(U//~~FOUO~~) TP had surveillance coverage on Todashev on the evening of 05/21/2013, from 4 p.m. to midnight. The surveillance team was in the vicinity of Todashev's residence throughout the evening and spot checked Todashev's parking lot for a specific vehicle associated with Todashev. At approximately 7:45 p.m., two unknown males (TFO [redacted]) were observed in Todashev's parking lot near said vehicle. At approximately 11 p.m., the vehicle departed the parking lot and traveled to a gas station before returning to the same parking lot. Surveillance was terminated at midnight. b6 -4 b7C -4

(U//~~FOUO~~) Todashev's residence was a two-level apartment with a separate entrance. The ground floor consisted of two rooms, a living room and a kitchen separated by a counter which permitted viewing from one room into the other. A small hallway next to the kitchen connected the apartment entrance to the living room. A sliding glass door was located at the rear of the living room which provided access to a common area behind the residence. A single stairway in the living room led to the upstairs loft and bathroom. Hanging on the stairwell wall in the living room was a metal sword. The approximate overall inner dimensions for the ground floor were 14'5" by 32'2".

(U//~~FOUO~~) Upon entering the apartment, Agent [redacted] took a seat, on the second stair step which led up to the loft. Trooper [redacted] sat in a folding chair in the living room and Trooper [redacted] stood against the stairwell wall, also in the living room. Todashev sat on the floor next to a bed located in the corner of the living room, adjacent to the sliding glass door. This was directly across from Trooper [redacted] and to Agent [redacted] 's front left. Trooper [redacted] conducted the interview with occasional support from Trooper [redacted] and Agent [redacted] b6 -1,4 b7C -1,4

(U//~~FOUO~~) Shortly after entering Todashev's apartment, unbeknownst to the others, Trooper [redacted] turned on his small portable MSP audio recording device concealed in his left breast pocket. The interview began almost immediately and Todashev was described as calm, articulate, and not excited or agitated. Approximately 20 minutes into the interview, Trooper [redacted] remembered he had a personal JVC digital recorder in his bag. He decided to turn it on and placed it on the table after he deleted some of his family videos to make room to record the interview. This was also done unbeknownst to the others. As Todashev talked, Trooper [redacted] continued to check the recorder and had to delete additional family videos on two occasions to make more room to record. The first portion of the interview was also deleted in order to ensure there was enough room to record once the conversation focused on the Waltham murders.

b6 -4
b7C -4

(U//~~FOUO~~) Throughout the duration of the interview, Todashev was free to move around his apartment and allowed to smoke cigarettes, open and close the sliding glass door for ventilation, and take both water and restroom breaks. Approximately two hours into the interview, the questioning transitioned from Todashev's timeline in Boston and his contacts to his involvement with the triple homicide.

(U//~~FOUO~~) [redacted] It was at this point, at approximately 10:25 p.m., when Trooper [redacted] provided Todashev with his Miranda warning. Trooper [redacted] verbally provided the warning to Todashev and had him sign the Miranda warning form (FD-395). This was captured via Trooper [redacted]'s personal JVC digital recorder. Todashev waved his rights and continued to answer questions. At approximately the same time, Todashev's friend, [redacted] provided TFO [redacted] with Todashev's cellular telephone and wallet and left the area. TFO [redacted] texted the MSP Troopers he had possession of Todashev's property. Trooper [redacted] exited the residence to retrieve the property from TFO [redacted] and then returned to the interview.

b6 -2,4
b7C -2,4
b7A -1

(U//~~FOUO~~) During the interview, Trooper [redacted] provided updates to Middlesex Assistant District Attorney (ADA) [redacted] At approximately 10:30 p.m., ADA [redacted] headed into his office in anticipation of drafting an indictment based on the information provided by Trooper [redacted]

b6 -4
b7C -4

(U//~~FOUO~~) A short time after Todashev signed the Miranda warning, the JVC battery failed and Trooper [redacted] used his personal cellular telephone to continue recording the interview. [redacted] Todashev noticed Trooper [redacted] recording with his cellular telephone and requested it be turned off. Trooper [redacted] complied. A short time later, Trooper [redacted] placed his personal cellular telephone on the dining room table and resumed recording.

b6 -4
b7C -4
b7A -1

(U//~~FOUO~~) The recordings, both via Trooper [redacted]'s personal JVC digital recorder and his personal cellular telephone, captured Todashev's description of both Tsarnaev's and Todashev's participation in the triple homicide. In summary, [redacted]

b6 -4
b7C -4
b7A -1

b6 -4
b7C -4
b7A -1

(U//~~FOUO~~) Once the questioning focused on his presence in the Boston area during the time of the Waltham homicides Todashev's demeanor changed. Todashev began to chain smoke, repeatedly glanced around the room, appeared fidgety, and looked as if he was stretching his arms and legs as he spoke. b7A -1

(U//~~FOUO~~) With the sliding glass door open in the room, Todashev sat on the bed and At approximately 11:55 p.m., Trooper informed Trooper and Agent he was going to step outside for a few minutes. Trooper then stepped outside in order to call the Boston ADA and provide an update. b6 -1,4 b7C -1,4 b7A -1

(U//~~FOUO~~) As Todashev Agent moved from his position on the stairs to Trooper 's seat on the folding chair in front of the white table, approximately six to seven feet from Todashev. Trooper stayed standing in his original location next to the stairwell wall. As seen on Trooper 's cellular telephone video recording, Todashev began to smoke and drink water as he scanned the room. Todashev asked for more cigarettes even though a nearly full pack was on the table in front of him. Trooper believed Todashev was attempting to get him to leave the room. b6 -1,4 b7C -1,4 b7A -1

(U//~~FOUO~~) While Todashev Trooper turned off his personal cell phone recording device in order to use his phone and review his messages. Trooper heard Todashev ask Agent Agent responded stating, Shortly afterward, Todashev asked to go to the restroom. b6 -1,4 b7C -1,4 b7A -1

(U//~~FOUO~~) For safety purposes, just like prior trips to the restroom, Trooper and Agent accompanied Todashev upstairs to the restroom. Agent was at the top of the stairs and Trooper was standing on the stairs about halfway up where he could maintain visual contact. Both were alert due to Todashev's deliberate behavior as Todashev was moving extremely slow, looking around, and did not appear to have to use the bathroom. Trooper and Agent made eye contact and gestured to one another to be aware of the threat Todashev posed. b6 -1,4 b7C -1,4

(U//~~FOUO~~) When Todashev finished in the restroom, Trooper proceeded down the stairs first, followed by Todashev, and then by Agent Due to Todashev's b6 -1,4 b7C -1,4

noticeable change in behavior, Trooper [redacted] became concerned Todashev might try to flee or attack them. Trooper [redacted] previously observed Todashev looking around at the metal sword and described Todashev as moving extremely slowly as if he was calculating in his mind. As Trooper [redacted] turned toward the main room, he grabbed the sword which was hanging on the wall, and as a safety precaution, quickly placed the sword behind a shoe rack next to the kitchen entrance. Although Todashev was still on the stairs, Trooper [redacted] believed Todashev saw him hide the sword due to his reflection in a large mirror positioned at the bottom of the stairway. This mirror appeared to be strategically placed to view the hallway leading to the front door from the stairs. Based on Trooper [redacted]'s training and experience, he was alert and felt the need to remove the sword hanging on the apartment wall as Todashev's demeanor had changed.

b6 -4
b7C -4

(U//~~FOUO~~) Todashev returned to his position sitting on the bed [redacted] Agent [redacted] returned to sit in the folding chair directly in front of the white table and Todashev. Trooper [redacted] changed position and sat on the stairs, while Trooper [redacted] remained outside.

b6 -1,4
b7C -1,4
b7A -1

(U//~~FOUO~~) Due to Todashev's continued methodical behavior, Trooper [redacted] sent a text message at 12:03 a.m. on 05/22/2013 to Agent [redacted] and Trooper [redacted] which read: "Be on guard. He is in vulnerable position to do something bad. Be on guard now. I see him looking around at times." Trooper [redacted] was on his cell phone at the time and was unaware of the incoming text message. Trooper [redacted] waited for Agent [redacted]'s BlackBerry to "ding" to signify the receipt of the text message. After about a minute, Trooper [redacted] still did not hear the "ding" so he looked down to check his cell phone to make sure the text went through.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) Almost immediately at 12:04 a.m., Todashev was in the process of [redacted] while Agent [redacted] was reading his notepad and Trooper [redacted] was looking at his phone for the text message. Suddenly, Agent [redacted] heard a loud noise and felt a blow to the back of his head. Trooper [redacted] was looking at his personal cell phone when he heard what he described as a roaring noise and looked up to see the table between Todashev and Agent [redacted] flying toward Agent [redacted] Todashev had flipped the table he was writing on, and Trooper [redacted] believed it had struck Agent [redacted] in the head. Trooper [redacted] immediately yelled "[redacted]" (Trooper [redacted]) to alert Trooper [redacted] there was trouble inside the residence. Agent [redacted] who was knocked partially off his chair, saw Todashev run past him towards the kitchen and tried to grab Todashev's legs but missed. Agent [redacted] then stood up, drew his weapon, and gave verbal commands more than once to Todashev, to include, "show me your hands!" Agent [redacted] observed Trooper [redacted] to his left but was focused on Todashev and not aware if Trooper [redacted] had drawn his weapon.

b6 -1,4
b7C -1,4
b7A -1

(U//~~FOUO~~) Agent [redacted] stood in the middle of the living room and saw Todashev in the kitchen and described what he heard as the sound of metal banging together like knives in a hurried fashion. Agent [redacted] continued to give verbal commands for Todashev to show his hands, but Todashev did not comply. Agent [redacted] believed Todashev had retrieved some type of weapon. Trooper [redacted] then observed Todashev run toward the front door near the kitchen area and began quickly scanning left to right as if looking for something. Trooper [redacted] thought Todashev was trying to flee and stepped towards him. As Todashev reached the

b6 -1,4
b7C -1,4

front door he grabbed a red pole, approximately five-feet long, which was leaning against the wall near the front door. Trooper described Todashev's movements as incredibly quick, "like something in a movie." As he grabbed the pole, Todashev turned quickly, ran at full speed from the entryway directly toward Trooper and Agent Agent saw Todashev's left shoulder drop as he came through the entryway toward the living room where he and Trooper were standing. Again knowing of Todashev's prior arrests and status as a MMA fighter, Agent noted that it was obvious to him that Todashev was in an attack posture. Trooper saw Todashev raise the pole above his head with both hands in a fighting position, and charge toward Trooper Trooper raised his arms in front of his face to protect himself and stated he believed Todashev was, "going to impale me with the pole." b6 -1,4 b7C -1,4

(U//~~FOUO~~) In the split second available to assess the threat posed by Todashev, Agent was in fear for his life and the life of Trooper In order to stop this threat, Agent shot Todashev with two volleys of three to four shots per volley. Trooper heard the shots fired from the first volley off to his right and saw Todashev make two twisting movements with his torso which indicated he had been impacted by the shots. Both Trooper and Agent observed Todashev fall and almost immediately re-establish his footing, suddenly lunging towards them at an angle. Still in fear for his and the MSP Trooper's life, Agent shot Todashev with a second volley of three or four shots in order to stop the threat. Trooper heard the shots and saw Todashev fall to the ground, face first. At that time, both Agent and Trooper believed the threat had been eliminated. Agent fired seven shots in total using his Bureau issued Glock 23, all of which hit Todashev with the fatal shots entering his head and heart. b6 -1,4 b7C -1,4

(U//~~FOUO~~) Immediately after the second volley of shots, Trooper heard Agent yell "call 911." Trooper turned to look toward Agent and saw he was bleeding profusely from his head. Trooper applied pressure to a large laceration near the back of Agent 's head. b6 -1,4 b7C -1,4

(U//~~FOUO~~) Trooper who was still outside on his cell phone with ADA heard noise coming from inside the residence followed by several gunshots. Trooper did not notice anyone else outside, dropped his notes, and drew his weapon. Trooper followed by TFO announced himself, and came through the front door of the apartment which was not locked. When Trooper entered the apartment, he saw Todashev lying on the floor. It was apparent to Trooper due to the multiple gunshots and lack of movement, that Todashev was dead. b6 -1,4 b7C -1,4

(U//~~FOUO~~) Immediately after entry into the apartment, Trooper saw Agent bleeding from the head profusely. Trooper applied pressure to Agent 's wound while Trooper checked Todashev. Trooper used a rubber medical glove and checked Todashev for a carotid and ulnar pulse. Trooper was unable to locate a pulse at either location and Todashev's eyes were open and unblinking. Trooper believed Todashev was deceased and did not move his body further to keep from disturbing the scene. b6 -1,4 b7C -1,4

(U//~~FOUO~~) After entry, TFO [redacted] stepped back out of the doorway and called Emergency Medical Services at approximately 12:07 a.m. The Orlando Fire Department responded and after arriving on-scene pronounced Todashev dead. Agent [redacted] and Trooper [redacted] were taken to the hospital where Agent [redacted] was treated for a large gash on his head which required nine staples. Trooper [redacted] sustained no injuries other than a temporary hearing impairment in his right ear due to the sound produced by the gunshots. b6 -1,4 b7C -1,4

(U//~~FOUO~~) The SIRT was initially not aware of the audio and video recordings taken during the interview of Todashev on 05/21/2013. On 06/05/2013, Agent [redacted] advised the SIRT of the existence of the recordings obtained by the MSP Troopers during the interview of Todashev. On 06/06/2013, the SIRT obtained the Todashev audio and video interview recordings from the MSP. Three recording devices were used by the MSP Troopers at various times during the interview. In total, the devices captured four recorded video segments, three with audio, and one without. The recordings captured various portions of the interview and confession of Todashev; however, none captured the shooting incident. Florida is a two-party consent state with a law enforcement exception. Therefore, the MSP Troopers, as law enforcement officers, were within authority to record Todashev without his consent. The Department of Justice (DOJ), Civil Rights Division concurs with this analysis and reviewed the audio and video recordings. b6 -1 b7C -1

(U//~~FOUO~~) On 06/13/2013, the SIRT re-interviewed Troopers [redacted] regarding the use of the recording devices. b6 -4 b7C -4

(U//~~FOUO~~) On 07/24/2013, FBI Chief Inspector Robert Shields, Jr., Inspector Dena Choucair, Assistant Inspector [redacted] and DOJ Civil Rights Attorney [redacted] travelled to Orlando and met with Chief Medical Examiner Dr. [redacted] and Medical Examiner (ME) Dr. [redacted] to discuss the Autopsy Report of Todashev. Todashev was shot seven times and the entry and exit points of each bullet and angles of impact were fully discussed. Most importantly, the shots to Todashev's body were angled indicating a twisting, bending, or turning of the body at the time of entry. The shots included three to the left upper side of Todashev's torso, two to the middle right side of his back, one to the top left shoulder, and one to the left side of the crown of his head. Based on the wounds and the internal path of the bullets, it is likely Todashev was moving throughout the incident. Dr. [redacted] advised the trajectory of the bullets through the body indicated the shooter was to the left of Todashev. In addition, the results of the autopsy were consistent with Todashev falling forward toward the shooter with head down. Dr. [redacted] and Dr. [redacted] also indicated the shot to the head was likely one of the final shots as it was incapacitating. b6 -1,3,4 b7C -1,3,4

(U//~~FOUO~~) Dr. [redacted] advised the trajectory of the head and shoulder wounds, the combination of the seven entrance wounds to include the paths of the bullets, were inconsistent with other possible scenarios. First, due to the extreme downward trajectory of the wounds to the head ("A") and upper shoulder ("B"), these wounds were inconsistent with the shooter being behind Todashev as if Todashev was running away. Rather, those extreme downward trajectories could have occurred when Todashev had his back to the shooter, only if: 1.) Todashev leaned backwards at a severe angle toward the shooter; or 2.) Todashev was standing b6 -4 b7C -4

below a shooter who was above him; or 3.) Todashev was shot while both he and the shooter were prone on the floor.

(U//~~FOUO~~) On 07/25/2013, a meeting was held with A/USA [redacted], Ninth Judicial Circuit of Florida, State Attorney Jeffrey Ashton, and the State Attorney's Office Investigator [redacted] A full briefing of the shooting incident was provided by Inspector Choucair and disks/binders of the SIRT investigation were provided. The State Attorney expressed concern about backlash from the public once the ME Report was released, as it described shots to Todashev's back and advised he would conduct an independent review of the shooting. The State Attorney requested to re-interview the MSP Troopers and audio record those interviews. b6 -3,4 b7C -3,4

(U//~~FOUO~~) The MSP Troopers were re-interviewed on 09/06/2013 by the State Attorney Investigator [redacted] These re-interviews did not provide any new substantive information. Observers to the interview included: MSP Command Staff, DOJ Civil Rights Division Attorney [redacted] FBI Inspector Choucair, and Assistant Inspector [redacted] b6 -1,3,4 b7C -1,3,4

(U//~~FOUO~~) At the time of the SIRT, based on information provided by OPD, a decision was made by Inspector Choucair not to conduct a neighborhood canvass. Upon further discussion and review by FBIHQ Inspection Division, DOJ Civil Rights Division, and the State Attorney, a decision was made to conduct interviews despite the time period that had lapsed. On 12/04/2013, Assistant Inspector [redacted] with the assistance of a TP ORA Agent conducted a neighborhood canvass of the residences surrounding 6022 Peregrine Avenue, Orlando, Florida, 32819. Seventeen residences were approached, of which occupants of three residences described hearing shots fired around midnight. Of the three, one resident observed the lights on, the sliding glass door blinds open, and several males inside Todashev's residence. The resident thought this was odd, because the blinds were never open. At approximately 12:00 a.m. on 05/22/2013, this resident heard four loud pops, followed by three additional pops. Although he/she could not see where the noise came from, he/she believed the individuals across the lake were doing construction, and looked out the window and observed several individuals "hovering" over something on the ground. This resident advised he/she did not call the police to report what was heard because he/she thought the noise was attributed to construction. b6 -1 b7C -1

(U//~~FOUO~~) Todashev was described as:

| | |
|---|---|
| Name: | Ibragim Abdulbakiyevich Todashev |
| Aliases: | Ibrahim Todashev |
| Sex: | Male |
| Race: | White |
| Date of Birth: | 09/22/1985 |
| Place of Birth: | Romania |
| Height: | 5'10" |
| Weight: | 165 |
| Eyes: | Brown |
| Hair: | Brown |
| SSAN: | 012-92-3661 |
| FBI number: | 20549HD1 |

(U//~~FOUO~~) **Substantive Case Files:**

(U//~~FOUO~~) Case ID: 89B-TP-2886360
(U//~~FOUO~~) Title: IBRAGIM TODASHEV;
SPECIAL AGENT [redacted] b6 -1
May 22, 2013 b7C -1

(U//~~FOUO~~) Case ID: 343G-BS-2902066
(U//~~FOUO~~) Title: (SUBJECTS) IBRAGIM TODASHEV; TAMERLAN TSARNAEV; UNSUB(S); (VICTIMS) BRENDEN MESS; RAPHAEL TEKKEN; ERIK WEISSMAN; DOMESTIC POLICE COOPERATION; HOMICIDE; 09/11/2011

(U//~~FOUO~~) **Enclosures:**

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. (U//~~FOUO~~) **Administrative:**

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Dena Choucair b6 -1
Assistant Inspector (AI)/Lead Team Leader [redacted] b7C -1
AI/Team Leader [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP [redacted]

(U//~~FOUO~~) FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:

Team Leader SSA [redacted] – Evidence Response Team Unit b6 -1
Photographer [redacted] – Operational Projects Unit, Photographic Operations and Field Photography Programs b7C -1
Visual Information Specialist [redacted] – Operational Projects Unit, Digital Mapping and Documentation

B. (U//~~FOUO~~) **Shooting Incident Review Protocol:**

(U) All members of the SIRT reviewed the FBI produced video entitled, "The Rain After the Storm – Shooting Incident Investigations" and the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 05/22/2013, IIC Choucair spoke with TP ORA ASAC Robert C. Geeslin who was acting on behalf of A/SAC [redacted] to arrange logistics prior to arriving in TP ORA. On 05/22/2013, the SIRT traveled to TP ORA and upon arriving, IIC Choucair and the SIRT members went directly to the scene of the incident, 6022 Peregrine Avenue, Orlando, Florida. Upon arriving, the SIRT was greeted by ASAC Robert C. Geeslin, TP ERT Coordinator [redacted] BS SSA [redacted] and MSP Detective Lieutenant [redacted] The SIRT was briefed by ASAC Geeslin and TP ERT Coordinator [redacted] The SIRT observed the scene through the front and rear door of the Todashev's residence as TP ERT described the scene.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) On 05/23/2013, IIC Choucair met with Agent [redacted] TFO [redacted] the two MSP Troopers, their respective attorneys, and management personnel to explain the review process and protocols.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) Four Signed Sworn Statement (SSS) were taken, two from the Agent directly involved in the shooting, Agent [redacted] and two from the MSP Trooper who witnessed the shooting, Trooper [redacted] Other interviews, events, and observations were documented via FD-302s. Trooper [redacted] TFO [redacted] ASAC Geeslin, and SSA [redacted] were allowed to read their FD-302s to confirm the accuracy of the information provided. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSSs and interviews of witnesses were conducted voluntarily.

b6 -1,4
b7C -1,4

(U) An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by Agent [redacted] for his SSS.

b6 -1,3
b7C -1,3

(U//~~FOUO~~) On 05/24/2013, IIC Choucair, ASAC Geeslin, and TL [redacted] held a conference call with the United States Attorney's Office (USAO) Chief [redacted] of the Middle District of Florida, and provided a briefing of the Agent-involved shooting. USAO Chief [redacted] provided a verbal declination of prosecution to IIC Choucair regarding the Agent-involved shooting incident which occurred on 05/22/2013.

(U//~~FOUO~~) On 05/24/2013, IIC Choucair, ASAC Geeslin, and TL [redacted] held a conference call with the Ninth Judicial Circuit of Florida State Attorney Jeffrey Ashton. State Attorney Ashton requested the documentation of the facts from the Shooting Incident Response Review. State Attorney Ashton verbally advised the actions taken by the FBI on 05/22/2013, to include use of deadly force, were justified based on the verbal briefing provided by IIC Choucair. State Attorney Ashton wanted the opportunity to review the documentation before providing the letter of declination and concluded with a verbal declination of prosecution. He advised a formal declination letter would be issued once all the facts are reviewed.

b6 -1
b7C -1

(U) On 05/24/2013, IIC Choucair telephonically contacted Attorney [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division and provided an update on the investigation.

b6 -3
b7C -3

(U) On 05/24/2013, IIC Choucair conducted an out brief with ASAC Geeslin and explained the ensuing steps of the SIRT process. IIC Choucair also provided an out brief to Agent [redacted] and the MSP Troopers to explain the ensuing steps of the SIRT process. b6 -1 b7C -1

C. (U//~~FOUO~~) **Personnel Involved in the Shooting:**

1. BS SA [redacted] (fired weapon) b6 -1,4 b7C -1,4
2. MSP Trooper [redacted]
3. MSP Trooper [redacted]
4. TP TFO and Orlando PD, Master Police Officer [redacted]

D. (U//~~FOUO~~) **Firearms Training:**

(U//~~FOUO~~) The BS Field Office provided qualification records for Agent [redacted]. A review indicated he was current on his firearms qualification certification. b6 -1 b7C -1

E. (U//~~FOUO~~) **Deadly Force Training:**

(U//~~FOUO~~) FBI Deadly Force Policy Training was conducted on 10/23/2012 during legal training provided to the BS personnel. BS SSA [redacted] Chief Division Counsel, advised SSA [redacted] or SSA [redacted] Associate Division Counsel were the presenters of this training, which was memorialized via Electronic Communication dated 01/17/2013. A review of the attendance records conducted by SSA [redacted] indicated Agent [redacted] was present for the training conducted on 10/23/2012. b6 -1 b7C -1

F. (U//~~FOUO~~) **Use Of Body Armor and Law Enforcement Identifiers:**

(U//~~FOUO~~) As the Agent and MSP Troopers were conducting an interview of Todashev and not participating in a planned law enforcement action, none of them were wearing identifiable ballistic body armor, nor were FBI or law enforcement identifiers displayed. However, all personnel verbally identified themselves as FBI and law enforcement officers to Todashev upon their initial arrival at his residence for the interview.

G. (U//~~FOUO~~) **Criminal History:**

(U//~~FOUO~~) The NCIC criminal history check contained two entries for Todashev which documented two arrests for offenses including aggravated battery, disorderly conduct, and resisting arrest. At the time of the NCIC query on 05/23/2013, no active arrest warrants were located for Todashev.

(U//~~FOUO~~) In addition, three police reports were obtained for Todashev. A Boston PD incident report on Todashev referenced a traffic altercation on 02/11/2010 in which Todashev was charged with Disorderly Person, Resisting Arrest, Reckless Driving, and Weaving. An Osceola County SO incident report on Todashev referenced an assault at the Ali Baba Hookah Bar on 07/07/2012. Although not arrested or charged by the SO, Todashev was associated with another individual, [redacted], who was charged and arrested for Tampering with a b6 -2 b7C -2

Victim by Threat regarding this incident. An Orange County SO incident report on Todashev dated 05/04/2013 indicated Todashev was arrested for Aggravated Battery (causing bodily harm or disability to another), a Second Degree Felony, for an incident involving two other individuals over a parking space.

H. (U//~~FOUO~~) **Laboratory Division Reports:**

(U//~~FOUO~~) The scene of the shooting was secured and processed by the TP Field Office ERT and the Laboratory Shooting Reconstruction Team (LRST) to include use of Total Station.

(U//~~FOUO~~) TP ERT collected seven shell casings in the vicinity of where Agent [redacted] fired his weapon. Six projectiles were recovered from the body of Todashev during the medical examination. One projectile was recovered from the scene. This projectile was believed to have fallen out of the body of Todashev with bodily fluids as the body was being turned over by those assisting the Medical Examiner. FBI TP Total Station and FBI Laboratory Laser Scanning and Spherical Photography were completed at the shooting scene. No Trajectory Analysis was completed as all projectiles entered the body of Todashev and had no other impact points. b6 -1 b7C -1

(U//~~FOUO~~) Recovered evidence items requiring laboratory testing were as follows:

**Firearms/Toolmarks Unit Analysis**

1B7 - One expended .40 Smith & Wesson caliber cartridge casing
1B8 - One expended .40 Smith & Wesson caliber cartridge casing
1B9 - One expended .40 Smith & Wesson caliber cartridge casing
1B10 - One expended .40 Smith & Wesson caliber cartridge casing
1B11- One expended .40 Smith & Wesson caliber cartridge casing
1B12 - One expended .40 Smith & Wesson caliber cartridge casing
1B13- One expended .40 Smith & Wesson caliber cartridge casing
1B1- One projectile, .40/10mm caliber copper jacketed hollow point bullet
1B23- Six projectiles, .40/10mm caliber copper jacketed hollow point bullets
1B22 - Smith & Wesson .40 caliber Glock pistol, Model 23, Serial Number NMS622 b6 -1 b7C -1

(U//~~FOUO~~) Two laboratory reports, dated 07/07/2013 and 09/30/2013, stated the seven projectiles and seven cartridge cases were identified as having been fired from the barrel of the Glock #23, Serial NMS622. This was the bureau issued weapon of Agent [redacted]

**Latent Fingerprint Unit Analysis**

1B2 - Notebook
1B3 - Sword
1B14 - Broom stick

(U//~~FOUO~~) One laboratory report, dated 10/24/2013, stated one latent fingerprint of value was detected on the sword and was not a fingerprint of Todashev, Agent [redacted] or either of the MSP Troopers. No latent prints of value were detected on the broom stick. Due to the many factors involved in the deposition of a friction ridge print, neither the absence of a friction ridge b6 -1 b7C -1

print on evidence nor the exclusion of a friction ridge print with a given source disassociate that source from having touched the evidence. One laboratory report, dated 11/13/2013, stated six latent fingerprints and two latent palm prints of value were detected on the notebook containing the handwritten statement of Todashev. The latent fingerprints and a latent palm print were identified as fingerprints and a palm print of Todashev. The remaining latent palm print was not a palm print of Todashev. No other major case prints were provided for analysis.

**Nuclear DNA Unit Analysis**

1B4 - Suit coat (Trooper [redacted]) b6 -1,4 b7C -1,4
1B32 - White table
1B33 - Shelf from white table
1B15 - Dark pants (Agent [redacted])
1B16 - Dark coat (Agent [redacted])
1B18 - White dress shirt (Agent [redacted])

(U//~~FOUO~~) One laboratory report, dated 09/18/2013, stated blood was identified on the suit coat (Trooper [redacted]'s), the white table, and the shelf from the white table. The typing results were positive for male DNA on all three items and Todashev was excluded as a potential contributor. The laboratory obtained Agent [redacted]'s DNA for comparison from the bloodied suit Agent [redacted] was wearing during the incident. A second laboratory report, dated 10/28/2013, stated Agent [redacted] was the major contributor and source of the DNA obtained from the suit coat (Trooper [redacted]'s), the white table, and the shelf from the white table. b6 -1,4 b7C -1,4

**Operational Projects Unit**

(U//~~FOUO~~) Additionally, the Operational Projects Unit provided demonstrative imagery and graphics of the scene.

I. (U//~~FOUO~~) **Medical Report:**

***FBI Agent Involved in the Shooting: SA*** [redacted] b6 -1 b7C -1

(U//~~FOUO~~) On 05/22/2013, Agent [redacted] was transported to Florida Hospital South, 601 East Rollins Street, Orlando, Florida to receive treatment from an injury to the head which he sustained in an Agent involved shooting incident. Agent [redacted] was examined and received nine staples to close the wound slightly left of center on the rear of his head. Agent [redacted] was treated and released from the hospital.

***Subject: Ibragim Todashev***

(U//~~FOUO~~) On 05/22/2013 at 12:05 a.m., the Orlando Fire Department received notification via TFO [redacted] who requested police and Emergency Medical Services (EMS) assistance. TFO [redacted] stated an FBI Agent (Agent [redacted]) had been struck in the head with a blunt object and a subject (Todashev) had been shot multiple times and was down. At 12:07 a.m., a 911 operator directed several responding police and EMS responders to the scene. b6 -1,4 b7C -1,4

(U//~~FOUO~~) The Orlando Fire Department Ambulance arrived at the scene and described Todashev as dead at the scene.

J. (U//~~FOUO~~) **Coroner's Report:**

(U//~~FOUO~~) A copy of the Medical Examiner's report to include the investigative and autopsy report for Case number: ME13-00623, on Ibragim Todashev was obtained from the Ninth Circuit Medical Examiner's Office via TP on 07/09/2013. On 07/24/2013, the SIRT along with [redacted] DOJ Civil Rights Division, met with ME Dr. [redacted] M.D., and the Deputy Chief ME [redacted] M.D. to obtain clarification on the ME's report. b6 -3,4 b7C -3,4

(U//~~FOUO~~) A review determined the cause of Todashev's death was "multiple gunshot wounds." Gunshot wound "A" to the head was almost straight down and probably incapacitating, meaning no purposeful movement after sustaining the injury. Gunshot wound "B" to the back torso (upper shoulder, left of spine) was at a similar angle to the head shot and hit the spine. This shot could have caused Todashev to drop, but was not incapacitating. The ME stated, during these shots Todashev was diagonal to the shooter and would have been bent forward. Gunshot wounds "A" and "B" likely occurred as Todashev was falling down. The ME stated Gunshot wound "C" to the back torso (upper right shoulder) was not incapacitating. The ME stated the bullet traveled left to right, back to front and downward. Gunshot wound "D" to the back torso (lower right shoulder) was consistent with Gunshot wound "C," however it was at a sharper angle and was not incapacitating. The ME stated the bullet traveled left to right, back to front and downward. Gunshot wounds "C" and "D" likely occurred as Todashev was twisting his body. Gunshot wounds "E," "F," and "G" in the left side torso and left arm were likely grouped, consistent with the shooter being at an angle to Todashev. These three shots made seven holes; two hit Todashev's heart and would have been incapacitating, although not immediately. The ME stated the results of the autopsy were consistent with Todashev falling forward toward the shooter with his head down. There was no evidence of close range firing in any of the gunshot wounds, no stipulating and no close contact shots.

(U//~~FOUO~~) Todashev sustained seven gunshot wounds. Five projectiles were recovered in the torso, and one was recovered in the head. One projectile exited the body and was recovered at the scene. Toxicology results revealed a presence of nicotine and caffeine. A full copy of the ME's report is included in the appendix section.

K. (U//~~FOUO~~) **Civil Rights Division:**

(U//~~FOUO~~) On 05/31/2013, IIC Choucair contacted [redacted] Special Legal Counsel, DOJ and briefed him on the shooting incident. Since the initial briefing, the SIRT has continued to provide information as requested by [redacted] On 10/01/2013, [redacted] advised DOJ has agreed to issue a report on their decision which is being drafted. As of the date of this report, a prosecutive opinion for the DOJ, Civil Rights Division, was pending. b6 -1,3 b7C -1,3

L. (U//~~FOUO~~) **Local Prosecutive Opinion:**

(U//~~FOUO~~) On 05/24/2013, IIC Choucair telephonically contacted State Attorney Jeffrey Ashton, Ninth Judicial Circuit of Florida, to brief him on the details of the shooting incident. Since the initial briefing, the SIRT has continued to provide information as requested by State Attorney Ashton. As of the date of this report, a written prosecutive opinion from Ninth Judicial Circuit of Florida State Attorney Ashton was pending.

M. (U//~~FOUO~~) **Inspector's Observations:**

(U//~~FOUO~~) **Observations with Recommendations/Instructions:**

(U//~~FOUO~~) **Observation 1:** There was no documentation of SAC or designee approval for travel into another field office's area of responsibility for operational activity.

(U//~~FOUO~~) **Analysis 1:** Manual of Investigative Operations and Guidelines (MIOG) Part 2, Section 23-3.1 stated, "*Investigative information from another field office is to be obtained by that office unless extraordinary haste requires direct communication. When the exigencies of a case, emergencies, or economy and common sense dictate, an employee, if authorized by his/her SAC, may enter the territory of another field office. The concurrence of the SAC of the entered office is to be obtained prior to the travel.*"

(U//~~FOUO~~) CTD held a Video Teleconference (VTC) with BS and TP to discuss the interview of Todashev tentatively scheduled for 05/21/2013. Although all parties were involved in the VTC, SAC or designee approval for inter-divisional travel concurrence was not documented.

(U//~~FOUO~~) **Instruction 1:** SAC, Boston will ensure SAC or designee approval is appropriately documented prior to operational travel into another field office's area of responsibility.

(U//~~FOUO~~) **Observation 2:** No operational plan was drafted or approved for contact with an individual with a known proclivity towards violence and in which an arrest could have been reasonably anticipated.

(U//~~FOUO~~) **Analysis 2a:** DIOG, Section 19.2.3 stated, "*The SAC is responsible for ensuring that arrests are carefully and thoroughly planned. Proper planning and preparation for arrest situations can greatly enhance the safety and effectiveness of Agents and officers during these high-risk situations. Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications.* [redacted] *must be utilized whenever possible... Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans... All arrest plans must be approved by ASACs or their designees...*" b7E -5

(U) DIOG, Section 19.2.4 stated, "*An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan.*"

(U//~~FOUO~~) Todashev was a certified MMA fighter in both Florida and Massachusetts with a prior history of assault which was known to TP, Agent [redacted] and the MSP Troopers. Information provided by the State Attorney's Office showed Todashev held a Florida State Boxing Commission license number FED#: 129-225 with an expiration date of 08/08/2017, and a State of Florida, Department of Business and Professional Regulation MMA Participant license number PART4184 with an expiration date of 12/31/2012. In addition, Todashev held a Massachusetts – Department of Public Safety State Athletic Commission MMA Amateur License number: A3105 with an expiration date of 07/18/2012. Information obtained from local law enforcement reports and a National Crime Information Center (NCIC) report documented Todashev's prior alleged involvement in three violent interactions. Specifically, in a Boston Police Department (PD) report of an incident on 02/11/2010, Todashev was charged with Disorderly Person, Resisting Arrest, Reckless Driving, and Weaving. In an Osceola County Sheriff's Office (SO) statement, dated 07/07/2012, Todashev was mentioned as a participant with another individual, [redacted] in a Simple Battery incident involving the attack on an employee of the Ali Baba Hookah Café. Todashev was not arrested or charged in this incident. Most recently, an Orange County SO Incident Report of an incident on 05/04/2013, stated Todashev was arrested for Aggravated Battery (causing bodily harm or disability to another), a Second Degree Felony. In addition, MMA fights involving Todashev were posted on YouTube and had been observed by TP, Agent [redacted] and the MSP Troopers.

b6 -1,9
b7C -1,9

(U//~~FOUO~~) Prior to Todashev's scheduled departure from the U.S., CTD held a Video Teleconference (VTC) with BS and TP to discuss the interview of Todashev. The strategy of the interview as stated by Trooper [redacted] was to solidify Todashev's travel timeline in the Boston area in September 2011 and to subsequently confront Todashev with forensic evidence associated with the triple homicide. During the preparation for the interview, neither BS nor TP drafted an operational plan.

b6 -4
b7C -4

(U//~~FOUO~~) **Analysis 2b:** TP had surveillance coverage on Todashev on the evening of 05/21/2013, from 4 p.m. to midnight. The surveillance team was in the vicinity of Todashev's residence throughout the evening and spot checked Todashev's parking lot for a specific vehicle associated with Todashev. At approximately 7:45 p.m., two unknown males (TFO [redacted] and [redacted]) were observed in Todashev's parking lot near said vehicle. Surveillance was terminated at midnight. TFO [redacted] provided perimeter security for the duration of the interview while Agent [redacted] and the MSP Troopers conducted the interview.

b6 -1,2,4
b7C -1,2,4

(U//~~FOUO~~) The SIRT determined although surveillance coverage was utilized they appeared to be unaware of the interview being conducted. TP could have more effectively utilized resources by ensuring coordination between the surveillance and interview teams given the nature of the interview of an individual with a known proclivity towards violence.

(U//~~FOUO~~) **Analysis 2c:** FBI Executive Management was not kept abreast to the details of the progress of the interview of Todashev. The interview was originally scheduled to be conducted at the OPD; however, Todashev refused to be interviewed at the OPD and requested the interview be conducted at his residence. The interview began at approximately 7:30 p.m. on 05/22/2013.

(U//~~FOUO~~) During the interview, Trooper [redacted] provided updates to Middlesex ADA [redacted] Todashev described how [redacted] It was at this point, at approximately 10:25 p.m., when Trooper [redacted] provided Todashev with his Miranda warning. Trooper [redacted] verbally provided the warning to Todashev and had him sign the Miranda warning form (FD-395). At approximately 10:30 p.m., ADA [redacted] headed into his office in anticipation of drafting an indictment based on the information provided by Trooper [redacted] At approximately 10:45 p.m., TFO [redacted] provided the last update to SSA [redacted] which stated, all was going well and the interview was ongoing. b6 -1,4 b7C -1,4 b7A -1

(U//~~FOUO~~) [redacted] Approximately one hour later, Trooper [redacted] asked Todashev sat on the bed [redacted] At approximately 11:55 p.m., Trooper [redacted] informed Trooper [redacted] and Agent [redacted] he was going to step outside for a few minutes. Trooper [redacted] then stepped outside in order to call the ADA [redacted] and provide an update. b6 -1,4 b7C -1,4 b7A -1

(U//~~FOUO~~) The limited updates to SSA [redacted] were not detailed and did not convey the significance of the situation. At no time during the course of this interview were any updates provided to BS Executive Management. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 2a:** SAC, Boston will ensure operational plans are drafted and approved for contact with individuals who have a known proclivity towards violence and where an arrest is or could be reasonably anticipated.

(U//~~FOUO~~) **Recommendation 2b:** SAC, Boston should ensure appropriate resources are provided to support high risk interviews.

(U//~~FOUO~~) **Recommendation 2c:** SAC, Tampa and SAC, Boston should ensure effective coordination and communication prior to and during potential high risk operations.

(U//~~FOUO~~) **Recommendation 2d:** SAC, Tampa and SAC, Boston should ensure Supervisors recognize their responsibility to provide clear leadership and direct approval for action when warranted.

(U//~~FOUO~~) **Observation 3:** Tampa ERT failed to utilize established protocols while collecting and documenting evidence.

(U//~~FOUO~~) **Analysis 3a:** MIOG Part 1, Section 308-11.2.5 stated, [redacted] b7E -5

[redacted]

(U//~~FOUO~~) TP ERT conducted the evidence recovery at Todashev's residence on 05/22/2013. The items collected were seized as a result of the shooting and placed in the BS investigation, rather than the TP - Assault on a Federal Officer investigation.

(U//~~FOUO~~) TP ERT failed to recognize the item (white table) believed to be used by Todashev to inflict injury to the Agent could have trace evidence of the Agent's blood. The white table had visible red smudges and droplets which appeared to be blood; however no presumptive tests were conducted. TP ERT failed to collect the white table which was later determined to be pertinent to the Assault on a Federal Officer investigation. The white table was subsequently seized pursuant to a search warrant for a BS investigation. This required the SIRT to request the transfer of this item of evidence to the assault investigation for analysis.

(U//~~FOUO~~) MIOG Part 1, Section 308-11.2.7 stated, [redacted] b7E -5

[redacted]

(U//~~FOUO~~) While processing Todashev's residence, TP ERT took several photographs; however, the photos departed from the established protocol. Not all photographs clearly depicted the progression of overall, medium, and close-up views of the scene and the items of evidence. The use of a scale for size determination was not utilized in all photographs containing evidence, to include blood spatter. The photos lacked clarity, were out of focus, and the scene was not thoroughly documented. In addition, there were no photographs to show the overall position of the evidence with evidence markers within the scene.

(U//~~FOUO~~) Photographs obtained by the ME's office included a photo of a stack of evidence markers located outside Todashev's front door giving the appearance of evidence being outside the residence.

(U//~~FOUO~~) TP ERT should ensure if the field office's photographer was unavailable, backup personnel were trained in accordance with Evidence Response Team Unit (ERTU) standards for photography. In addition, TP ERT personnel should be provided annual training on ERTU standards for photography and familiarization training with photography equipment.

(U//~~FOUO~~) MIOG Part 1, Section 308-11.2.8 stated, "[redacted] b7E -5

[redacted]

(U//~~FOUO~~) MIOG Part 1, Section 308-11.2.9 stated, [redacted] b7E -5

[redacted]

(U//~~FOUO~~) TP ERT utilized Total Station to document the scene. Upon SIRT's review of the Total Station sketches in comparison with the TP ERT photographs, there was a discrepancy with the location of item number 15. SIRT determined from TP ERT, the Total Station operator utilized the ERT sketch for a reference point for the location of the evidence. TP ERT advised the ERT sketch erroneously marked item number 15 closer to the middle of the living room. TP ERT also advised the ERT photographs accurately depicted the location of item number 15. The utilization of the sketch rather than the exact location of the items of evidence for the Total Station documentation resulted in an inaccurate depiction of the scene.

(U//~~FOUO~~) TP ERT personnel should be provided annual training on ERTU standards for documentation of evidence through sketches and the use of Total Station.

(U//~~FOUO~~) MIOG Part 1, Section 308-9 stated, [redacted] b7E -5

[redacted]

[redacted] b7E -5

(U//~~FOUO~~) **Recommendation 3a:** SAC, Tampa should ensure Tampa ERT personnel are provided annual training regarding the established protocols for collection and standards for documentation of evidence (to include photography, sketching, and utilization of Total Station).

(U//~~FOUO~~) **Observation 4:** No Domestic Police Cooperation investigation was initiated prior to the incident.

(U) **Analysis 4:** DIOG, Section 12.3.2.3(B) stated, "*The FBI may provide investigative assistance to state, local, or tribal agencies: in the investigation of matters that may involve federal crimes or threats to national security, or for such other purposes as may be legally authorized.*"

(U) DIOG, Section 12.3.2.3.3 stated, "*Investigative assistance using an investigative method, other than those authorized in assessments, must be documented with the FD-999, filed and uploaded to an appropriate file...*"

(U) DIOG, Section 12.7.2(D) stated, "*The FD-999 must be uploaded to a domestic police cooperation file – 343 Classification.*"

(U//~~FOUO~~) According to Agent [redacted]s initial signed sworn statement dated 05/28/2013, approximately one week after the 04/15/2013 Boston Marathon Bombing, he was assigned and began to work with the MSP. The request was to assist the MSP with their investigation of a triple homicide in which Todashev was a suspect. INSD determined from a review of Sentinel, the BS domestic police cooperation investigation was not initiated until 06/07/2013, approximately 45 days after the assistance began. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 4a:** SAC, Boston will ensure 343, Domestic Police Cooperation investigations are opened in a timely manner in accordance with DIOG.

(U//~~FOUO~~) **Recommendation 4b:** AD, RPO should consider modifying DIOG to provide detailed guidance regarding 343, Domestic Police Cooperation investigations.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Tampa Field Office 05/22/2013 **Date:** 06/04/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** Trent R. Teyema
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297-HQ-A1271966-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 03/25/2013.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 03/18/2014 by former Inspector Dena E. Choucair. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Details:**

On 03/25/2014, the SIRG convened to review a shooting incident which occurred on 05/22/2013, involving FBI Boston (BS) Field Office Agent [redacted] On 05/21/2013, BS Agent [redacted] and two MSP Troopers conducted the interview of Ibragim Todashev at his residence. The purpose of the interview was to solidify Todashev's timeline in the Boston area in September 2011 and to confront Todashev with forensic b6 -1 b7C -1

evidence associated with the Waltham homicides. After Todashev was confronted regarding his involvement in the triple homicide, he signed an Advice of Rights form and agreed to provide his statement. The MSP Troopers recorded the interview which captured [redacted] b7A -1

[redacted] Due to Todashev's continued deliberate behavior, one MSP Trooper sent a text to BS Agent [redacted] and the other MSP Trooper to inform them of the threat posed by Todashev. Almost immediately, BS Agent [redacted] heard a loud noise and felt a blow to the back of his head. Todashev ran past BS Agent [redacted] and the MSP Trooper and armed himself with a red metal pole. In the split second available to assess the threat posed by Todashev, BS Agent [redacted] was in fear for his life and the life of the MSP Trooper. In order to stop this threat, BS Agent [redacted] shot a volley of three or four shots at Todashev. Todashev fell and almost immediately re-established his footing, and lunged towards them at an angle. Still in fear for his and the MSP Trooper's life, BS Agent [redacted] shot Todashev with a second volley of three or four shots in order to stop the threat. b6 -1 b7C -1

**Result of the SIRG**

(U//~~FOUO~~) On 03/25/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. (U//~~FOUO~~) **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by BS Agent [redacted] on 05/22/2013 was in compliance with the Department of Justice's deadly force policy. b6 -1 b7C -1

2. (U//~~FOUO~~) **Provide the Director with an evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following operational observations.

Title: (U) Shooting Incident Tampa Field Office 05/22/2013
Re: 297-HQ-A1271966-D, 06/04/2014

(U//~~FOUO~~) **Observation 1**: There was no documentation of SAC or designee approval for travel into another field office's area of responsibility for operational activity.

(U//~~FOUO~~) **Analysis 1**: Manual of Investigative Operations and Guidelines (MIOG) Part 2, Section 23-3.1 stated, "*Investigative information from another field office is to be obtained by that office unless extraordinary haste requires direct communication. When the exigencies of a case, emergencies, or economy and common sense dictate, an employee, if authorized by his/her SAC, may enter the territory of another field office. The concurrence of the SAC of the entered office is to be obtained prior to the travel.*"

(U//~~FOUO~~) CTD held a Video Teleconference (VTC) with BS and TP to discuss the interview of Todashev tentatively scheduled for 05/21/2013. Although all parties were involved in the VTC, SAC or designee approval for inter-divisional travel concurrence was not documented.

(U//~~FOUO~~) **Instruction 1**: SAC, Boston will ensure SAC or designee approval is appropriately documented prior to operational travel into another field office's area of responsibility.

(U//~~FOUO~~) **Observation 2**: No operational plan was approved for contact with an individual in which an arrest could have been reasonably anticipated.

(U//~~FOUO~~) **Analysis 2a**: DIOG, Section 19.2.3 stated, "*The SAC is responsible for ensuring that arrests are carefully and thoroughly planned. Proper planning and preparation for arrest situations can greatly enhance the safety and effectiveness of Agents and officers during these high-risk situations. Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution,*

*Administration and Equipment, and Control and Communications. The* [redacted] *must be utilized whenever possible… Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans… All arrest plans must be approved by ASACs or their designees…"* b7E -5

(U) DIOG, Section 19.2.4 stated, "*An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan.*"

(U//~~FOUO~~) Todashev was a certified MMA fighter in both Florida and Massachusetts with a prior history of assault which was known to TP, BS Agent [redacted], and the MSP Troopers. b6 -1 b7C -1 Information provided by the State Attorney's Office showed Todashev held a Florida State Boxing Commission license number FED#: 129-225 with an expiration date of 08/08/2017, and a State of Florida, Department of Business and Professional Regulation MMA Participant license number PART4184 with an expiration date of 12/31/2012. In addition, Todashev held a Massachusetts - Department of Public Safety State Athletic Commission MMA Amateur License number: A3105 with an expiration date of 07/18/2012. Information obtained from local law enforcement reports and a National Crime Information Center (NCIC) report documented Todashev's prior alleged involvement in three violent interactions. Specifically, in a Boston Police Department (PD) report of an incident on 02/11/2010, Todashev was charged with Disorderly Person, Resisting Arrest, Reckless Driving, and Weaving. In an Osceola County Sheriff's Office (SO) statement, dated 07/07/2012, Todashev was mentioned as a participant with another individual, [redacted] in a Simple Battery incident involving the attack on an employee of the Ali Baba Hookah Café. b6 -9 b7C -9 Todashev was not arrested or charged in this incident. Most recently, an Orange County SO Incident Report of an incident on 05/04/2013, stated Todashev was arrested for Aggravated Battery (causing bodily harm or disability to another), a Second Degree

Felony. In addition, MMA fights involving Todashev were posted on YouTube and had been observed by TP, BS Agent [redacted] and the MSP Troopers. b6 -1 b7C -1

(U//~~FOUO~~) Prior to Todashev's scheduled departure from the U.S., CTD held a Video Teleconference (VTC) with BS and TP to discuss the interview of Todashev. The strategy of the interview as stated by the main MSP Trooper was to solidify Todashev's travel timeline in the Boston area in September 2011 and to subsequently confront Todashev with forensic evidence associated with the triple homicide. During the preparation for the interview, neither BS nor TP drafted or briefed an operational plan which included an arrest scenario.

(U//~~FOUO~~) **Analysis 2b:** TP had surveillance coverage on Todashev on the evening of 05/21/2013, from 4 p.m. to midnight. The surveillance team was in the vicinity of Todashev's residence throughout the evening and spot checked Todashev's parking lot for a specific vehicle associated with Todashev. At approximately 7:45 p.m., two unknown males (TP TFO and Todashev's friend [redacted] were observed in Todashev's parking lot near said vehicle. Surveillance was terminated at midnight. The TP TFO provided perimeter security for the duration of the interview while BS Agent [redacted] and the MSP Troopers conducted the interview. b6 -2 b7C -2

(U//~~FOUO~~) The SIRT determined although surveillance coverage was utilized they appeared to be unaware of the interview being conducted. TP could have more effectively utilized resources by ensuring coordination between the surveillance and interview teams given the nature of the interview of an individual with a known proclivity towards violence.

(U//~~FOUO~~) **Analysis 2c:** FBI Executive Management was not kept abreast to the details of the progress of the interview of Todashev. The interview was originally scheduled to be conducted at the OPD;

however, Todashev refused to be interviewed at the OPD and requested the interview be conducted at his residence. The interview began at approximately 7:30 p.m. on 05/21/2013.

(U//~~FOUO~~) During the interview, the main MSP Trooper provided updates to Middlesex Assistant District Attorney (ADA). Todashev [redacted] b7A -1

[redacted] It was at this point, at approximately 10:25 p.m., when the main MSP Trooper provided Todashev with his Miranda warning. The main MSP Trooper verbally provided the warning to Todashev and had him sign the Miranda warning form (FD-395). At approximately 10:30 p.m., the Middlesex ADA headed into his office in anticipation of drafting an indictment based on the information provided by the main MSP Trooper. At approximately 10:45 p.m., the TP TFO provided the last update to the TP CT SSA which stated, all was going well and the interview was ongoing.

(U//~~FOUO~~) [redacted] b7A -1

Approximately one hour later, the main MSP Trooper asked [redacted] Todashev sat on the bed [redacted] At approximately 11:55 p.m., the main MSP Trooper informed the other MSP Trooper and BS Agent [redacted] he was going to step outside for a few minutes. The main MSP Trooper then stepped outside in order to call the Middlesex ADA and provide an update. b6 -1 b7C -1

(U//~~FOUO~~) The limited updates to the TP CT SSA were not detailed and did not convey the significance of the situation. At no time during the course of this interview were any updates provided to BS Executive Management.

(U//~~FOUO~~) **Instruction 2a:** SAC, Boston will ensure either oral or documented operational plans are approved for contact with individuals where an arrest is or could be reasonably anticipated.

(U//~~FOUO~~) **Recommendation 2b:** SAC, Boston should ensure appropriate resources are provided to support high risk interviews.

(U//~~FOUO~~) **Recommendation 2c:** SAC, Tampa and SAC, Boston should ensure effective coordination and communication prior to and during potential high risk operations.

(U//~~FOUO~~) **Recommendation 2d:** SAC, Tampa and SAC, Boston should ensure Supervisors recognize their responsibility to provide clear leadership and direct approval for action when warranted.

(U//~~FOUO~~) **Observation 3:** No Domestic Police Cooperation investigation was initiated prior to the incident.

(U) **Analysis 3:** DIOG, Section 12.3.2.3(B) stated, "*The FBI may provide investigative assistance to state, local, or tribal agencies: in the investigation of matters that may involve federal crimes or threats to national security, or for such other purposes as may be legally authorized.*"

(U) DIOG, Section 12.3.2.3.3 stated, "*Investigative assistance using an investigative method, other than those authorized in assessments, must be documented with the FD-999, filed and uploaded to an appropriate file…*"

(U) DIOG, Section 12.7.2(D) stated, "*The FD-999 must be uploaded to a domestic police cooperation file – 343 Classification.*"

(U//~~FOUO~~) According to Agent [redacted]'s initial signed sworn statement dated 05/28/2013, approximately one week after the 04/15/2013 Boston Marathon Bombing, he was assigned and began to work with the MSP. The request was to assist the MSP with their investigation of a

b6 -1
b7C -1

triple homicide in which Todashev was a suspect. INSD determined from a review of Sentinel, the BS domestic police cooperation investigation was not initiated until 06/07/2013, approximately 45 days after the assistance began.

(U//~~FOUO~~) **Instruction 3a:** SAC, Boston will ensure 343, Domestic Police Cooperation investigations are opened in a timely manner in accordance with DIOG.

(U//~~FOUO~~) **Recommendation 3b:** AD, RPO, in coordination with the Criminal Investigative Division, should consider modifying DIOG to provide detailed guidance regarding the opening, administrative/investigative, and closing requirements for 343, Domestic Police Cooperation investigations.

(U//~~FOUO~~) **Observation 4:** Tampa ERT failed to utilize established protocols while collecting and documenting evidence.

(U//~~FOUO~~) Analysis 4: MIOG Part 1, Section 308-11.2.5 stated,

[redacted] b7E -5

(U//~~FOUO~~) TP ERT conducted the evidence recovery at Todashev's residence on 05/22/2013. The items collected were seized as a result of the shooting and placed in the BS investigation, rather than the TP - Assault on a Federal Officer investigation.

(U//~~FOUO~~) TP ERT failed to recognize the item (white table) believed to be used by Todashev to inflict injury to the Agent could have trace evidence of the Agent's blood. The white table had visible

red smudges and droplets which appeared to be blood; however no presumptive tests were conducted. TP ERT failed to collect the white table which was later determined to be pertinent to the Assault on a Federal Officer investigation. The white table was subsequently seized pursuant to a search warrant for a BS investigation. This required the SIRT to request the transfer of this item of evidence to the assault investigation for analysis.

(U//~~FOUO~~) MIOG Part 1, Section 308-11.2.7 stated,

[redacted] b7E -5

(U//~~FOUO~~) While processing Todashev's residence, TP ERT took several photographs; however, the photos departed from the established protocol. Not all photographs clearly depicted the progression of overall, medium, and close-up views of the scene and the items of evidence. The use of a scale for size determination was not utilized in all photographs containing evidence, to include blood spatter. The photos lacked clarity, were out of focus, and the scene was not thoroughly documented. In addition, there were no photographs to show

the overall position of the evidence with evidence markers within the scene.

(U//~~FOUO~~) Photographs obtained by the ME's office included a photo of a stack of evidence markers located outside Todashev's front door giving the appearance of evidence being outside the residence.

(U//~~FOUO~~) TP ERT should ensure if the field office's photographer was unavailable, backup personnel were trained in accordance with Evidence Response Team Unit (ERTU) standards for photography. In addition, TP ERT personnel should be provided annual training on ERTU standards for photography and familiarization training with photography equipment.

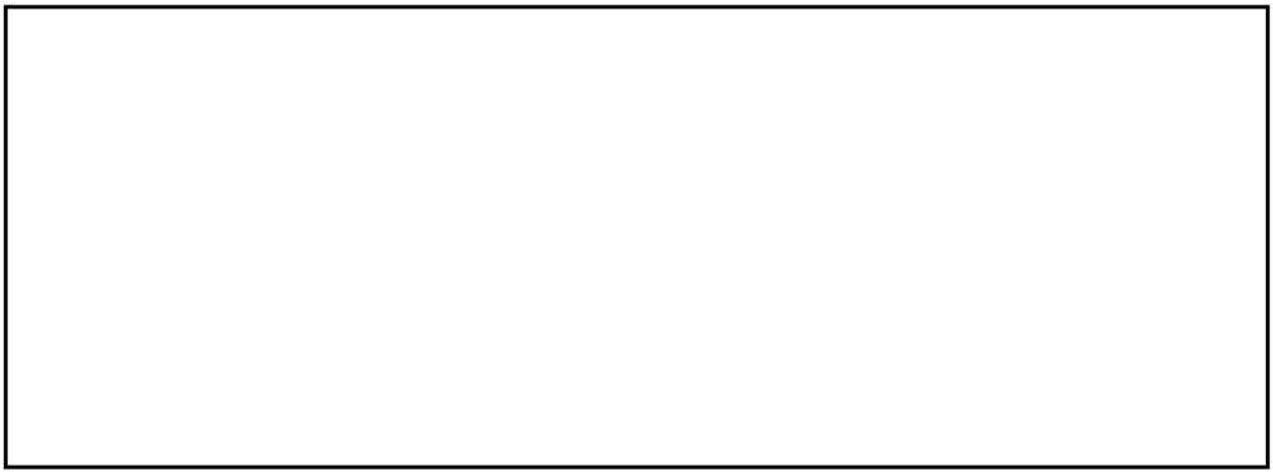
(U//~~FOUO~~) MIOG Part 1, Section 308-11.2.8 stated, [redacted] b7E -5

[redacted]

(U//~~FOUO~~) MIOG Part 1, Section 308-11.2.9 stated, [redacted] b7E -5

[redacted]

Title: (U) Shooting Incident Tampa Field Office 05/22/2013
Re: 297-HQ-A1271966-D, 06/04/2014



b7E -5

(U//~~FOUO~~) TP ERT utilized Total Station to document the scene. Upon SIRT's review of the Total Station sketches in comparison with the TP ERT photographs, there was a discrepancy with the location of item number 15. SIRT determined from TP ERT, the Total Station operator utilized the ERT sketch for a reference point for the location of the evidence. TP ERT advised the ERT sketch erroneously marked item number 15 closer to the middle of the living room. TP ERT also advised the ERT photographs accurately depicted the location of item number 15. The utilization of the sketch rather than the exact location of the items of evidence for the Total Station documentation resulted in an inaccurate depiction of the scene.

(U//~~FOUO~~) TP ERT personnel should be provided annual training on ERTU standards for documentation of evidence through sketches and the use of Total Station.

(U//~~FOUO~~) MIOG Part 1, Section 308-9 stated,

b7E -5

[redacted] b7E -5

(U//~~FOUO~~) **Instruction 4:** SAC, Tampa, in coordination with the Evidence Response Team Unit, will ensure Tampa ERT personnel are provided annual training regarding the established protocols for collection and standards for documentation of evidence (to include photography, sketching, and utilization of Total Station).

3. (U//~~FOUO~~) **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against BS Agent [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ (telephonic); Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Sean M. Cox, [redacted] Counterintelligence Division; Supervisor Special Agent (SSA [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted], Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted], Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Jr., Office of Inspector General, USDOJ; [redacted], Deputy General Counsel, OGC; SC Jay S. Tabb, Tactical Section, CIRG; SSA [redacted] and Public Affairs Specialist [redacted] Office of Public Affairs, b6 -1,3 b7C -1,3 b7E -7

National Press Office; Inspectors Howard S. Marshall, Shawn W. Stroud, R. Justin Tolomeo, Trent R. Teyema, OI,INSD; Team Leaders [redacted] OI, INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management and Program Analysts [redacted] Inspection Analysis Unit, INSD; and UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

**Procedures for Responding to the Observations**

(U//~~FOUO~~) SAC, TP; SAC, BS; and AD, Resource Planning Office, are responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the field office/division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, TP; SAC, BS; and AD, Resource Planning Office, are required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow-up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please E-mail the Sentinel link to Management Program Analyst [redacted] b6 -1 b7C -1

♦♦

# REPORT ON THE DEATH OF IBRAGIM TODASHEV
# CIVIL RIGHTS DIVISION
# UNITED STATES DEPARTMENT OF JUSTICE
# MARCH 25, 2014

## I. Summation

The United States Department of Justice has determined that the evidence does not reveal a violation of the applicable federal criminal civil rights statutes or warrant further federal criminal investigation of the May 22, 2013 death of Ibragim Todashev, who was shot in an Orlando, Florida apartment by an FBI Agent during the investigation of Todashev's role in a 2011 Waltham, Massachusetts triple homicide.

From the evening of May 21, 2013 into the early morning hours of May 22, a Massachusetts homicide investigative team - a Boston FBI Special Agent ("the Agent") and two Massachusetts State Police homicide investigation troopers ("the Lead Trooper" and "the Assisting Trooper") - interviewed Todashev on the ground floor of Todashev's residence, an Orlando apartment. During the interview, Todashev confessed his complicity in the murder of three men in Waltham, Massachusetts in 2011. At the time of the interview, the Massachusetts Investigative Team knew Todashev to be a skilled mixed martial arts fighter with a recent arrest history for violent behavior. As Todashev began to write a statement detailing his role in the murder, he suddenly struck the FBI Agent with the coffee table he was writing on and ran to the kitchen area. The Agent, who sustained a serious head wound, drew his handgun. Todashev ignored commands to show his hands, armed himself with an approximately five-foot long, hollow, metal utility pole, and charged back toward the Assisting Trooper and the Agent. Other available evidence is consistent with the eye-witness law enforcement officers' accounts that, fearing that Todashev intended to seriously injure or kill someone, the Agent fired two volleys, striking Todashev with seven shots causing Todashev's death.

A thorough inquiry and review into the shooting has been conducted by experienced prosecutors from the Civil Rights Division and the United States Attorney's Office for the Middle District of Florida ("USAO"), and by agents with the FBI Inspection Division. The inquiry included reviewing all witness accounts, physical evidence and the results of forensic analyses, audio/video recordings and electronic communications, other reports generated by the FBI, the Office of the State Attorney for the Ninth Judicial Circuit of Florida, and the District Nine Medical Examiner's Office. A senior Civil Rights Division prosecutor participated in the interview of critical witnesses and consulted with the forensic experts and prosecuting authorities in Florida and Massachusetts, as well as the attorneys representing Todashev's family. After reviewing all available evidence, the Civil Rights Division and the USAO have concluded that the evidence does not reveal a violation of federal criminal civil rights statutes or warrant further federal criminal investigation.

To establish a violation of 18 U.S.C., Section 241 and 242, the applicable federal criminal civil rights statutes, the government must prove, beyond a reasonable doubt, that an official, acting under color of law, willfully deprived a person of a right protected by the Constitution or laws of the United States or conspired to do so. In prosecuting a violation of Section 241 or 242, the government must show that the official conspired to use or used unnecessary and unreasonable force that was not warranted. The government must also prove,



NYT-100

beyond a reasonable doubt, that the official acted willfully, that is, with the specific intent to do something the law forbids. This requirement is the highest standard of criminal intent imposed by the law. As this requirement has been interpreted by the courts, evidence that an agent may have acted out of fear, mistake, panic, misperception, or even poor judgment cannot establish the high level of intent required under Section 241 or 242.

The Department has concluded the evidence does not reveal a prosecutable violation of those federal criminal statutes and that further inquiry would not change this conclusion.

## II. Background

Three men were robbed and murdered, and left with their throats slit, in Waltham, Massachusetts on September 11, 2011. Todashev had been a resident of the Boston area in 2011. He was a mixed martial arts enthusiast and had participated in fighting competitions, some of which were posted on YouTube. Todashev and deceased Boston Marathon bombing suspect Tamerlan Tsarnev were acquainted during this time period. Both shared an interest in the mixed martial arts. Both men were suspected to have been involved in the Waltham murder.

In May 2013, the Massachusetts Investigative Team traveled to Orlando where Todashev was then living. A local law enforcement Task Force Officer ("the Task Force Officer") assisted by initially interviewing Todashev for the Massachusetts Investigative Team. That interview revealed further information to bolster the suspicion that Todashev had been involved in the triple homicide. The Massachusetts Investigative Team returned to Massachusetts. Soon thereafter, they learned that Todashev had booked a flight to Russia scheduled to depart on May 24. The Massachusetts Investigative Team decided to return to Orlando to interview Todashev personally about the homicides before he left the country.

Todashev had an arrest record for assaultive behavior. In 2010, he was arrested in Boston for disorderly person and resisting arrest. In 2012, Todashev was accused of assaulting another man in an Osceola County, Florida bar. On May 4, 2013, he was arrested in Orlando for aggravated battery. In this latter incident, Todashev allegedly fought two men, knocking one unconscious. The Massachusetts Investigative Team was aware of Todashev's arrests for assaultive conduct, knew from his gym associates that he was known as a tenacious martial arts fighter, had viewed the YouTube postings of his mixed martial arts competitions, and strongly suspected his involvement in the brutal 2011 triple homicide.

On May 21, the Massachusetts Investigative Team had their local law enforcement contact, the Task Force Officer, to ask Todashev to provide a further interview. Todashev refused to go to a police station for the interview but agreed to meet at the Orlando apartment in which he lived. It was decided that all three members of the Massachusetts Investigative Team should be present during the interview while the Task Force Officer remained outside.

Todashev, accompanied by a friend, met the investigators at about 7:30 p.m. on May 21 in front of the two-story apartment. The Task Force Officer introduced Todashev to the others and Todashev agreed to speak with the Massachusetts Investigative Team inside the apartment. Todashev's friend waited with the Task Force Officer at first, but then left the area well before midnight and did not return. The Task Force Officer remained outside the apartment while Todashev and the three investigators spoke inside for approximately four hours.

## III. Summary of May 21-22 Evidence

At the time of the shooting, only the Agent and the Assisting Trooper were inside the apartment with Todashev. The Task Force Officer and Lead Trooper, who were outside the apartment when the shooting occurred, entered immediately after the shooting. Additionally, three neighbors witnessed some corroborative conduct at the time of the shooting. While there are audio/video recordings of the interview of Todashev earlier that evening, there are no recordings of the shooting. All witness accounts are consistent with each other and are corroborated by the physical and forensic evidence. And, no physical or forensic evidence contradicts the witness accounts.

The Agent and the two troopers engaged Todashev in conversation inside the apartment for approximately four hours. The Massachusetts Investigative Team members' accounts of the interview are consistent with audio/video recordings made contemporaneously by the troopers. Todashev was polite, calm, articulate, and, at the same time, reticent. He never asked the investigators to leave or to discontinue the interview.

Balancing between the competing factors of developing an amicable rapport conducive to gaining information and the potential risk presented by a murder suspect in the freedom of his own residence, the Massachusetts Investigative Team did not initially search Todashev's person or the apartment for weapons.

### A. Witness Accounts, Text Messages and Video

The first floor consisted of two rooms: a living room and a kitchen between which there was a counter, permitting viewing from one room into the other (see Attachment A, a diagram of the first floor and items present after the shooting). A small hallway, accessing the front outside door, ran from the living room next to the kitchen with an entryway between the hallway and the kitchen. At the other end of the apartment was a sliding glass door that led directly outside. A stairway led to the upstairs bedroom and bathroom. Significantly, the investigative team was aware that an approximately four-foot long sharp metal-bladed sword was hanging on the stairwell post in the living room.

The interview was conducted in the living room while Todashev stood or sat on a bed mattress in front of the sliding door in the back of the room. During the lengthy interview, the investigators permitted Todashev to move around the apartment, drink water, smoke cigarettes, and take bathroom breaks upstairs. While Todashev smoked, he opened and closed the unlocked sliding door to the outside to ventilate the room.

Initially, Todashev was not completely forthcoming. As the conversation developed, he proffered that he had direct knowledge of the 2011 triple homicide. At 10:25 p.m., Todashev verbally "waived his rights" and signed a Miranda form acknowledging his understanding of his right to be represented by an attorney and willingness to speak at that time without an attorney. In response to continuing questioning, he hesitantly, but indisputably, admitted complicity in the murders. The verbal confession was recorded on the troopers' recording devices.[1]

More than one recording device was activated at different times by the troopers as either the memory capacity or the battery power of a particular recording device diminished during the course of the interview. Also, one trooper was using his cell phone both to record parts of the interview and to send text messages to other law enforcement officials.

As midnight approached, Todashev agreed to write a statement to memorialize his verbal confession and to provide extenuating and mitigating facts that he felt explained his conduct. Because the interview discontinued when Todashev began to write his statement, the Assisting Trooper shut off the recording device on his cell phone and was sending a text message to other law enforcement officers. Thus, no recorder was activated at the time of the shooting.

The last segment of video recording depicts Todashev sitting on the mattress (see Attachment A) next to the outside sliding glass doors. He is beginning to write on a paper tablet, using a coffee table as a writing surface. The coffee table is positioned next to the mattress between it and the kitchen. The Lead Trooper is sitting on a folding chair between Todashev , who is sitting behind the coffee table, and the kitchen. As the recording ends, the Assisting Trooper is moving toward the recording device and shutting it off.

During the evening, the troopers had been updating a Middlesex County, Massachusetts, Assistant District Attorney ("the ADA") on the progress of the interview by cell phone and text message. The ADA was waiting at his office in Massachusetts to prepare an arrest warrant if necessary. When the Assisting Trooper shut down his recording, he noticed that, while he had been recording with that cell phone, the ADA had texted the troopers a message: "Don't put him in custody until we get a warrant." The Lead Trooper went outside to consult with the ADA by cell phone. Accordingly, only two law enforcement officers were watching Todashev at this point in time.

As Todashev wrote his statement, the Agent and the Assisting Trooper noticed a change in Todashev's behavior. Todashev nervously looked around and became more deliberate in his speech and movement. Todashev again asked to go to the bathroom. The Agent/Assisting Trooper patted Todashev down. The Agent accompanied Todashev to the upstairs bathroom.

---

[1] Because the investigation of the triple murder continues, the Middlesex County, Massachusetts District Attorney has requested that the details provided in Todashev's confession not be made public at this time. To preserve the integrity of that continuing homicide investigation, we honor that request.

The Assisting Trooper watched from the staircase. The Agent and Assisting Trooper observed that Todashev did not need to urinate or otherwise use the bathroom. According to them, Todashev washed his hands in a slow, methodical manner, appearing preoccupied. As Todashev began to walk back downstairs, he slowed his pace on occasion almost to a stop. The Agent and Assisting Trooper were concerned about the changed behavior.

As Todashev started back down the stairs with the Agent, the Assisting Trooper moved quickly to remove the sword that was hanging on a post at the bottom of the stairwell. He hid it behind a three-foot tall shoe rack in the hallway between the living room and kitchen. A mirror situated at the foot of the stairs permitted someone on or at the top of the stairs to see into the hallway. The Assisting Trooper suspected that Todashev had seen the Assisting Trooper moving the sword toward the hallway and kitchen, by looking in the mirror as Todashev descended the stairs.

After the bathroom break, the Agent sat in the folding chair facing the coffee table and the mattress on which Todashev was seated. The Assisting Trooper was at the stairway. Behind Todashev on the other side of the mattress was the sliding glass door, the closest avenue of potential escape.

As Todashev resumed writing the statement, the Assisting Trooper texted a message transmitted from his cell phone at 12:03 a.m. to the other investigators. It read, "Be on guard. He is in vulnerable position to do something bad. Be on guard now, I see him looking around." The Assisting Trooper looked down at his cell phone to watch for the electronic queue that the text message had been communicated. The Agent was sitting on the folding chair reading his notes. At that instant, the Agent and Assisting Trooper were momentarily distracted.

The Assisting Trooper heard a loud noise, which he later assumed to be a yell by Todashev. The Assisting Trooper saw Todashev spring up from the mattress and push the coffee table into the air. He was uncertain whether the table struck the Agent. Todashev ran toward the hallway. The Assisting Trooper yelled for his partner, the Lead Trooper, who was outside. The Assisting Trooper saw Todashev quickly move toward the kitchen, making no effort to open the front door to escape. The Assisting Trooper believed Todashev had seen him remove the sword from where it was hanging and that he was looking for the sword or another weapon in the kitchen.

The Agent felt something strike him in the backside of the head. He was knocked from the chair. He saw Todashev run past him toward the hallway. The Agent drew his handgun. The Agent was dazed from being hit by the table and suffered a severe head laceration which later required nine staples to close. He saw Todashev through the opening above the kitchen counter and heard metal banging as if Todashev was searching for something.

According to both the Agent and the Assisting Trooper, Todashev refused to comply with commands to show his hands. The Assisting Trooper saw Todashev grab a metal utility pole from the corner next to the front door. While the Assisting Trooper attempted unsuccessfully to draw his handgun, Todashev raised the pole over his head, holding it with both hands in "a

trained fighting position" as he charged at the Assisting Trooper. The Assisting Trooper raised his arms up in front of his face to block an impending blow. According to the Assisting Trooper, he expected to be "impaled" by the pole.

The Assisting Trooper heard a volley of gunfire from his right. He saw the gunfire strike Todashev and Todashev fall to, or partially to, the floor, then quickly regain his footing and lunge toward the Assisting Trooper. The Assisting Trooper estimated that Todashev's body was coming back at them at a 45 degree angle from the floor. He heard a second volley of gunfire. The Assisting Trooper saw the impact of the bullets twist Todashev's body back and forth. He thought he heard three or four shots in each volley. The Assisting Trooper further declared that, had he been able to draw his handgun in time, he "absolutely" would have shot Todashev because the Assisting Trooper feared for his own life.

Just before the shooting, the Agent was standing a few feet to the right of the Assisting Trooper on the kitchen side of the living room. He saw Todashev quickly turn the corner between the kitchen and hallway and come rapidly toward the Agent and Assisting Trooper. The Agent did not know whether the Assisting Trooper had his gun out. But, having heard the sound of metal banging as Todashev appeared to search for something in the kitchen, the Agent assumed that Todashev was armed with something.

The Agent stated that, as Todashev moved toward them to "attack," the Agent fired a volley of gunshots. The Agent saw Todashev fall backwards when he was struck by the gunfire, but quickly regain his footing and lunge forward toward them. The Agent fired a second volley. The Agent said that he shot Todashev because he feared for the Assisting Trooper's and his own life.

The Lead Trooper and the Task Force Officer heard a commotion inside the apartment and then two gunshot volleys, one quickly after the other. The Lead Trooper heard his partner's call for help, unintelligible yelling, and what he thought were three or four shots in each volley. The Task Force Officer, an experienced firearms and SWAT officer, reported "distinctly" hearing three shots in the first volley and four shots in the second volley. The ADA said that he and the Lead Trooper were talking around midnight when the Lead Trooper abruptly terminated the call.

Neighbors in three nearby apartments were home on the evening of May 21-22 and witnessed relevant conduct. One neighbor came home from work about 10:30 p.m. and noticed lights on inside Todashev's apartment and that the blinds on the sliding glass door were open, which was unusual. He further reported that he saw several males inside at that time. That neighbor was later watching television at about midnight when he heard four loud "pops," followed by three loud "pops." He then saw several individuals hovering over "something" on the floor. The neighbor believed the noise was attributable, however, to construction across the lake from their apartment complex.

Two other neighbors heard what they thought were gunshots about midnight. One neighbor thought she heard two shots and loud banging. When she looked outside, she saw a

man talking on a cell phone. The third neighbor heard a noise "like a gunshot" about midnight but did not know the location of the noise or observe anything unusual.

The Lead Trooper and the Task Force Officer immediately entered the apartment through the front door after they heard the gunshots. They saw Todashev's body lying stomach-down on the hallway floor with his head pointed toward the living room. A red metal utility pole was partially underneath Todashev's body, extending out in front of Todashev's head. They believed Todashev was dead. The Assisting Trooper immediately confirmed that Todashev had no pulse. Less than five minutes after the Assisting Trooper sent his "be on guard" text message, the Task Force Officer called 911 to report the shooting.

B. Physical Evidence

The FBI Evidence Recovery Team and Florida's District Nine Medical Examiner's Office investigators processed the scene, took photographs, and collected physical evidence in the apartment after the shooting. This evidence corroborates much of the information in witness accounts. None of the physical evidence contradicts the witness accounts.

The paper tablet with Todashev's incomplete written statement lay on the floor of the living room (Attachment A, Item 1) between the mattress on which Todashev had been sitting and the chair in which the agent had been sitting. It consisted of a half page of handwritten information that corroborated some of what Todashev admitted in the audio/video recordings regarding the triple homicide. The last sentence that Todashev wrote on the tablet of paper specifically related conduct by him that acknowledged complicity in the crime.[2]

The lower shelf of the broken coffee table (see Attachment A, table shelf) was located near the chair in which the Agent had been seated. That shelf was disconnected from the rest of the coffee table (see Attachment A, table base) that was on the floor beyond the chair and closer toward the kitchen. Blood stains were on both parts of the coffee table.

Todashev's body was stretched out on his stomach at the intersection of the hallway and the living room with both feet oriented toward the front door (see Attachment A). After the body was moved for preparation for transport to the medical examiner for autopsy, a single bullet projectile was discovered on the floor in a puddle of blood in the living room in the vicinity where the body had been later moved. The projectile was not present prior to the body having been moved there.

An approximately five-foot long, red, hollow metal pole (see Attachment A, pole) was partially underneath the body, extending out from the body next to the head into the living room. It was oriented parallel to the length of the body. The metal of the hollow pole was bent and compressed near both of its ends. The sword (see Attachment A, sword) was jammed between a shoe rack and the wall of the hallway near the body. Seven spent cartridge casings (see

[2] The Massachusetts District Attorney has asked that we not relate the statement's contents because of her continuing investigation of the triple homicide.

Attachment A, Items 2 through 8) were in the living room on the kitchen side between the chair and the kitchen.

Accordingly, the physical evidence corroborates certain critical facts from the witness accounts:

First, the table was broken into two parts, with blood stains on each separated part. It was found at a location consistent with the Assisting Trooper's contention that he saw the coffee table propelled in the direction of the Agent. Additionally, its blood-stained condition was consistent with the fact that it had struck and cut the Agent in the head.

Second, Todashev's body was located in a place on the floor and in a position and alignment that was consistent with the account of both the Agent and the Assisting Trooper that Todashev was moving toward them and then fell forward after being shot.

Third, the pole was found beneath the body generally aligned with the length of the body. Additionally, the hollow pole was bent and compressed at both ends, several inches away from each end, in a pattern as though it had been squeezed by an adult's hands. The location of the pole under the body and the placement of the two bend marks are consistent with the Assisting Trooper's account that Todashev charged holding the pole with both hands and fell on the pole after being shot.

Fourth, the spent casings were found in a location that is consistent with the Agent's and the Assisting Trooper's accounts of the Agent's position in the living room when the Agent fired at Todashev. And, the seven spent casings are consistent with the witness accounts that estimate two volleys of three to four shots.

Finally, the sword was not hanging on the empty screw-like hangers. Rather, it was jammed in between the shoe rack and the wall in the hallway and not readily visible. These facts are consistent with the Assisting Trooper's statement that the Assisting Trooper moved the sword there in order to hide it from Todashev.

C. FBI Lab Analyses

The FBI Lab conducted forensic analyses on several relevant items of physical evidence: the Agent's handgun, bullet projectiles, spent shell casings, the metal pole, the sword, the broken coffee table, the Agent's shirt and jacket, and the paper tablet on which Todashev wrote. The results of the forensic analyses were consistent with facts related in the witness accounts.

The seven projectiles (six removed from Todashev's body during the autopsy and one recovered at the scene) were all fired by the Agent's handgun. The seven spent shell casings were ejected by that same weapon. This is consistent with the Agent's and the Assisting Trooper's accounts that only the Agent fired at Todashev.

No latent fingerprints viable for comparison were found on the metal pole. One viable latent print was found on the blade of the sword. That latent print did not match the known prints of either Todashev or any of the Massachusetts Investigative Team and it did not have sufficient points of comparison to compare it to any known fingerprint data base.

However, fingerprints and a palm print were found on the tablet of paper on which Todashev wrote his incomplete statement. All prints matched Todashev's known prints. This forensic evidence, in conjunction with the video recording depicting Todashev writing on a tablet on the coffee table, corroborates that Todashev authored the written confession.

DNA was extracted from blood on the coffee table and its detached shelf and from the Agent's shirt and jacket, upon which the Agent bled profusely from his head wound. The DNA from the blood on the Agent's shirt and jacket matched the DNA from the blood on both sections of the coffee table. At the same time, Todashev's DNA was excluded as a contributor to any of this DNA. This forensic result is consistent with the Agent being struck in the head by the coffee table or bleeding on it later.

D. Autopsy Report and Medical Examiners' Interviews

Florida's District Nine Medical Examiner's Office conducted an autopsy on May 22, 2013. The Chief Medical Examiner and the Deputy Chief Medical Examiner, who conducted the autopsy, later discussed their findings with FBI Inspectors and a Civil Rights Division attorney. The medical examiners provided certain conclusions to a scientific certainty. They also proffered relevant observations. When considered in conjunction with all available evidence, these conclusions and observations support reasonable inferences that are consistent with the witness accounts of the shooting.

According to the medical examiners, Todashev died as a result of multiple gunshot wounds. The results of the autopsy were consistent with Todashev falling forward toward the shooter with his head down. The shooter was neither standing over Todashev nor behind him when the shots were fired.

Todashev suffered gunshot wounds from seven bullets.[3] None of the seven entrance wounds showed soot or stippling. Thus, there was no evidence of a contact or close to contact gunshot. Rather, as the autopsy report reported, the wounds were fired from an "indeterminate range." The order in which the seven initial entrance wounds were inflicted cannot be determined to a scientific certainty. Those seven entrance wounds did, however, separate into groupings or patterns that suggest how and when they may have been inflicted.

The first grouping consists of three entrance wounds that struck Todashev on the left front upper side of his body. The bullets that caused those wounds all followed a slightly left to

[3] Four bullets entered but did not exit. Two bullets, which initially entered the left arm, exited the inside of that arm and re-entered into the left side of the chest, creating three holes each. One bullet entered the back of the torso and exited the front, creating two holes.

right and a front to back trajectory through and across the front of the body. One bullet in this grouping entered the upper left side of the chest. The other two bullets in this grouping entered the outside of the upper left arm, exited at the inside of that arm, and then reentered the body again in the upper left side of the chest near the first described wound.

Four other entrance wounds formed into different and separate patterns. Two of these entrance wounds struck the top of Todashev's body, one into the crown of the left side of his head and the other into the top of his left shoulder. The other two entrance wounds struck Todashev in the middle right side of his back, with one exiting through the front. All four of these bullets also followed a lateral trajectory through the body consistent with the trajectory direction of the bullets in the first grouping.

The bullets in these other two patterns also followed an up-to-down and back-to-front trajectory through the body. Significantly, the bullet that entered the crown of the left side of the head and the bullet that entered the top of the left shoulder both followed an extreme downward trajectory through the body (from the head and shoulder almost directly toward the legs). The two bullets that entered the back, however, followed a back-to-front trajectory with a much less extreme downward trajectory.

The medical examiners' observations about the location of the seven entry wounds and the trajectory of the associated seven bullets through the body support two important conclusions. First, the trajectory of all the bullets through the body indicates that all seven shots were fired from the direction that the Agent and the Assisting Trooper claim that the Agent was positioned in relation to Todashev when he fired at him. Second, the shots were fired at an indeterminate range, not at contact or close to contact range. Thus, these two conclusions, when considered together and with all the other relevant evidence (particularly the location of the body on the floor and the observation that Todashev fell forward toward the shooter, who was not over him or behind him) are consistent with the two eyewitness accounts that the Agent fired from the living room while he was in front of and to the kitchen-side of the living room as Todashev advanced toward the law enforcement officers from the hallway.

The medical examiners' observations about the location of the seven entry wounds and the trajectory of the bullets through the body support other significant reasonable inferences:

First, the separate grouping and patterns of entrance wounds are consistent with the account of all the witnesses, the two eye witnesses, the two witnesses outside and the one neighbor, who heard two separate volleys.

Second, the wounds and trajectory of the first grouping – entry wounds to the left upper chest and left upper arm area – are consistent with the first volley, that the Assisting Trooper reported was fired as Todashev charged with the metal utility pole held over his head. Moreover, these three entry wounds would have been inflicted by the Agent shooting from the kitchen side of the living room as he claimed.

Third, two of the wounds that form the second pattern, one to the crown of the left side of the head and the other to the top of the left shoulder – both with an extreme downward trajectory – are consistent with the Assisting Trooper's account that Todashev was shot with a second volley, after he had fallen down, regained his footing, and lunged at the trooper at an approximately 45 degree angle. The medical examiners further supported this inference by their observation that those two wounds could "likely" have occurred when Todashev was "falling." It is a fair inference that a body could be at a 45 degree angle to the ground both when it is falling as well as when rising.

Finally, the two entry wounds to the back – with a much less extreme downward trajectory angle – are consistent with the Assisting Trooper's observation that Todashev's body was twisting around as he was shot and fell, thus striking him in the back. The medical examiners further observed that those two wounds could "likely" have occurred as Todashev was twisting his body.

These observations, particularly the trajectory of the head and shoulder wounds considered along with the combination of seven entrance wounds and associated bullet trajectories, are inconsistent other possible scenarios. First, the three wounds to front chest area could not have been inflicted while Todashev had his back to the shooter. Second, the extreme downward trajectory of the wounds to the crown of the head and the top of the shoulder are inconsistent with the shots being fired when Todashev had his back to the shooter or was running away. Significantly, the medical examiners observed that the results of the autopsy were consistent with Todashev falling forward toward the shooter with his head down. Again, it is a fair inference that Todashev could have been falling or rising with his head down.

Other conjectured scenarios are not plausible enough to raise doubts about the mutually consistent accounts of the witnesses and the physical evidence that corroborates the witness accounts.

In sum, the existing wounds and associated bullet trajectories, when taken as a whole and considered in conjunction with all the other available evidence, are consistent with the only eyewitness accounts, those of the Assisting Trooper and the Agent. Further, nothing about the medical opinions and observations contradicts those eyewitness accounts.

## B. Information Provided by Todashev's Family Attorneys, his Father, and CAIR

### 1. Conversation with his Father, Alibi and Physical Capacity

Attorneys representing Todashev's family asked the Department to consider three potentially relevant facts. First, Todashev called his father, who was in Russia, and told his father that he planned to speak with law enforcement investigators because he had nothing incriminating to hide from them. Second, there is purportedly information that constitutes an alibi for the September 11, 2011 Waltham triple homicide. Third, knee surgery that Todashev had on March 13, 2013, rendered him physically unable to pose a threat on May 22, 2013.

If Todashev told his father that he was cooperating with law enforcement investigators, he related accurate information. He voluntarily met with investigators in Orlando earlier in May and then again with the Massachusetts Investigative Team on May 21. On the other hand, it is not surprising that Todashev did not admit complicity in a triple homicide to a parent, especially during a telephone conversation.

The attorneys for the Todashev family elected not to share the purported alibi information with the government. They advised that the witness who had the information was afraid to come forward to federal authorities. Regardless of what such a witness might offer, Todashev's confession belies whatever information might suggest the existence of an alibi. Finally, available information contradicts the contention that Todashev was so physically impaired by a prior unrelated injury to constitute a threat on May 22, 2013. Rather, the evidence suggests that he was capable of the physical activity reportedly observed by the eyewitnesses. Hospital records indicate that Todashev, an otherwise healthy 27 year-old, underwent surgery to repair cartilage and ligament damage to his right knee on March 13, 2013. The surgical repair was successful and the "prognosis was excellent." The family attorneys did not provide any medical records to reflect the progress of his recovery or his physical condition as of May 21-22, two months after the successful surgical repair of his knee.

On the other hand, we have the May 21, 2013 recording of the video confession. It depicts Todashev moving without any visible restriction. Further, on May 4, two and a half weeks before the May 22 shooting, Todashev was involved in a physical altercation in an Orlando parking lot. That incident was captured on video surveillance. It depicts that, although outnumbered, Todashev successfully fought off the two men and without any sign of physical infirmity knocked one of them unconscious, and then left in his car. The police officers, who arrested him later that day, found that Todashev appeared physically fit enough to have prevailed in the altercation – although he did caution them, when ordered to get to the ground, that he had a "hurt knee." Given Todashev's martial arts skills and general physical fitness, as indicated by his fight with two men two weeks earlier, the evidence indicates that Todashev was, and would have believed that he was, physically capable on May 22 of overpowering the Agent and the Assisting Trooper.

2. Todashev's Associates

Todashev's father wrote a letter to the President in December 2013, raising another issue that had been previously alleged by a representative of The Council on American-Islamic Relations (CAIR). Todashev's father and CAIR claim that the FBI has harassed Todashev's friends in the Orlando area, suggesting that this alleged behavior is relevant to the Todashev shooting.

As indicated previously, Todashev had a relationship with the deceased Boston Marathon bomber and, according to Todashev's uncontroverted confession, Todashev was complicit in the triple homicide. The recorded confession confirms that the law enforcement focus on Todashev was warranted. Accordingly, Todashev's associates were also the subjects of federal and state

law enforcement interest. Some of those associates were questioned. Some were incarcerated for matters unrelated to the May 22 shooting and deported pursuant to issues related to their immigration status. Speculation that these persons were deported to conceal information is unfounded. We learned nothing to suggest that law enforcement interaction with Todashev's associates is relevant to the May 22 shooting or that any of those persons deported had any further relevant information to offer.

## IV. Legal Analysis

In order to establish a violation of 18 United States Code § 242, the government must prove beyond a reasonable doubt that a subject was acting under color of law and used excessive force when he shot or otherwise injured a victim, and that the subject did so willfully. We also considered 18 United States Code § 241 and whether there was sufficient evidence of any conspiracy to violate Todashev's rights. No other federal criminal statutes could reasonably be applied to this incident.

There is no question that the Agent was acting under color of law, as an on-duty FBI agent, at the time of the shooting.

Whether a subject used excessive force, in violation of 18 U.S.C. § 242, is determined under the Fourth Amendment's "objective reasonableness" standard. Graham v. Connor, 490 U.S. 386, 388 (1989). "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." Id. at 396. Thus, "[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Id. at 396-97.

Additionally, even if a subject's use of force could be shown to have been objectively unreasonable under the circumstances, the government must further prove that the subject acted willfully. An act is done willfully if the act is "committed voluntarily and purposely with the specific intent to do something the law forbids, that is to say, with a bad purpose either to disobey or to disregard the law." In order to show a violation of Section 242, a law enforcement officer's actions are willful only if he intends to do something that he knows is unlawful. Screws v. United States, 325 U.S. 91, 103-04 (1945).

The evidence is insufficient to conclude that the May 22, 2013 shooting of Ibragim Todashev was either unreasonable or a willful violation of the federal criminal civil rights statutes. Rather, considering all the surrounding circumstances, the evidence establishes that the FBI Agent fired his weapon with reason to believe that deadly force was necessary.

The materially consistent witness accounts and physical and forensic evidence corroborate the Agent's contention that he legitimately feared that Todashev intended to cause death or significant injury to the Assisting Trooper or the Agent himself. Much of the physical

and forensic evidence directly supports the witness accounts of what occurred. And, there is no physical and forensic evidence that contradicts the witness accounts.

The evidence shows that Todashev was an experienced mixed martial arts fighter capable of violent conduct. Having just confessed to complicity in a triple murder, he had a motive to engage in the desperate act described by the Agent and Assisting Trooper. Thus, the Agent was understandably fearful when Todashev struck him with a coffee table and then, rather than attempting to escape, found a weapon, the metal pole, and aggressively charged the Assisting Trooper with it.

Accordingly, it was reasonable for the injured Agent to believe that it was necessary to shoot in order to halt the immediate threat of death or serious bodily harm posed by Todashev's charge. Further, it was reasonable to believe that, after a wounded Todashev regained his footing and resumed the charge, it was again necessary to shoot a second volley.

## V. Conclusion

There is insufficient evidence to support any prosecutable violation of the potentially applicable federal criminal civil rights statutes, 18 U.S.C. §§ 242 or 241. Based upon all the evidence gathered so far, there is nothing to suggest that any further inquiry would change this conclusion. As with all matters, however, in the event that additional relevant facts should become available, the Civil Rights Division and USAO would review them and determine whether they support a re-evaluation of this conclusion.

Attachment

#5.) F.S.S. 776.06. ***Deadly force.***

*(1) The term "deadly force" means force that is likely to cause death or great bodily harm and includes, but is not limited to:*

*(a) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and*

*(b) The firing of a firearm at a vehicle in which the person to be arrested is riding.*

**Summary**

During the course of Federal and State investigative efforts surrounding Boston Marathon bombing suspect Tamerlan Tsarnaev, **Ibragim Todashev** became a person of interest in a triple homicide which occurred in Waltham, Massachusetts on September 11, 2011. On May 21, 2013, Federal and State Law Enforcement Officers from Massachusetts and Florida made contact with **Mr. Todashev** in Orlando, Florida. Prior to contact being made on this date, each of the officers involved was aware **Mr. Todashev** was a skilled Mixed Martial Arts (*MMA*) fighter. During the course of a non-custodial, consensual interview, which occurred in the confined space of **Mr. Todashev's** apartment, **Mr. Todashev** spontaneously attacked and struck the **FBI Agent** with a coffee table, causing a *laceration* to the back of the **FBI Agent's** head. **Mr. Todashev** then ran past both officers towards the kitchen area of the apartment. As **Mr. Todashev** armed himself with a broomstick type pole, he aggressively charged back towards **Trooper One** and the **FBI Agent** in a manner they both perceived as being life threatening.

Based on the actions of **Mr. Todashev,** the **FBI Agent** responded to the imminent threat by discharging his firearm at **Mr. Todashev**. During the initial volley of gunfire, **Mr. Todashev** twisted his upper torso twice as he was being struck by the projectiles. This caused **Mr. Todashev** to pause during his attack. As **Mr. Todashev** regained his footing and made a headlong lunge towards the officers, the **FBI Agent** continued to engage the threat by discharging a second volley of gunfire at **Mr. Todashev**. The **FBI Agent** fired his issued handgun a total of seven (7) times in an effort to eliminate the threat posed by **Mr. Todashev**.

Given the totality of the circumstances at the time of this incident, in my opinion, the use of deadly force by the **FBI Agent** on May 22, 2013, was reasonable and justified, and therefore, lawful.

02/26/2014
Date

State Attorney's Office
Ninth Judicial Circuit of Florida
Chief of Investigations

[redacted]

b6 -4
b7C -4

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 05/15/2014
Report of: Inspector Paul D. Delacourt Office: FBIHQ – INSD
Case ID#: 297I-HQ-A4717273
Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT;
BALTIMORE FIELD OFFICE;
04/11/2014

b6 -1
b7C -1

Investigative Period: 04/11/2014 – 05/07/2014

## I. Executive Summary

(U//~~FOUO~~) On 04/11/2014, at approximately 4:32 p.m., Federal Bureau of Investigation (FBI) Special Agents (SAs) [redacted] of the Baltimore Field Office and Detective (Det.) [redacted] Baltimore County Police Department (BCPD) were involved in a shooting incident in Baltimore, Maryland. Agents and Det. [redacted] were supporting [redacted] investigation of a [redacted]. Pursuant to a Court-authorized Title-III wiretap, Squad C-11 was monitoring [redacted] While monitoring the Title-III, investigators learned [redacted]. Agents and Det. [redacted] briefed the A/SSA, ASAC, and SAC they intended to establish surveillance [redacted]

b3 -2
b6 -1,4
b7C -1,4
b7A -1
b7E -1,6

(U//~~FOUO~~) During the planned surveillance, Agents observed [redacted] Harrison drove along an access road leading to Reisterstown Road. Agents and Det. [redacted] driving three separate vehicles, followed Harrison. At the Reisterstown Road stop light, Harrison was positioned in the right turn lane. Prior to the arrival of a marked unit, Agents decided to conduct a traffic stop and effect an arrest of Harrison. Agents and Det. [redacted] positioned their vehicles in the adjacent lane, along [redacted]'s driver's side, with Det. [redacted]'s vehicle angled slightly in front of Harrison's vehicle. Agents and Det. [redacted] approached Harrison's vehicle, identified themselves as police, issued verbal commands, and ordered Harrison to exit the vehicle. Harrison ignored commands and drove his SUV in reverse, striking a civilian [redacted] positioned behind him.

b6 -2,4
b7C -2,4
b7E -1

(U//~~FOUO~~) Harrison, still in reverse, maneuvered his SUV between the rear Agent's vehicle and the [redacted] Fearing for the safety of civilians and fellow Agents, Agent [redacted] shot the tire of Harrison's vehicle and Agents [redacted] fired their weapons at Harrison. Harrison's vehicle struck and came to rest against a [redacted] which was positioned two vehicles behind the [redacted] in the right lane. At the time of the incident, [redacted]

b3 -2
b6 -1,2
b7C -1,2



NYT-115

[redacted] b3 -2, b6 -4, b7C -4

(U//~~FOUO~~) Harrison succumbed to his wounds at the scene. Emergency Medical Services responded immediately and pronounced Harrison dead within five minutes of the initial call of shots fired. No civilians or law enforcement personnel were injured.

(U//~~FOUO~~) SAs [redacted] fired their weapons. SA [redacted] and Det. [redacted] did not fire their weapons. BCPD identified and interviewed four civilian witnesses to the shooting incident. Baltimore Agents investigating the Assault on a Federal Officer case identified and interviewed others. One local surveillance camera captured a portion of the incident at a distance. Signed Sworn Statements of the Agents and an interview of Det. [redacted] presented consistent recollections of the events. The shooting scene was processed by FBI BA ERT, the Laboratory Division's Shooting Reconstruction Team, and BCPD. b6 -1,4 b7C -1,4

## II. Incident Details

### a. Substantive Case Files and Background Information

(U//~~FOUO~~) Prior to the shooting incident, the following substantive [redacted] case was opened: b7E -11

Title: [redacted] b6 -1, b7C -1, b7A -1

File number: [redacted]
Case Agents: SA [redacted]
SA

(U//~~FOUO~~) As a result of the Agent-Involved Shooting, the Baltimore Field Office opened the following Assault on a Federal Officer Investigation:

Title: JAMEEL HARRISON;
REISTERSTOWN, MD;
ASSAULT ON A FEDERAL OFFICER;
AGENT-INVOLVED SHOOTING
BALTIMORE, MD
04/11/2014

File number: 89B-BA-4717270
Case Agents: SA [redacted] b6 -1, b7C -1
SA

**b. Listing of Personnel Involved in the Incident**

1. SA [redacted] (discharged weapon) - FBI BA
2. SA [redacted] (discharged weapon) – FBI BA
3. SA [redacted] (discharged weapon) – FBI BA
4. SA [redacted] – FBI BA
5. Detective [redacted] - BCPD

b6 -1,4
b7C -1,4

**c. Case Review and Operational Briefings**

(U//~~FOUO~~) The Baltimore Field Office opened an investigation [redacted]

[redacted]

b7A -1
b7E -3

(U//~~FOUO~~) On [redacted], the Baltimore Field Office obtained a signed Order from U.S. District Judge George L. Russell, III, U.S. District Court for the District of Maryland, authorizing the interceptions of wire and/or electronic communications [redacted] associated with the investigation. [redacted] authorized for interception. On [redacted], U.S. District Judge George L. Russell, III signed an Order authorizing the continued interception of wire communications of [redacted].

b3 -2
b7A -1
b7E -3,6

(U//~~FOUO~~) Throughout the investigation, Agents collaborated with Assistant United State's Attorneys (AUSAs) [redacted] regarding investigative and prosecutorial strategies. [redacted]. In essence, Agents would [redacted]. This would permit investigators the ability to [redacted].

b6 -3
b7C -3
b7A -1
b7E -3,10

(U//~~FOUO~~) On [redacted], information derived from the wiretap led Agents to [redacted]

b3 -2
b6 -8
b7C -8
b7D -1
b7A -1
b7E -3,6,10

b3 -2
b6 -8
b7C -8
b7D -1
b7A -1
b7E -3,6,10

(U//~~FOUO~~) Consistent with normal Baltimore Field Office procedures, FBI Law Enforcement Operations Orders were not prepared . This was due to the expectation the enforcement action would be accomplished by the local authorities, with FBI personnel acting as back up or as observers. When there was a reasonable expectation FBI personnel would participate in enforcement action, SAC Baltimore required the completion of .

b7A -1
b7E -1,5,10

**d. Events Leading Up to the Shooting**

(U//~~FOUO~~) On , at approximately , Agents listened to an intercepted telephone conversation . Based on the new information, Agents discussed investigative plans with their supervisor, A/SSA . Plans included conducting a surveillance . A/SSA authorized the investigative activity and the information was shared with ASAC and SAC . No Law Enforcement Operation Order was drafted.

b3 -2
b6 -1,7,
b7C -1,7
b7A -1
b7E -1,3,6,10

(U//~~FOUO~~) Through the combined use of physical surveillance, . While conducting surveillance of Harrison, Agents discussed enforcement options and ultimately decided . Detective , BCPD, was participating in the surveillance and called for a marked police cruiser to respond to the area . Agents contacted A/SSA and received concurrence for the enforcement action. A/SSA notified ASAC of the investigative strategy.

b3 -2
b6 -1,7
b7C -1,7
b7A -1
b7E -1,3,6,10

(U//~~FOUO~~) While in the area of , the surveillance team held a briefing. This meeting included Detective , SA , SA , SA , and SA . During the meeting, the operational plan was briefed. The Agent's intentions were .

b6 -1
b7C -1
b7E -1

[redacted] Detective [redacted] called BCPD and requested the area patrol unit to respond to the area. b6 -4 b7C -4 b7E -1

**e. Shooting Incident Details**

(U//~~FOUO~~) On April 11, 2014, at approximately 4:40 p.m., surveillance units observed [redacted] leaving the Wal-Mart parking lot by way of an access road leading to Reisterstown Road. Surveillance units then observed Harrison's vehicle follow the same route a short distance behind [redacted]. Fearing an effective vehicle stop could not be conducted at the time, SA [redacted] transmitted over the radio words to the effect, "We're not taking him here, we're going to follow him." Harrison proceeded to make a left hand turn onto the access road and towards Reisterstown Road, followed by surveillance units. b6 -1,7 b7C -1,7

(U//~~FOUO~~) Moments later, SA [redacted] transmitted over the radio words to the effect "The [redacted] is gone." SA [redacted] who was in charge of the surveillance operation, understood this to mean [redacted] was out of the area. SA [redacted] then transmitted over the radio words to the effect, "He [Harrison] is here in the right lane, we can take him right here." SA [redacted] understood this to mean Harrison was in a good position to conduct the vehicle stop. Based on the series of events, SA [redacted] transmitted the order to effect the vehicle stop of Harrison. This occurred on the access road just prior to the Reisterstown Road traffic light. The BCPD marked police cruiser had yet to arrive on the scene. b6 -1,7 b7C -1,7

(U//~~FOUO~~) While civilian traffic was stopped on the access road at the Reisterstown Road traffic light, Detective [redacted] positioned his [redacted] at the front driver-side corner of Harrison's vehicle. SA [redacted] positioned his [redacted] immediately adjacent to Harrison's driver's-side, followed by SA [redacted]. Civilian vehicles were stopped in front and behind Harrison's vehicle. Once the law enforcement vehicles moved into position, SA [redacted] activated his emergency lights and Agents exited their vehicles and approached Harrison's vehicle. All law enforcement officials were wearing body armor, with four of the five officials displaying the word "POLICE" on the front and back panels of the armor. Law enforcement officials were positioned as follows: 1) SA [redacted] at the driver's side door, 2) Detective [redacted] at the front driver's side corner, 3) SA [redacted] at the front driver's side corner, 4) SA [redacted] in front of the vehicle, 5) SA [redacted] at the passenger side of the vehicle. b6 -1,4 b7C -1,4 b7E -6

(U//~~FOUO~~) Law enforcement officials identified themselves as "Police" and gave Harrison instructions to raise his hands. Harrison initially complied with instructions and raised his hands in the air. Moments later, however, Harrison began to slowly look around then lowered his hands from sight against lawful commands to keep his hands in the air. SA [redacted] attempted to open the driver's side door, but was unsuccessful because the door was locked. SA [redacted] then attempted to breach the driver's side door window by hitting the window with the butt of his handgun. Again, he was unsuccessful. As law enforcement officials continued to yell commands at Harrison to put his hands in the air, Harrison's vehicle began to move forward slightly. Harrison then switched gears and began moving in reverse in an apparent attempt to flee. Harrison's vehicle struck the civilian car behind him. Fearing for the life and safety of b6 -1 b7C -1

civilians in the area, as well as enforcement officers attempting to apprehend Harrison, SA [redacted] fired two rounds from his handgun into the driver's side front tire in an attempt to immobilize the vehicle. While doing so, SA [redacted] yelled words to the effect "I'm shooting the tire, I'm shooting the tire." Harrison's vehicle continued to move backwards, at which point SA [redacted] was unable to advance further because he was wedged between Harrison's vehicle and one of the FBI vehicles. b6 -1 b7C -1

(U//~~FOUO~~) After colliding with the first vehicle, Harrison continued to back his vehicle toward other civilian vehicles and to disregard official commands to "Stop." SA [redacted] and SA [redacted] then fired their handguns multiple times at Harrison, striking Harrison six times in the head, neck, and left shoulder. Both Agents stated they feared for the life and safety of innocent civilians in the area, as well law enforcement officers on foot in the area, causing them to utilize deadly force. Harrison's vehicle finally stopped after colliding with another vehicle. As Agents approached the vehicle, Harrison appeared motionless and unresponsive. Detective [redacted] shattered the window and SA [redacted] reached in, unlocked and opened the driver's side door. SA [redacted] an Emergency Medical Technician (EMT), assessed Harrison's condition and determined he had serious arterial bleeding. Harrison succumbed to his wounds at the scene. All witness accounts were consistent regarding details of the shooting. b6 -1,4 b7C -1,4

**f. Post Shooting Details**

(U//~~FOUO~~) Baltimore County Fire Department Medic 19 responded to the area of 9750 Reisterstown Road, Owings Mills, Maryland. Upon arrival, Medic 19 observed Harrison in the driver seat of the vehicle. The vehicle was "on and still in gear with the patient's foot still on the accelerator." Medic 19 personnel turned the vehicle off. Medic 19 examined Harrison, determined he sustained multiple gunshot wounds, and was deceased. Per normal protocol, Harrison was left in place until the Forensic Examiner of the Office of the Chief Medical Examiner (OCME) responded to the scene. Following forensic examination, the body of Harrison was transported to the OCME in Baltimore, Maryland, for autopsy.

(U//~~FOUO~~) The Baltimore Field Office Evidence Response Team (ERT), along with members of the FBI Laboratory Shooting Reconstruction Team (LSRT), processed the shooting scene at the 9750 Reisterstown Road, Owings Mills, Maryland. Members of the BCPD Homicide Unit responded to the scene as part of a joint investigation with the FBI.

(U//~~FOUO~~) A neighborhood canvass revealed a local business located in close proximity of the shooting scene recorded portions of the shooting. A copy of the video recording was obtained and sent to the Forensic Audio, Video and Image Analysis Unit (FAVIAU) for enhancement.

(U//~~FOUO~~) [redacted] b3 -2

(U//~~FOUO~~) SSSs of the four Agents involved in the shooting, as well as an interview of the BCPD Detective involved, were consistent and corroborated the factual accounting of the shooting. No other law enforcement officers fired their weapons and none were injured.

**g. Accounting of Shots Fired**

(U//~~FOUO~~) SA [redacted] fired eight rounds from his Glock 22 .40 caliber handgun. Seven rounds were recovered in his weapon (one in the chamber, six in the 15 round capacity magazine). Three additional magazines were recovered from SA [redacted]. Two 15 round capacity magazines contained 15 rounds each and one 15 round capacity magazine contained 14 rounds (magazine recovered from vest). b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] fired nine rounds from his Springfield Armory 1911 .45 caliber handgun. Eight rounds were recovered in his weapon (one in the chamber, seven in the eight round capacity magazine). Two additional magazines were recovered from SA [redacted]. One 10 round capacity magazine contained 10 rounds and one eight round capacity magazine was empty.

(U//~~FOUO~~) SA [redacted] fired two rounds from his Glock 22 .40 caliber handgun. Fourteen rounds were recovered in his weapon (one in the chamber, 13 in the 15 round capacity magazine). One additional magazine was recovered from SA [redacted]. This 15 round capacity magazine contained 15 rounds. b6 -1 b7C -1

(U//~~FOUO~~) A total of 19 rounds were fired, and all the shell casings were accounted for at the scene. No other personnel fired their weapon.

**h. Subject Information**

Name: Jameel Kareem Ofurum Harrison
Position: N/A
Sex: Male
Race: Black
Height: 5'19"
Weight: 170
Hair: Black
Eyes: Brown
DOB: 05/11/1979
SSAN: 213-94-9847
FBI #: 114684FB2

(U//~~FOUO~~) Harrison's criminal history included 27 arrests for offenses including narcotics and weapons violations, burglary, loitering, disorderly conduct and failure to obey a Police Officer. Harrison was convicted seven times, most recently on January 27, 2014, for Possession of a Controlled Dangerous Substance Not Marijuana. The other six convictions

include Probation Violation (1999 and 2000), Unlawful Possession of a Controlled Dangerous Substance (2000), and Possession with intent to Manufacture, Distribute, and Dispense a Controlled Dangerous Substance (2002, 2005 and 2006).

(U//~~FOUO~~) At the time of the NCIC query, no active arrest warrants were located for Harrison.

**i. Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) SAs [redacted] as well as BCPD Detective [redacted] wore body armor with "POLICE" insignia displayed on their front and back panels. SA [redacted] wore FBI issued body armor without "FBI" or "POLICE" insignia displayed to maintain a discrete profile for the surveillance. SA [redacted] wore his official FBI badge displayed on his belt. [redacted]

b6 -1,4
b7C -1,4
b7E -1

**j. Forensic Summary**

(U//~~FOUO~~) On April 11, 2014, the Baltimore Evidence Response Team (ERT) and the FBI Laboratory Shooting Reconstruction Team (LSRT) deployed to 9750 Reisterstown Road, Owings Mills, Maryland, the scene of the Agent-Involved Shooting. At 6:15 p.m., ERT began processing the scene. The LSRT arrived at 10:55 p.m. and assisted ERT through use of Total Station and Spherical Photography. Items recovered included ten .40 caliber shell casings and nine .45 caliber shell casings, as well as the weapons, magazines, and ammunition carried by the involved Agents. Evidence collected from the deceased subject included $1,880.00 in US currency and two bags of an unknown white substance. A total of 56 items were collected. At 2:40 a.m. on April 12, 2014, the Infiniti FX37 used by the subject was towed from 9750 Reisterstown Road to the Baltimore Field Office and processing of the scene was concluded.

(U//~~FOUO~~) On April 13, 2014, pursuant to a Federal search warrant, ERT and LSRT processed the vehicle at the Baltimore Field Office. Among items recovered from the vehicle were an Oxycodone prescription bottle with three pills, six cellular telephones, and 15 bullet fragments. LSRT identified 35 holes, ten impacts, and 13 trajectories on the hood and windshield of the vehicle. All trajectories appeared to come from the front of the vehicle. LSRT determined one projectile struck the left-front tire and one struck the rim and rotor of the left-front wheel. Projectile fragments were recovered from several points in the vehicle, including inside the left-front tire, engine compartment, dashboard, and passenger cabin.

(U//~~FOUO~~) An inventory of all recovered evidentiary items follows:

| | |
|---|---|
| 1B1 | $1,880.00 In U S Currency |
| 1B2 | .30 US Currency |
| 1B3 | A Black And Gold Colored Wrist Watch Baring The Brand Gucci, Latin Grammy's |
| 1B4 | Hard White Substance Believed To Be Heroin. Total Drug Package Weight 136.41g |
| 1B5 | Hard White Substance Believed To Be Heroin. Total Drug Package Weight 57.79g |
| 1B6 | One Shirt |

| | |
|---|---|
| 1B7 | One (1) Black Jeans With One (1) Black Belt |
| 1B8 | One (1) Black Boxer/Underwear |
| 1B9 | One (1) Pair Of White / Purple Jordan Shoes With White Socks |
| 1B10 | One (1) Tank Top |
| 1B11 | Deformed Jacket Bullet From Skull (Between Left Occipital Lobe And Bone) (Copper- Colored Jacket) |
| 1B12 | Deformed Jacket From Subcutaneous Soft Tissue Of Left Neck (Yellow Colored Jacket) |
| 1B13 | Deformed Jacket From Outside Of Left Sleeve Of Shirt (Yellow Colored Jacket) |
| 1B14 | Blood Card |
| 1B 15 | Deformed Jacketed Bullet From Brain (Inferior (R) Temp Area) (Copper Colored Jacket) |
| 1B16 | Springfield Armory .45 Caliber Handgun [redacted] (SA [redacted]) |
| 1B 17 | One (1) Empty Chip McCormick Magazine, 8-Round, .45 Caliber (SA [redacted]) |
| 1B18 | One (1) Empty Chip McCormick Magazine, 10-Round, .45 Caliber (SA [redacted]) |
| 1B19 | Ten (10) .45 Caliber Rounds (SA [redacted]) |
| 1B20 | One (1) .45 Caliber Round (SA [redacted]) |
| 1B21 | One (1) Chip McCormick Magazine, 8-Round, .45 Caliber (SA [redacted]) |
| 1B22 | Seven (7) .45 Rounds (SA [redacted]) |
| 1B23 | Glock 22 .40 Caliber Handgun, S/N [redacted] (SA [redacted]) |
| 1B24 | One (1) Glock .40 Caliber, 15-Round Magazine (SA [redacted]) |
| 1B25 | Fifteen (15) .40 Caliber Rounds, Smith & Wesson (SA [redacted]) |
| 1B26 | One (1) Glock .40 Caliber 15-Round Magazine (SA [redacted]) |
| 1B27 | Thirteen (13) .40 Caliber Rounds, Winchester (SA [redacted]) |
| 1B28 | One (1) .40 Caliber Round, Winchester (SA [redacted]) |
| 1B29 | Glock 22 .40 Caliber Handgun, S/N [redacted] (SA [redacted]) |
| 1B30 | One (1) Glock .40 Caliber 15-Round Magazine (SA [redacted]) |
| 1B31 | Fourteen (14) .40 Caliber Rounds, Smith & Wesson (SA [redacted]) |
| 1B32 | One (1) Glock .40 Caliber 15-Round Magazine (SA [redacted]) |
| 1B33 | Fifteen (15) .40 Caliber Rounds, Smith & Wesson (SA [redacted]) |
| 1B34 | One (1) Glock .40 Caliber 15-Round Magazine (SA [redacted]) |
| 1B35 | Fifteen (15) .40 Caliber Rounds, Smith & Wesson (SA [redacted]) |
| 1B36 | One (1) .40 Caliber Round, Smith & Wesson (SA [redacted]) |
| 1B37 | One (1) Glock .40 Caliber 15-Round Magazine (SA [redacted]) |
| 1B38 | Six (6) .40 Caliber Rounds, Smith & Wesson (SA [redacted]) |
| 1B39 | Three (3) Credit Cards: BOA - 4744 7701 3445 8935 Jameel K. Harrison; [redacted] - [redacted] |
| 1B40 | Wallet and Paper |
| 1B41 | Fragment |
| 1B42 | Rubber Item |
| 1B43 | Rental Car Keys |
| 1B44 | Pocket Knife |
| 1B45 | Keys |
| 1B46 | Sunglasses |

b6 -1
b7C -1
b6 -1
b7C -1
b6 -1
b7C -1
b6 -2
b7C -2

| | |
|---|---|
| 1B47 | Windshield Wiper |
| 1B48 | Black Plastic Which is Believed to be Part of Windshield Wiper |
| 1B49 | Half of Infinity Symbol from Subject Vehicle |
| 1B50 | Bullet Fragment |
| 1B51 | Black Plastic Piece Believed to be a Piece of Windshield Wiper |
| 1B52 | Silver Colored Ball of Metal Believed to be Bullet |
| 1B53 | Bullet Fragment |
| 1B54 | .40 Caliber Shell Casing |
| 1B55 | .40 Caliber Casing |
| 1B56 | .40 Caliber Winchester Shell Casing |
| 1B57 | .40 Caliber Shell Casing |
| 1B58 | .40 Caliber Shell Casing |
| 1B59 | .45 Caliber Shell Casing |
| 1B60 | .45 Caliber Shell Casing |
| 1B61 | .45 Caliber Shell Casing |
| 1B62 | .40 Caliber Shell Casing |
| 1B63 | .45 Cal Shell Casing |
| 1B64 | .45 Cal Shell Casing |
| 1B65 | .45 Cal R.P Casing |
| 1B66 | Copper Colored Metal Believed to be a Bullet |
| 1B67 | .40 Cal Speer Casing |
| 1B68 | .45 Cal Shell Casing |
| 1B69 | .40 Cal Speer Casing |
| 1B70 | .45 Caliber Shell Casing |
| 1B71 | .45 Caliber R.P Casing |
| 1B72 | .40 Caliber Shell Casing |
| 1B73 | .40 Caliber Casing |
| 1B74 | Black Piece Of Plastic |
| 1B75 | Bullet Fragment |
| 1B76 | One (1) $100.00 Dollar Bill Us Currency With Stain |
| 1B77 | Orange Pill Bottle With White Cap Prescribed To Harrison, Jameel. Content Three (3) Pills. Total Drug Package Weight 41.13 Grams |
| 1B78 | Hertz Rental Car Agreement Rental Record #118462982 |
| 1B79 | One (1) Virgin Mobile Receipt For Card #4436944920 |
| 1B80 | Samsung Galaxy S3 Model: Sgm-T-999, IMEI: 354826754935682 |
| 1B81 | T-Mobile Cell Phone Model: One Touch 665A, IMEI: 013088006904205 |
| 1B82 | One (1) Parking Permit A-6436 |
| 1B83 | One (1) Plate Pass # On Box 93197 EZ PASS #G3B*00502348733* |
| 1B84 | Samsung Cell Phone Model: SPH - M270 HEX: A0000045EDC553 |
| 1B85 | Business Cards One (1) [redacted] One (1) [redacted] One (1) [redacted] |
| 1B86 | Samsung Cell Phone Model SCH-U365, IMEID HEX: A0000045868775 |
| 1B87 | Samsung Cell Phone MODEL SCH-U365 SKU:SCHU365HPP, MEID HEX: A0000045818739 |
| 1B88 | Samsung Cell Phone And Power Cord, Model SCH-U365 SKU SCHU 365HPP, |

b6 -2
b7C -2

| | MEID HEX: A00000458CFDEF |
|---|---|
| 1B89 | Bullet Jacket Fragment |
| 1B90 | Metal Fragment |
| 1B91 | One (1) Bullet Fragment |
| 1B92 | One (1) Bullet Fragment |
| 1B93 | One (1) Bullet Fragment |
| 1B94 | FTU Secondary Evidence Eight (8) Pieces of Filter Paper. Created During Examination of Vehicle (VIN JN8CSIMW4DM173194) |
| 1B95 | Metal Fragment |
| 1B96 | Hertz GPS #CSM5NL1005B158691 Serial #VSU1678 with Mounting Components |
| 1B97 | Fragment |
| 1B98 | Airbag Control Module |
| 1B99 | One Bullet Fragment |
| 1B100 | One (1) Bullet Fragment |
| 1B101 | One (1) Bullet Fragment |
| 1B102 | Two (2) Bullet Fragments |
| 1B103 | One (1) Bullet Fragment |
| 1B104 | One (1) Bullet Fragment |
| 1B105 | Two (2) Bullet Fragments |

**k. Medical Summary**

FBI Agents involved in the shooting:

(U//~~FOUO~~) No injuries.

Subject:

(U//~~FOUO~~) Baltimore County Fire Department Medic 19, with Paramedic [redacted] and EMT [redacted], responded to 9750 Reisterstown Road, Owings Mills, Maryland. Medic 19 was dispatched at 4:43 p.m. and arrived on the scene at 4:45 p.m. Medic 19 found the subject, Jameel Harrison, in the driver seat of the vehicle. Medic 19 observed Harrison sustained multiple gunshot wounds and displayed no signs of life. Paramedic [redacted] confirmed the subject was deceased and returned to service at 5:00 p.m.

b6 -4
b7C -4

(U//~~FOUO~~) Harrison was transported to the OCME for the State of Maryland and assigned case number 14-3355. On April 12, 2014 at 9:00 a.m., Assistant Medical Examiner [redacted], MD, performed the autopsy of Harrison. The OCME opinion was as follows:

"This 34 year old, African American male, JAMEEL KAREEN OFORUM HARRISON, died of MULTIPLE (6) GUNSHOT WOUNDS of the head (3), neck (3), and left shoulder (1). Two of the gunshot wounds of the head (A and B) injured the skull and brain. A bullet was recovered in association with each of these gunshot wounds. One of the gunshot wounds of the neck (D) injured the carotid arteries on either side of the neck. This was a through-and-through gunshot wound with no bullet recovery. A bullet jacket was recovered in association with the

other gunshot wound of the neck (E). A bullet jacket was recovered in association with the gunshot wound of the left shoulder (F). By report, the decedent was shot by law enforcement while he was in his car. The manner of death is HOMICIDE."

(U//~~FOUO~~) Toxicology results associated with the autopsy revealed high levels of Oxycodone as follows: 1) Blood Heart: Oxycodone 0.7 mg/L; 2) Blood Femoral: Oxycodone 0.5 mg/L; 3) Urine: Oxycodone Positive.

## III. Shooting Incident Review Team Details

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Shawn W. Stroud
Inspector Paul D. Delacourt
Assistant Inspector (AI)/ Team Leader (TL) [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

**b. The FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:**

Supervisory Special Agent [redacted], Evidence Response Team Unit (ERTU)
Visual Information Specialist [redacted] Operational Projects Unit (OPU)
Photographer [redacted], OPU
Physical Scientist (PS) [redacted], Firearms Training Unit (FTU)
PS [redacted], FTU

b6 -1
b7C -1

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On April 11, 2014, Baltimore SAC Stephen E. Vogt spoke with Assistant Director Nancy McNamara to report the Agent-Involved Shooting. Inspector Paul D Delacourt spoke with Baltimore Field office ASAC [redacted] to arrange logistics prior to arriving in Baltimore, Maryland.

b6 -1
b7C -1

(U//~~FOUO~~) On April 11, 2014, the SIRT traveled to Baltimore and reviewed the Inspection Division shooting review protocol. Inspector Delacourt, Inspector Shawn W. Stroud, and the SIRT members met with Baltimore Field Office EM and ERT personnel. The SIRT also viewed the shooting scene, which occurred in the vicinity of 9750 Reisterstown Road, Owings Mills, Maryland.

(U//~~FOUO~~) On April 12, 2014, Inspector Delacourt and Inspector Stroud met SAC Vogt to explain the SIRT process and protocols. Inspector Delacourt and Inspector Stroud met with the BCPD Chief of Police, Jim Johnson, who stated his department had opened a homicide investigation and agreed to work in coordination with the FBI. Inspector Delacourt and Inspector Stroud also met with Deputy State's Attorney [redacted] to explain the SIRT process and protocols. b6 -4 b7C -4

(U//~~FOUO~~) On April 14, 2014, the Baltimore Field office submitted a FD-1015, Executive Situation Report to the Director. Inspector Delacourt and Inspector Stroud met with the involved FBI Agents and management personnel to explain the SIRT process and protocols.

(U//~~FOUO~~) In total, 12 FBI interviews were conducted of Baltimore Field Office personnel. Eight interviews were documented via FD-302. SSSs were obtained from SAs [redacted] The SSSs and interviews of witnesses were conducted voluntarily. The Agents interviewed via SSS signed a FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident). Additionally, SIRT members interviewed one BCPD Detective and six civilians. BCPD conducted four videotaped interviews of witnesses, which were provided to the SIRT. b6 -1 b7C -1

(U//~~FOUO~~) On April 14, 2014, the Baltimore Field Office provided the SIRT with a copy of a video recording recovered from a surveillance camera of a business located near the area of the shooting. Review of the video recording revealed portions of the Agent-Involved Shooting were captured on the video.

(U//~~FOUO~~) Pursuant to the shooting review, SIRT members obtained [redacted] b3 -2

(U//~~FOUO~~) On April 16, 2014, Inspector Delacourt provided an exit brief to SAC Vogt and furnished SAC Vogt with a copy of the SIRT Report.

## V. Administrative

### a. Firearms Training

(U//~~FOUO~~) Firearms qualifications records for SAs [redacted] were provided to the SIRT through the FIRST qualification database. SA [redacted] last qualified with his service weapon on February 20, 2014, and was in compliance with the firearms qualifications requirements. SA [redacted] last qualified with his service weapon on February 28, 2014, and was in compliance with the firearms qualifications requirements. SA [redacted] last qualified with his service weapon on December 18, 2013, and was in compliance with the firearms qualifications requirements. b6 -1 b7C -1



NYT-127

**b. Deadly Force Training**

(U//~~FOUO~~) Deadly Force Policy training was provided to SAs [redacted] on October 29, 2013, during Baltimore Field Office SWAT's First Quarter Firearms Training Session. This training was documented in the FBI Special Operations Unit (SOU) Training Resources Management System (TRMS) database. A review of the TRMS further revealed SA [redacted] and SA [redacted] Baltimore Field Office SWAT Team Leader SA [redacted] confirmed the Deadly Force Policy was briefed twice before each SWAT operation. b6 -1 b7C -1 b7E -8

(U//~~FOUO~~) Deadly Force Policy training was provided to SA [redacted] on October 18, 2013, at the Washington Field Office. Assistant Division Counsel (ADC) [redacted] presented the training. SA [redacted] registered for the training in Virtual Academy and signed an attendance form at the training. b6 -1 b7C -1

**c. DOJ Civil Rights Division Prosecutorial Decision**

(U//~~FOUO~~) On May 7, 2014, [redacted] Special Legal Counsel, Department of Justice (DOJ), Civil Rights Division, provided a prosecutorial declination for FBI Agents involved in the AIS on April 11, 2014. The declination was provided to Inspector Trent Teyema via E-mail dated May 7, 2014. In the E-mail, Special Legal Counsel [redacted] advised, upon review of the Inspection Division Shooting Incident Report, DOJ concluded the facts did not warrant a federal criminal civil rights investigation. b6 -3 b7C -3

**d. Local Prosecutorial Decision**

(U//~~FOUO~~) [redacted] Deputy State's Attorney for Baltimore County, Maryland, provided a letter to the Inspection Division, dated April 21, 2014. The letter stated, based upon the nature of the investigation and the Defendant's gang affiliation, the Agents were justified in their belief the suspect could be violent and a danger. The suspect disregarded the commands made by the Agents to get out of the car and to show his hands. Instead, he put the car in reverse, striking two civilian's car in an effort to escape. This created a grave threat to civilians and Agents alike, and the use of deadly force was justified. Accordingly, no action will be taken by the State's Attorney's Office for Baltimore County. b6 -4 b7C -4

## VI. Inspector's Draft Observations

(U//~~FOUO~~) **Observation 1**: SA [redacted] discharged his firearm solely to disable a moving vehicle, in violation of the DOJ Deadly Force Policy. b6 -1 b7C -1

(U//~~FOUO~~) **Analysis 1**: The DOJ Deadly Force Policy stated, "*Law enforcement officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.*

*A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.*
*B. Firearms may not be fired solely to disable moving vehicles.*
*C. If feasible and to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.*
*D. Warning shots are not permitted.*
*E. Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy."*

(U//~~FOUO~~) On April 11, 2014, SA [redacted] was involved in an AIS in the vicinity of 9750 Reisterstown Road, Owings Mills, Maryland. Following the incident, SA [redacted] provided a detailed account to SIRT members of the events leading up to the shooting. Within his account, SA [redacted] advised the following: b6 -1 b7C -1

> "As Harrison's vehicle continued to accelerate backwards, my gun was pointed at Harrison through his driver-side window. His vehicle continued to apply force on the civilian vehicles behind him. In the split second I had available to me to assess the deadly threat to civilians and my colleagues, posed by Harrison, and my belief his vehicle, as operated by him, was a dangerous instrument which could imminently cause grave bodily harm, I fired two rounds into Harrison's driver-side front tire in an attempt to immobilize the vehicle and neutralize the threat. I was within one foot of the tire at the time I fired these two rounds."

(U//~~FOUO~~) **Instruction 1a:** SAC, Baltimore Field Office, will ensure SA [redacted] receives remedial training regarding the DOJ Deadly Force Policy. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 1b:** SAC, Baltimore Field Office, will ensure all Baltimore Field Office personnel are appropriately trained regarding the DOJ Deadly Force Policy.

(U//~~FOUO~~) **Observation 2**: Agents improperly utilized civilian vehicles as a blocking mechanism during a high-risk traffic stop.

(U//~~FOUO~~) **Analysis 2**: On April 11, 2014, at approximately 4:40 p.m., FBI and BCPD surveillance personnel initiated a traffic stop of a vehicle operated by Harrison, a subject of a suspected narcotics transaction. Harrison was operating a gray 2013 Infinity FX37, bearing New York license plate: GAK2131. The enforcement action occurred on an access road from a Wal-

Mart parking lot in the area of 9750 Reisterstown Road, Owings Mills, Maryland. At the time of the initial enforcement action, Harrison's vehicle was stopped on the access road and behind civilian vehicles at a traffic light. A civilian vehicle was immediately behind Harrison's vehicle. To effect the traffic stop, Detective [redacted] positioned his unmarked [redacted] at the front driver-side corner of Harrison's vehicle. SA [redacted] positioned his unmarked [redacted] immediately adjacent to Harrison's driver's-side, followed by SA [redacted]'s unmarked [redacted] Once the law enforcement vehicles moved into position, SA [redacted] activated his emergency lights and Agents exited their vehicles and approached Harrison's vehicle. All law enforcement officials were wearing body armor, with four of the five officials displaying the word "POLICE" on the front and back panels of the armor. Law enforcement officials were positioned as follows: 1) SA [redacted] at the driver's side door, 2) Detective [redacted] at the front driver's side corner, 3) SA [redacted] at the front driver's side corner, 4) SA [redacted] in front of the vehicle, 5) SA [redacted] at the passenger side of the vehicle.

b6 -1,4
b7C -1,4
b7E -6

(U//~~FOUO~~) Law enforcement officials identified themselves as "Police" and gave Harrison instructions to raise his hands. Harrison initially complied with instructions and raised his hands in the air. Moments later, however, Harrison began to slowly look around then lowered his hands from sight against lawful commands to keep his hands in the air. Harrison then switched gears and began moving in reverse in an apparent attempt to flee. Harrison's vehicle struck the civilian car behind him. Fearing for the life and safety of civilians in the area, as well as enforcement officers attempting to apprehend Harrison, SA [redacted] fired two rounds from his handgun into the driver's side front tire in an attempt to immobilize the vehicle. After colliding with the first vehicle, Harrison continued to back his vehicle toward other civilian vehicles and to disregard official commands to "Stop." SA [redacted] and SA [redacted] then fired their handguns multiple times at Harrison, striking Harrison six times in the head, neck, and left shoulder. Both Agents stated they feared for the life and safety of innocent civilians in the area, as well law enforcement officers on foot in the area, causing them to utilize deadly force. Harrison's vehicle finally stopped after colliding with another vehicle.

b6 -1
b7C -1

(U//~~FOUO~~) The Practical Applications Unit (PAU) at the FBI Academy in Quantico, Virginia conducts training sessions for all New Agent Trainees in the proper methods of conducting motor vehicle stops. Agents are instructed to seek optimal tactical advantage in conducting traffic stops, while minimizing risks to innocent bystanders, law enforcement personnel, and subjects of the vehicle stop. Absent exigent circumstances, Agents should not expose innocent bystanders to dangers associated with high-risk enforcement actions. In the scenario described above, law enforcement personnel utilized civilian vehicles as a blocking mechanism to effect a high-risk traffic stop. This placed the occupants of the vehicles at risk of being introduced into the enforcement action, placing them in danger. Furthermore, the use of civilian vehicles as a blocking mechanism failed to ensure a proper blockade, which would have minimized dangers associated with a non-compliant subject.

(U//~~FOUO~~) **Recommendation 2:** SAC, Baltimore Field Office, should ensure all Baltimore Field Office Agents are trained in the proper methods of conducting traffic stops.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident Review Group **Date:** 11/24/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** DELACOURT PAUL D
STROUD SHAWN W
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297I-HQ-A4717273 (U) BALTIMORE SHOOTING REVIEW 04-11-2014

**LAW ENFORCEMENT SENSITIVE**

This information is the property of the FBI and may be distributed to state, tribal, or local government law enforcement officials with a need-to-know. Further distribution without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access.

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned Agent-involved shooting incident following the SIRG meeting held on 10/21/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division (INSD) Shooting Incident Report dated 05/15/2014, prepared by Inspector Paul D. Delacourt. A copy of the complete INSD Shooting Incident Report was uploaded to the captioned file.

Title: (U//~~FOUO~~) Shooting Incident Review Group
Re: 297I-HQ-A4717273, 11/24/2014

b3 -2
b6 -1,4
b7C -1,4
b7A -1
b7E -1,3,6,10

**Details:**

(U//~~FOUO~~) On 10/21/2014, the SIRG reviewed an Agent-involved shooting incident that occurred on 04/11/2014, involving Special Agents (SAs) [redacted], and Detective (Det.) [redacted] Baltimore County Police Department (BCPD). Agents and Det. [redacted] were supporting a [redacted] investigation of [redacted]. Pursuant to a Court-authorized Title-III wiretap, the Federal Bureau of Investigation (FBI) [redacted]. While monitoring the Title-III, investigators learned [redacted] Agents and Det. [redacted] briefed the A/SSA, and SAC they intended to establish surveillance of [redacted]

(U//~~FOUO~~) During the planned surveillance, Agents observed [redacted] Harrison drove along an access road leading to Reisterstown Road. Agents and Det. [redacted] driving three separate vehicles, followed Harrison. At the Reisterstown Road stop light, Harrison was positioned in the right turn lane. Prior to the arrival of a marked unit, Agents decided to conduct a traffic stop and effect an arrest of Harrison. Agents and Det. [redacted] positioned their vehicles in the adjacent lane, along Harrison's driver's side, with Det. [redacted]'s vehicle angled slightly in front of Harrison's vehicle. Agents and Det. [redacted] approached Harrison's vehicle, identified themselves as police, issued verbal commands, and ordered Harrison to exit the vehicle. Harrison ignored commands and drove his SUV in reverse, striking a civilian [redacted] positioned behind him.

b6 -2,4
b7C -2,4
b7E -1

(U//~~FOUO~~) Harrison, still in reverse, maneuvered his SUV between the rear Agent's vehicle and the [redacted] Fearing for the safety of civilians and fellow Agents, Agent [redacted] shot the tire of Harrison's

b6 -1,2
b7C -1,2

vehicle and Agents [redacted] fired their weapons at Harrison. Harrison's vehicle struck and came to rest against a [redacted] which was positioned two vehicles behind the [redacted] in the right lane. At the time of the incident, [redacted] Title-III intercept. [redacted]

b3 -2
b6 -1,2,4
b7C -1,2,4

(U//~~FOUO~~) Harrison succumbed to his wounds at the scene. Emergency Medical Services responded immediately and pronounced Harrison dead within five minutes of the initial call of shots fired. No civilians or law enforcement personnel were injured.

(U//~~FOUO~~) SAs [redacted] fired their weapons. SA [redacted] and Det. [redacted] did not fire their weapons. BCPD identified and interviewed four civilian witnesses to the shooting incident. Baltimore Agents investigating the Assault on a Federal Officer case identified and interviewed others. One local surveillance camera captured a portion of the incident at a distance. The shooting scene was processed by FBI BA ERT, the Laboratory Division's Shooting Reconstruction Team, and BCPD. Signed Sworn Statements of the Agents and an interview of Det. [redacted] presented consistent recollections of the events.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) Harrison was transported to the Office of the Chief Medical Examiner (OCME) for the State of Maryland and assigned case number 14-3355. On 04/12/2014 at 9:00 a.m., Assistant Medical Examiner [redacted], MD, performed the autopsy of Harrison. The OCME opinion was as follows:

b6 -4
b7C -4

"This 34 year old, African American male, JAMEEL KAREEN OFORUM HARRISON, died of MULTIPLE (6) GUNSHOT WOUNDS of the head (3), neck (3), and left shoulder (1). Two of the gunshot wounds of the head (A and B) injured the skull and brain. A bullet was recovered in association with each of these gunshot wounds. One of the gunshot wounds of the neck (D) injured the carotid arteries on either side of

the neck. This was a through-and-through gunshot wound with no bullet recovery. A bullet jacket was recovered in association with the other gunshot wound of the neck (E). A bullet jacket was recovered in association with the gunshot wound of the left shoulder (F). By report, the decedent was shot by law enforcement while he was in his car. The manner of death is HOMICIDE."

(U//~~FOUO~~) Toxicology results associated with the autopsy revealed high levels of Oxycodone as follows: 1) Blood Heart: Oxycodone 0.7 mg/L; 2) Blood Femoral: Oxycodone 0.5 mg/L; 3) Urine: Oxycodone Positive.

(U//~~FOUO~~) Laboratory examination of items recovered from the person of Jameel Harrison revealed the following: 1) 136.41 grams of a hard white substance was determined to be heroin; 2) 57.79 grams of a hard white substance was determined to be heroin.

**SIRG Observations**

(U//~~FOUO~~) On 10/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.**

a. The SIRG voted unanimously the application of deadly force by SA [redacted] by discharging his firearm solely to disable a moving vehicle was out of compliance with the Department of Justice (DOJ) Deadly Force Policy. **b6 -1 b7C -1**

b. The SIRG voted ten to one the application of deadly force by SAs [redacted] on 04/11/2014, was in compliance with the DOJ Deadly Force Policy.

**2. Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

Title: (U//~~FOUO~~) Shooting Incident Review Group
Re: 297I-HQ-A4717273, 11/24/2014

a. The SIRG determined SA [redacted] discharged his firearm solely to disable a moving vehicle, in violation of the DOJ Deadly Force policy. Therefore, the SIRG proposed an observation with recommendations for corrective actions. b6 -1 b7C -1

b. The SIRG determined SAs [redacted] took appropriate actions to protect themselves and others from the imminent threat posed by Jameel Harrison. The SIRG noted, however, Agents improperly utilized civilian vehicles as a blocking mechanism during a high-risk traffic stop and proposed an observation with recommendations for corrective actions.

(U//~~FOUO~~) **Observation 1**: SA [redacted] discharged his firearm solely to disable a moving vehicle, in violation of the DOJ Deadly Force Policy. b6 -1 b7C -1

(U//~~FOUO~~) **Analysis 1**: The DOJ Deadly Force Policy stated, "*Law enforcement officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.*

*A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.*

*B. Firearms may not be fired solely to disable moving vehicles.*

*C. If feasible and to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.*

*D. Warning shots are not permitted.*

*E. Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy."*

Title: (U//~~FOUO~~) Shooting Incident Review Group
Re: 297I-HQ-A4717273, 11/24/2014

(U//~~FOUO~~) On 04/11/2014, SA [redacted] was involved in an AIS in the vicinity of 9750 Reisterstown Road, Owings Mills, Maryland. Following the incident, SA [redacted] provided a detailed account to SIRT members of the events leading up to the shooting. Within his account, SA [redacted] advised the following: b6 -1 b7C -1

"As Harrison's vehicle continued to accelerate backwards, my gun was pointed at Harrison through his driver-side window. His vehicle continued to apply force on the civilian vehicles behind him. In the split second I had available to me to assess the deadly threat to civilians and my colleagues, posed by Harrison, and my belief his vehicle, as operated by him, was a dangerous instrument which could imminently cause grave bodily harm, I fired two rounds into Harrison's driver-side front tire in an attempt to immobilize the vehicle and neutralize the threat. I was within one foot of the tire at the time I fired these two rounds."

(U//~~FOUO~~) **Instruction 1a**: SAC, Baltimore Field Office, will ensure SA [redacted] receives remedial training regarding the DOJ Deadly Force Policy. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 1b**: SAC, Baltimore Field Office, will ensure all Baltimore Field Office personnel are appropriately trained regarding the DOJ Deadly Force Policy.

(U//~~FOUO~~) **Observation 2**: Agents improperly utilized civilian vehicles as a blocking mechanism during a high-risk traffic stop.

(U//~~FOUO~~) **Analysis 2a**: On 04/11/2014, at approximately 4:40 p.m., Baltimore FBI Agents and a BCPD TFO initiated a traffic stop of a vehicle operated by Jameel Harrison, a subject of a suspected narcotics transaction. Harrison was operating a gray 2013 Infinity. The enforcement action occurred on an access road adjacent to a Wal-Mart parking lot in the area of 9750 Reisterstown Road, Owings Mills, Maryland. At the time of the initial enforcement action, Harrison's vehicle was stopped on the access road and behind civilian vehicles at a traffic light. A civilian vehicle was immediately behind Harrison's

vehicle. To effect the traffic stop, Detective [redacted] positioned his unmarked [redacted] at the front driver side corner of Harrison's vehicle. SA [redacted] positioned his unmarked [redacted] immediately adjacent to Harrison's driver's side, followed by SA [redacted]'s unmarked [redacted] Once the law enforcement vehicles moved into position, SA [redacted] activated his emergency lights and Agents and the TFO exited their vehicles and approached Harrison's vehicle. All law enforcement officials were wearing body armor, with four of the five officials displaying the word "POLICE" on the front and back panels of the armor. Law enforcement officials were positioned as follows: 1) SA [redacted] at the driver's side door, 2) Detective [redacted] at the front driver's side corner, 3) SA [redacted] at the front driver's side corner, 4) SA [redacted] in front of the vehicle, 5) SA [redacted] at the passenger side of the vehicle.

b6 -1,4
b7C -1,4
b7E -6

(U//~~FOUO~~) Law enforcement officials identified themselves as "Police" and gave Harrison instructions to raise his hands. Harrison initially complied and raised his hands in the air. Moments later, however, Harrison began to slowly look around then lowered his hands from sight against lawful commands to keep his hands in the air. Harrison's vehicle then began moving in reverse in an apparent attempt to flee. Harrison's vehicle struck the civilian car behind him. Fearing for the life and safety of civilians in the area, as well as enforcement officers attempting to apprehend Harrison, SA [redacted] fired two rounds from his handgun into the driver's side front tire in an attempt to immobilize the vehicle. After colliding with the first vehicle, Harrison continued to back his vehicle toward other civilian vehicles and to disregard official commands to "Stop." SA [redacted] and SA [redacted] then fired their handguns multiple times at Harrison, striking Harrison six times in the head, neck, and left shoulder. Both Agents stated they feared for the life and safety of innocent civilians in the area, as well law enforcement officers on foot in the area, causing them to utilize deadly force. Harrison's vehicle finally stopped after colliding with another vehicle.

b6 -1
b7C -1

(U//~~FOUO~~) The Tactical Training Unit (TTU) at the FBI Academy in

Title: (U//~~FOUO~~) Shooting Incident Review Group
Re: 297I-HQ-A4717273, 11/24/2014

Quantico, Virginia conducts training sessions for all New Agent Trainees (NATs) in the proper methods of conducting motor vehicle stops. Agents are instructed to seek optimal tactical advantage in conducting traffic stops, while minimizing risks to innocent bystanders, law enforcement personnel, and subjects of the vehicle stops. Absent exigent circumstances, Agents should not expose innocent bystanders to dangers associated with high-risk enforcement actions. In the scenario described herein, law enforcement personnel utilized civilian vehicles as a blocking mechanism to effect a high-risk traffic stop. This placed the occupants of the vehicles at risk of being introduced into the enforcement action, placing them in danger. Furthermore, the use of civilian vehicles as a blocking mechanism failed to ensure a proper blockade, which would have minimized dangers associated with a non-compliant subject.

(U//~~FOUO~~) **Analysis 2b**: In consultation with TTU, INSD assessed NATs received minimal tactical training regarding the proper execution of high-risk vehicle stops. New Agents training consists of 20 weeks (approximately 100 days) of training, with nine days allocated to TTU. Of the time allotted to tactical training, NATs receive approximately two hours of instruction on compliant vehicle stops and vehicle blocking techniques. An additional five hours are spent utilizing vehicle stops in scenario-based training.

(U//~~FOUO~~) INSD has reviewed multiple Agent-involved shootings associated with vehicle stops. INSD review and Shooting Incident Review Group (SIRG) discussion evaluated the circumstances leading to, and tactical execution of, the individual vehicle stops. INSD has not reviewed TD curriculum. SIRG discussion advised and INSD recommends the Training Division (TD) review the current curriculum regarding high-risk vehicle stops and re-evaluate the sufficiency of the existing training curriculum to adequately prepare Agents for the heightened dangers associated with high-risk vehicle enforcement actions.

(U//~~FOUO~~) **Analysis 2c**: TTU advised the Law Enforcement Training for Safety and Survival (LETSS) course was previously used by TD to

address the continuing development of tactical skills in arrest scenarios for tenured Agents and Task Force Officers (TFOs) on operational squads, who were more likely to be involved in adversarial actions as a result of SSTF, VCTF, JTTF or other investigations. TTU advised LETSS was the only advanced FBI tactical training available to Agents and TFOs. TTU advised no current funding is allocated for LETSS in FY 2015.

(U//~~FOUO~~) **Recommendation 2a:** SAC, Baltimore Field Office, should ensure all Baltimore Field Office Agents are trained in the proper methods of conducting traffic stops.

(U//~~FOUO~~) **Recommendation 2b:** AD, TD should review and assess the sufficiency of existing New Agent training curriculum for high-risk vehicle stops.

(U//~~FOUO~~) **Recommendation 2c:** AD, TD should assess the feasibility of funding FY 2015 Law Enforcement Training for Safety and Survival courses to facilitate the continuing development of tactical skills in arrest scenarios for Agents and TFOs.

**3. Provide recommendations for administrative action if deemed necessary.**

a. The SIRG recommended no administrative action be taken against SAs [redacted] as a result of their involvement in the 04/11/2014 shooting incident. **b6 -1 b7C -1**

b. The SIRG found the actions of SA [redacted] to be out of compliance with the DOJ Deadly Force Policy. Therefore, the SIRG determined SA [redacted]'s actions warranted referral to the Internal Investigations Section (IIS), Inspection Division (INSD), for any further administrative action.

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Acting Chief Inspector

Title: (U//~~FOUO~~) Shooting Incident Review Group
Re: 297I-HQ-A4717273, 11/24/2014

Shawn W. Stroud, Office of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, United States Department of Justice (USDOJ); Trial Attorney [redacted] Criminal Division, USDOJ; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted], Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; UC [redacted], Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); UC [redacted], New Agent Training Program Section, Defensive Systems Unit (DSU), TD; Section Chief (SC) Robert E. Hughes, Violent Crimes Threat Section, Criminal Investigative Division; and SC Roger A. Coe, CD-2, Global Section, Counterintelligence Division. The following non-voting individuals were also in attendance: Gunsmith [redacted] SWAT Operations Unit, CIRG; SSA [redacted] Ballistics Research Facility, DSU; SSA [redacted], Protective Operations Unit, Security Division; UC [redacted] Firearms and Toolmarks Unit, Laboratory Division; Inspectors Trent R. Teyema, R. Justin Tolomeo, Paul D. Delacourt, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; Special Assistant [redacted], OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD; and MAPA [redacted], Inspection Analysis Unit (IAU), INSD.

b6 -1,3
b7C -1,3

**Procedures for Responding to Observations**

(U//~~FOUO~~) SAC, Baltimore, is responsible for ensuring the Inspection Instructions and Recommendations are satisfactorily resolved. The inspection process is not complete until the Observations are addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if Instructions and Recommendations have been resolved or

require further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration to implement.

(U//~~FOUO~~) SAC, Baltimore, is required to provide a written response via EC detailing the actions taken by the field office to resolve the Instructions and Recommendations. Follow-up EC responses must be directed to Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted].

b6 -1
b7C -1

♦♦



NYT-141

# State's Attorney for Baltimore County

SCOTT D. SHELLENBERGER

ROBIN S. COFFIN
DEPUTY
JOHN R. COX
DEPUTY

COUNTY COURTS BUILDING
401 BOSLEY AVENUE, ROOM 511
TOWSON, MARYLAND 21204-4420
WWW.BALTIMORECOUNTYMD.GOV/STATESATTORNEY

410-887-6600
FAX: 410-887-6646
MRS: 800-735-2258

April 21, 2014

Lt. [redacted]
Homicide Unit
Baltimore County Police Department

b6 -4
b7C -4

**Re: Assaults on Federal Agents**

Dear Lt. [redacted]

I have reviewed the shooting of Jameel Harrison. Based upon the nature of the investigation and the Defendant's gang affiliation, the agents were justified in their belief that the suspect could be violent and a danger.

The suspect disregarded the commands made by the agents to get out of the car and to show his hands. Instead he put the car in reverse, striking two civilian's cars in an effort to escape. This created a grave threat to civilians and agents alike, and the use of deadly force was justified. Accordingly, no action will be taken by this office.

Very truly yours,

[redacted]
DEPUTY STATE'S ATTORNEY

b6 -1,4
b7C -1,4

[redacted]
Cc: Shawn Stroud

# Fw: Baltimore FBI Shooting

Delacourt, Paul D.

**Sent:** Wednesday, May 07, 2014 4:23 PM

**To:** [redacted] b6 -3 b7C -3

---

Baltimore DOJ declination.

Please upload to file.

Tks.

PD

---

Sent from my BlackBerry Wireless Handheld

------ Original Message ------

From: [redacted] (CRT) <[redacted]@usdoj.gov> b6 -3 b7C -3

To: Teyema, Trent R.

Cc: [redacted] (CRT); Delacourt, Paul D. [redacted] (USAMD)

Sent: Wed May 07 16:19:29 2014

Subject: Baltimore FBI Shooting

Inspector Trent Teyema
Inspection Division
FBI

On the afternoon of April 11, 2014, two FBI agents, who were assigned to a [redacted] Task Force, shot and fatally wounded Jameel Harrison, a known b7E -3 member of a violent street gang, while attempting to conduct a vehicle stop and arrest following a drug sale. The subject had a history of violent armed activity about which the task force members, including the shooter agents, were aware. The subject was attempting to escape arrest in his vehicle, endangering the law enforcement officers who were on foot, as well as the civilian drivers in vehicles with which his vehicle collided or was about to collide. Based upon a review of the Inspection Division Shooting Incident Report, we have concluded that the facts do not warrant a federal criminal civil rights investigation. The USAO concurs with our decision. The State's Attorney for Baltimore County, Maryland, determined the deadly force was justified.

The two agents and several other task force members blocked the subject's vehicle with their own vehicles on an access road near a shopping center while the subject's car was hemmed in between a line of civilian vehicles in a turning lane. Emergency lights were activated and the four agents and one Baltimore police detective surrounded the subject's car on foot -- in front, behind and alongside it. They wore vests marked police, verbally identified themselves as "Police," and ordered the subject to "Put the car in park! Unlock the doors! Get out of the car!" Initially, the subject raised his hands. He then lowered his hands to the gear shift and appeared to be considering his escape. [redacted] b3 -2

The subject jerked his car forward. He then backed up, colliding with a civilian woman's car behind him. As his car began to clear those vehicles to his rear, he began to accelerate in reverse. One of the agent's yelled "Don't do it! " Another agent yelled, "I'm shooting the tire!" and did so. That agent also saw a woman on foot running near the subject's car.

At this point the two agents fired at the subject through the windshield

striking him. Both agents stated that they feared for the safety and life of the other agents on foot, as well as the civilians in the nearby cars, because of the subject's dangerous driving and thus they used deadly force. The subject's car then rolled to a stop and he expired from multiple gunshot wounds.

The other three law enforcement officers present claimed that they had the same fear for their own safety and the safety of others and would have fired their weapons had they had a good line of fire. The civilian witnesses corroborated that the subject drove as he did, colliding with the civilian cars as they tried to clear out of his way. They also corroborated that the law enforcement officers wore vests marked Police and yelled the warnings that were reported. One woman related that she had exited her car and was on foot in the street as the events unfolded.

Under the totality of the circumstances, the evidence does not support a conclusion that the agents willfully used force that they knew to be unreasonable or unnecessary, the intent element required for a violation of the applicable federal criminal civil rights statute. A federal criminal civil rights investigation of the shooting is not warranted. We appreciate the agents' voluntary statements, facilitating a fully informed decision. Please complete your administrative review.

[redacted] 5/7/2014 b7E -9

**U.S. Department of Justice**

Federal Bureau of Investigation

Washington, D.C. 20535-0001

May 5, 2015

PERSONAL

Mailed on 5/5/2015

Mr. [redacted] b6 -1 b7C -1
Federal Bureau of Investigation
Baltimore, MD

Dear Mr. [redacted]

I have completed my review of an administrative inquiry regarding an allegation that you disregarded the Department of Justice (DOJ) deadly force policy when you discharged your weapon at a tire of a moving vehicle during a deadly force incident, in violation of Offense Code 1.8 (Investigative Deficiency – Violation of Operational Guidelines/Policy).[1] Based on a preponderance of the evidence, I conclude the allegation is substantiated. Based on the circumstances of this case, and considering the 12 *Douglas* Factors, including, but not limited to, consistency with precedent, the Penalty Guidelines, prior disciplinary history, and aggravating/mitigating factors, I am suspending you from duty, without pay, for one calendar day.

## DISCUSSION

**Summary**

On April 11, 2014, around 4:40 p.m., you, Specal Agent 1 (SA1), Special Agent 2 (SA2), and Special Agent 3 (SA3), and local police department Task Force Officer (TFO) were involved in a shooting incident. You, agents and TFO (collectively, law enforcement officials, or LEOs) were supporting a [redacted] investigation of a [redacted] b7A -1 b7E -1,6 [redacted]. You planned to [redacted] During the surveillance, LEOs observed Subject conduct the suspected narcotics transaction. Following this activity, Subject drove along an access road. LEOs, driving three separate vehicles, followed Subject. Prior to the arrival of a marked unit, LEOs decided to conduct a traffic stop and affect an arrest of Subject. The LEOs approached Subject's vehicle, identified yourselves as police, issued verbal commands, and ordered Subject

[1] You were also alleged to have violated Offense Code 5.15 (Misuse of Weapon – Intentional Discharge). However, this allegation is predicated on the same conduct forming the basis of the allegation that you violated Offense Code 1.8. According to the Penalty Guidelines, "OPR will exercise care in assessing multiple penalties where the substantiated are essentially restatements of the same act of misconduct." Therefore, I will limit my discussion to Offense Code1.8.

b6 -1 b7C -1

[redacted] 5/4/15

MYT-145

to exit the vehicle. Subject ignored commands and drove his vehicle in reverse, striking a civilian vehicle positioned behind him.

Subject, still in reverse, maneuvered his vehicle between the bucar of the agent in the rear and the civilian vehicle. Fearing for the safety of civilians and fellow LEOs, you shot the tire of Subject's vehicle and SA1 and SA2 fired their weapons at Subject.[2] Subject's vehicle struck and came to rest against a second civilian vehicle that was positioned two vehicles behind the first civilian vehicle.

Emergency Medical Services responded immediately and pronounced Subject dead within five minutes of the initial call of shots fired. No civilians or law enforcement personnel were injured.

**Background**

Prior to the shooting incident, you and others in your division were investigating a [redacted] Subjects of the investigation [redacted] As part of the investigation, your division obtained an approved Title-III (TIII) wiretap order [redacted] that authorized interceptions of wire and/or electronic communications [redacted] associated with the investigation. [redacted][3] b3 -2 b7A -1 b7E -1,6

Throughout the investigation, [redacted] the investigative strategy shifted [redacted] To accomplish this without compromising the federal wiretaps and larger criminal enterprise investigation, agents orchestrated [redacted] In the days leading up to the shooting incident, information from the wiretaps led agents [redacted] b3 -2 b7A -1 b7E -3,10

Consistent with normal division procedures, written FBI Law Enforcement Operations Orders (ops plans) were not prepared [redacted][5] This was due to the expectation the enforcement action would be accomplished by the local authorities, with FBI personnel b7E -1

[2] SA3 and TFO did not fire their weapons. SA3 did not do so because SA1 and SA2 were in SA3's line of fire. TFO did not do so because he could not see where SA3 was and did not want to strike him. Also, TFO advised, the other agents had better angles of fire on Subject and TFO believed his line of fire could have resulted in a stray round hitting someone in the adjacent parking lot. All LEOs present, including SA3 and TFO, believed Subject presented an imminent threat of serious bodily injury to themselves and others. The Shooting Incident Review Group (SIRG) concurred and ruled that the use of deadly force in this incident was justified.

[3] All LEOs involved in the shooting incident were aware of Subject's long criminal history and that he was considered armed and dangerous.

[4] Referring to the ability to [redacted] b7E -1

[5] FBI ops plans contain the DOJ deadly force policy. When the ops plan is briefed before the operation, it is expected that briefing agents review the deadly force policy written in the ops plan.

acting as back up or as observers. Because the operation that led to this shooting incident was intended [redacted] no ops plan was drafted. b7E -1

**Events Leading Up to the Shooting**

On [redacted] at approximately [redacted] b3 -2 b7A -1 b7E -1,3,6,10 [redacted] Based on this new information, with the approval of your Acting Supervisory Special Agent (A/SSA), Assistant Special Agent-in-Charge (ASAC), and Special Agent-in-Charge (SAC), agents planned a surveillance [redacted]

[redacted] b3 -2 b7A -1 b7E -1,3,6,10 LEOs conducted surveillance on [redacted] While doing so, your surveillance team, to include all LEOs involved in this incident, held a briefing about the plan [redacted] TFO called the police department and requested the patrol unit to respond to the area.

**Shooting Incident Details**

On April 11, 2014, at approximately 4:40 p.m., your surveillance team observed Supplier's [redacted] leaving the parking lot by way of an access road leading to a road (Road). Surveillance units then observed Subject's vehicle follow the same route a short distance behind Supplier. Fearing an effective vehicle stop could not be conducted at the time, due to Supplier's proximity to Subject, you transmitted over the radio words to the effect of, "We're not taking him here, we're going to follow him." Subject proceeded to make a left hand turn onto the access road and towards Road, followed by the surveillance team. b6 -7 b7C -7

Moments later, SA1 transmitted over the radio words to the effect of, [redacted] is gone." You, who were in charge of the surveillance operation, understood this to mean Supplier's [redacted] was out of the area. SA1 then transmitted over the radio something to the effect of, "He [Subject] is here in the right lane, we can take him right here." You understood this to mean Subject was in a good position to conduct the vehicle stop. Based on this series of events, you transmitted the order to affect the vehicle stop of Subject. The marked police unit had yet to arrive on the scene. b6 -7 b7C -7

While traffic was stopped on the access road at the traffic light for Road, TFO positioned his vehicle at the front driver-side corner of Subject's vehicle. You positioned your bucar immediately adjacent to Subject's driver's side, followed by SA1's bucar. Civilian vehicles were stopped in front of and behind Subject's.[6] Once the surveillance team's vehicles moved into position, SA1 activated his emergency lights and all LEOs exited your vehicles and approached Subject's vehicle. All LEOs were wearing body armor, with four of the five

[6] SIRT noted the danger in making a traffic stop in such a way that civilian vehicles were also blocking in the subject's vehicle.

b6 -1
b7C -1

displaying the word "POLICE" on the front and back panels of the armor. The LEOs were positioned as follows: 1) you at the driver's side door, 2) TFO at the front driver's side corner; 3) SA3 at the front driver's side corner; 4) SA1 in front of the vehicle; 5) SA2 at the passenger side of the vehicle.

LEOs identified yourselves as "police" and gave Subject instructions to raise his hands. Subject initially complied with instructions and raised his hands in the air. Moments later, however, Subject began to slowly look around and then lowered his hands from sight against the LEOs' commands to keep his hands in the air. You attempted to open the driver's side door, but it was locked. You then tried to breach the driver's side window by hitting the window with the butt of your handgun. Again, you were unsuccessful. As the LEOs continued to yell commands at Subject to put his hands in the air, Subject's vehicle began to move forward slightly. Subject then switched gears and began moving in reverse in an apparent attempt to flee.[7] Subject's vehicle struck the civilian car behind him. Fearing for the life and safety of civilians in the area, as well as your fellow LEOs, you fired two rounds from your handgun into the driver's side front tire in an attempt to immobilize the vehicle. While doing so, you yelled words to the effect of, "I'm shooting the tire, I'm shooting the tire." Subject's vehicle continued to move backwards, at which point you were unable to advance further because you were wedged between Subject's vehicle and one of the bucars.

After colliding with the first vehicle, Subject continued to back his vehicle toward other civilian vehicles and to disregard official commands to stop. SA1 and SA2 then fired their handguns multiple times at Subject, striking Subject six times in the head, neck, and left shoulder. Both agents used deadly force because they feared for the life and safety of innocent civilians in the area as well as the LEOs. Subject's vehicle finally stopped after colliding with another vehicle. As LEOs approached the vehicle, Subject appeared motionless and unresponsive. TFO shattered the window and you reached in, unlocked and opened the driver's side door. SA2, an Emergency Medical Technician (EMT), assessed Subject's condition and determined he had serious arterial bleeding. Subject died on site. All witness accounts were consistent regarding the details of the shooting.

**Post Shooting Details**

[redacted]

b3 -2

The county fire department medic unit responded to the scene and, upon arrival, observed Subject in the driver seat of the vehicle. The vehicle was still on and in gear, with Subject's foot still on the accelerator. Medic personnel turned off the vehicle, examined Subject, determined he sustained multiple gunshot wounds, and was deceased. Per normal protocol, Subject's body was left in place until the forensic examiner of the medical examiner's office responded to the scene.

[7] While SA2's and TFO's statements do not mention whether the vehicle first moved forward a small distance, the other three (you, SA1 and SA3) recall Subject's vehicle first moving or lurching forward a short distance, before Subject shifted gears and began driving in reverse.

Following forensic examination, Subject's body was transported to the medical examiner's office for autopsy.

That same day, your division's ERT and FBI's Laboratory Shooting Reconstruction Team (LSRT) processed the shooting scene. Members of the police department also responded to the scene as part of a joint investigation with the FBI. Evidence gathered from Subject's body at the scene included $1880 in cash and two bags of a white substance later determined to be heroin. On April 13, 2014[8], further evidence recovered from Subject's vehicle included an Oxycodone prescription bottle with three pills and six cellular telephones.

Also on the same day as the shooting, your division notified FBIHQ and the Shooting Incident Review Team (SIRT) process was started. Over the course of the next few days, SIRT conducted its investigation, which included FBI interviews and interviews of non-FBI individuals (TFO and civilians).[9] The police department conducted videotaped interviews of witnesses, which it provided to SIRT. SIRT also obtained video recording recovered from a surveillance camera of a business near the shooting location, [redacted] b3 -2 and agents' firearms training and deadly force policy training history.

On April 12, 2014, the medical examiner's office performed the autopsy of Subject. They concluded Subject died of multiple gunshot wounds: Three in the head, three in the neck, and one in the left shoulder. Two of the gunshot wounds to the head injured the skull and brain. One of the gunshot wounds of the neck injured the carotid arteries on either side of the neck.[10] Toxicology results revealed high levels of Oxycodone in Subject's system.

**Accounting of Shots Fired**

On April 11, 2014, SA2 fired eight rounds from his Glock 22 .40 caliber handgun. SA1 fired nine rounds from his Springfield Armory 1911 .45 caliber handgun. Both SA2 and SA1 directed their shots at Subject. You fired two rounds from your Glock 22 .40 caliber handgun. You directed both of your shots at the front driver's side tire of Subject's vehicle.

**Firearms and Deadly Force Training**

You and the other agents involved in the shooting were found to be properly trained and within compliance with the firearms qualifications requirements at the time of the shooting incident.[11]

You and SA1, who were both on your division's SWAT team at the time of the incident, received deadly force policy training on October 29, 2013, during SWAT's first quarter firearms

[8] After the initial ERT scene processing on April 11, 2014, Subject's vehicle was towed to your division in the early morning hours of April 12, 2014 for later processing.
[9] All FBI interviews were voluntary, including yours and the other three agents involved in the shooting. SIRT report page 13. The Signed Sworn Statements of the agents and an interview of TFO presented a consistent recollection of the events.
[10] This gunshot wound was a through-and-through wound with no bullet recovered from the body.
[11] SIRT report, page 13.

training session.[12] Both you and SA1 also each participated in over 20 SWAT operations within the year preceding the shooting incident. The SWAT Team Leader confirmed the deadly force policy was briefed twice before each SWAT operation.

The Shooting Incident Review Group (SIRG) voted 10 to one that SA2 and SA1 were in compliance with DOJ Deadly Force Policy when they discharged their weapons at Subject. SIRG voted unanimously that you were out of compliance with DOJ Deadly Force policy when you discharged your weapon solely to disable a moving vehicle.

**Declinations to Prosecute**

In a letter dated April 21, 2014, the Deputy State's Attorney for the county provided a letter to the Inspection Division that stated that based upon the nature of the investigation and Subject's gang affiliation, agents were justified in their belief that Subject could be violent and a danger. Subject disregarded commands made by the agents and, instead, put the car in reverse and stuck two civilians' cars in an effort to escape. This created a grave threat to civilians and agents alike and therefore the use of deadly force was justified. Accordingly, the letter advised that no action would be taken against the agents by the State's Attorney's Office.

On May 7, 2014, Special Legal Counsel, Department of Justice Civil Rights Division (DOJ-CRD), declined prosecution of the agents involved in this shooting incident. DOJ-CRD concluded the facts did not warrant a federal criminal civil rights investigation.

## ANALYSIS

According to FBI Offense Code 1.8, employees are prohibited from "[k]nowingly or recklessly failing to enforce or comply with an FBI or DOJ operational guideline or policy not specifically delineated in any of the other "Investigative Deficiency" offense codes provided herein."

The DOJ deadly force policy states:

> Law enforcement officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.
>
> A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.
> B. Firearms may not be fired solely to disable moving vehicles.
> C. If feasible and to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.
> D. Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy.

[12] This training was documented in the FBI training database. SIRT report, page 14. SA2 received deadly force policy training on 10/18/2013, when he was assigned to a different division. Id.

SIRG concluded, as did the State's Attorney's Office, that the use of deadly force against Subject was justified. Therefore, you and the other agents were reasonable in your belief that Subject posed an imminent danger of death or serious physical injury to themselves or others when he failed to comply with their commands and began moving his vehicle without regard to the safety of LEOs and civilians around him. In this aspect, you were within the scope of the deadly force policy when you decided to intentionally discharge your weapon. At issue is the target you chose, a vehicle tire versus a human being, for your application of deadly force.

The deadly force policy permits the use of deadly force on a human being when necessary to protect oneself or others from imminent serious bodily injury or death. Even when deadly force is authorized, however, the policy expressly prohibits its use to be directed at a moving vehicle solely for the purpose of disabling the vehicle.[13]

In your signed sworn statement, you acknowledged that you fired two rounds into Subject's driver's side front tire "in an attempt to immobilize the vehicle and neutralize the threat." All FBI agents are trained on the deadly force policy, including the section that firearms may not be fired solely to disable moving vehicles. Additionally, agents review the deadly force policy in all ops plans. While no ops plan was written for the subject incident, you were an experienced agent who had been on many arrests and searches where ops plans would have been required. Furthermore, as a SWAT operator, you were briefed on the deadly force policy before each SWAT op.

While the desire to disable a moving vehicle without having to shoot the human subject inside of it is understandable, the deadly force policy's prohibition on such actions is for good reason: as was seen in this incident, shooting the tires of a vehicle does not stop the vehicle – and therefore does not eliminate the threat – and gives the driver more time to potentially cause greater harm to those around him.

Based on a preponderance of the evidence, I conclude you violated Offense Code 1.8 when you shot the tire of Subject's vehicle.

## PENALTY DETERMINATION

The investigation establishes you violated FBI Offense Code 1.8 (Investigative Deficiency – Violation of Operational Guidelines and Policies, Other). The standard penalty is a five-day suspension. Mitigating factors warrant an oral reprimand to a three-day suspension. Aggravating factors warrant a seven- to 30 day suspension. When determining an appropriate penalty, I considered the 12 *Douglas* Factors, including, but not limited to, consistency with precedent, the FBI's Penalty Guidelines, prior disciplinary history, and aggravating/mitigating factors.

In mitigation, you have seven years of FBI service, a positive performance record, the support of your division, and no prior disciplinary actions. In further mitigation, the rapidly unfolding events were extremely stressful, even for agents with the depth of experience and SWAT training as yours, and called for split second decisions by all LEOs involved. It is a very

[13] It is acceptable, however, to shoot at or into a moving vehicle at a human target, as SA1 and SA2 did.

weighty decision to discharge one's weapon in a real-life and real-time environment, as opposed to a training environment, and potentially take the life of another human being, even when justified by the deadly force policy. You were attempting to eliminate the threat presented by the moving vehicle to civilians and your colleagues, and your violation of the policy was to apply force to the vehicle instead of the human driver.[14] The shots to the tires did not cause harm to any surrounding LEOs or civilians. Additionally, you were under a tremendous amount of stress even before the incident, given your lengthy commute over a long period of time and overseeing a complex significant case with rapid developments and numerous dangerous operations over an extended time. Based on the circumstances in this case, I am suspending you from duty, without pay, for one calendar day for your 1.8 offense.

## CONCLUSION

In sum, I am suspending you from duty, without pay, for one calendar day. The FBI must hold employees accountable for violations of its standards of conduct, rules, regulations, and policies. This disciplinary penalty is intended to convey the seriousness with which the FBI views your actions. Progressive discipline is applied, where appropriate. Thus, you can expect to receive a more severe disciplinary penalty in the future for a similar disciplinary offense.[15]

## APPEAL RIGHTS

If you wish to appeal, **within ten (10) calendar days following notification of OPR's *final* decision, you must forward a brief statement that you intend to appeal** to the Assistant Director, Human Resources Division, Room 10903, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue, Northwest, Washington, D.C. 20535-0001. You may also fax your notice of appeal to HRD's Appellate Unit at 202-324-9312. You will then be provided an opportunity to review the file and submit a brief based on a deadline set by HRD. Your division head must be notified at the time you file an appeal. If an appeal is filed for any action other than a dismissal, the OPR disciplinary penalty will be held in abeyance pending the appellate decision.

If you are appealing a suspension of fourteen (14) calendar days or less, the AD, HRD, will decide the appeal. If you are appealing a suspension of more than fourteen (14) calendar days, demotion, or dismissal, the Disciplinary Review Board (DRB) will decide the appeal. The standard of review on appeal in examining OPR's factual findings and penalty is the substantial evidence standard of review. The penalty set by OPR cannot be increased on appeal by either

[14] As opposed to a scenario where an agent applies deadly force in a non-lethal situation and is therefore in violation of policy entirely.

[15] You are admonished not to discuss this matter with anyone other than the Inspection Division's Internal Investigations Section (IIS), OPR, the Human Resources Division's Appellate Unit (APU), the Security Division, the FBI's Employee Assistance Program, the FBI's Ombudsman, or an attorney who has signed the appropriate Nondisclosure Agreement. Neither you, your attorney, nor anyone acting on your behalf should contact any witness or potential witness about this inquiry without first obtaining approval from IIS, OPR, or APU. In addition, you are admonished that any redacted materials or other FBI documents you review in connection with this inquiry are the property of the FBI, and you are prohibited from photocopying or removing such documents from FBI space. You may take notes concerning the content of such material, but those notes may be used only to facilitate your participation in this disciplinary inquiry and for no other purpose.

the AD, HRD, or the DRB. In the rare instance that the AD, HRD, or the DRB identifies factors that require additional investigation and/or adjudication, the case will be remanded to the Inspection Division and/or OPR for additional action.

Should you wish to retain an attorney to assist you in your appeal, you must ensure that the enclosed forms are completed prior to disclosing any Bureau information to the attorney handling your appeal. If you and the attorney who will assist you have already completed and provided these disclosure forms to the Bureau in connection with this case, you do not have to re-submit them. You are referred to Corporate Policy Notice #0235N (Disciplinary Appeals Process) for additional details pertaining to appeals.

**REFERRAL TO OTHER DIVISIONS**

In accordance with established policy, the results of this administrative inquiry will be shared with other divisions, as appropriate. Thus, a copy of this communication is being provided to the Security Division as it may be relevant to your retention of a Top Secret security clearance.

Information regarding this inquiry will also be provided to the Special Agent Mid-Level Management Selection Board and/or the Director for their consideration on any future promotion or other action requiring their recommendation.

Sincerely yours,

[redacted] Chief b6 -1 b7C -1
Adjudication Unit II
Office of Professional Responsibility

1 - SAC, Baltimore (Personal Attention) Enclosure (See Note)
[redacted]
1 - AD, OPR
1 - Security Division (Attn: Unit Chief, AIU, PAT-2/P-602) (For SecD records only--Do not forward to RMD)
1 - Human Resources Division (Attn: Unit Chief, APU, Room 10283)
1 - Tickler Copy, OPR
Based on Baltimore EC to Inspection Division, 01/21/2015, OPR ROI, 02/20/2015.
[redacted](6)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 05/22/2015
Report of: Inspector Trent R. Teyema Office: FBIHQ – INSD
Case ID#: 297I-HQ-A5523925
Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT;
SAN ANTONIO FIELD OFFICE;
AUSTIN RESIDENT AGENCY;
09/08/2014

Investigative Period: 09/09/2014 – 05/15/2015

## I. Executive Summary

(U//~~FOUO~~) On 09/08/2014, Agents and Task Force Officers (TFOs) from the San Antonio Field Office, Austin Resident Agency (ARA), were involved in a shooting incident while attempting to apprehend Tyler Matthew Caraway on a federal arrest warrant. Caraway was injured and later died due to the severity of his injuries. The Shooting Incident Review Team (SIRT) reported to ARA's territory on 09/09/2014.

(U//~~FOUO~~) On 09/08/2014, Acting Supervisory Special Agent (A/SSA) [redacted] obtained an arrest warrant for Caraway and a search warrant for his residence. Caraway was responsible for the armed bank robbery of the Austin Chase Bank on 08/06/2014. In anticipation of executing an arrest and search warrant, Agents and TFOs from ARA's Central Texas Violent Crimes Task Force (CTVCTF) discussed and planned an arrest and search operation to be conducted later in the afternoon on 09/08/2014. SA [redacted] prepared an operations plan, which was approved by A/SSA [redacted] and Assistant Special Agent in Charge (ASAC) [redacted]. In addition, on 09/08/2014, an operations briefing was conducted at approximately 5:00 p.m. During this briefing, A/SSA [redacted] went over the plan and also briefed the FBI's Deadly Force Policy. [redacted] Since Caraway used a pistol during the bank robbery, A/SSA [redacted] wanted to arrest Caraway [redacted] Although discussed, the CTVCTF arrest team agreed [redacted] The CTVCTF arrest team believed [redacted]

b6 -1
b7C -1

b6 -1
b7C -1
b7E -1

(U//~~FOUO~~) On 09/08/2014, at approximately 6:40 p.m., Caraway left the residence in a white Toyota 4Runner and was followed by two unmarked FBI vehicles. SA [redacted] TFO [redacted] and TFO [redacted] were in the first vehicle while A/SSA [redacted] SA [redacted] and TFO [redacted] were in the second vehicle. Caraway drove to a nearby commercial parking lot where he picked up a female adult, later identified as [redacted] sat in the front passenger's seat of Caraway's vehicle. Caraway then

b6 -1,2,4
b7C -1,2,4



NYT-154

drove to a nearby McDonald's restaurant drive-thru and placed an order for food. While Caraway was in the drive-thru, A/SSA [redacted] discussed the possible arrest scenarios and contingencies with the CTVCTF arrest team in the event [redacted] Based on their discussion, A/SSA [redacted] made the decision to arrest Caraway if he [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) Caraway left the McDonald's drive thru and drove to his residence. As Caraway turned on his street he began to drive very slowly. This led the arrest team to believe Caraway had identified them as law enforcement officers. TFO [redacted], TFO [redacted], and SA [redacted] then [redacted] As soon as Caraway's vehicle stopped, TFO [redacted] TFO [redacted] and SA [redacted] exited the first vehicle, and identified themselves as the FBI and police. Caraway immediately opened his car door and pointed a pistol in the direction of TFO [redacted] TFO [redacted] observed Caraway pointing a pistol in his direction and yelled "gun." Caraway then fired shots at TFO [redacted] TFO [redacted] immediately returned fire at Caraway. Agents and TFO [redacted] exited the second vehicle to provide cover to the TFO's taking fire. As TFO [redacted] exchanged gunfire with Caraway, TFO [redacted] approached the vehicle on the passenger side. When TFO [redacted] had a clear shot, and [redacted] was not in the line of fire, he fired one round which struck Caraway in the head behind his right ear. Caraway was immediately incapacitated. TFO [redacted] fired one round over Caraway's vehicle which embedded itself into the residence. No Agents fired their weapons as they were moving to a position of tactical advantage. Caraway's vehicle then rolled forward and came to rest once it hit his residence. Caraway was removed from his vehicle and restrained. Agent [redacted], a SWAT medic, immediately began to render aid to Caraway until the Travis County Fire Department and Emergency Medical Services (EMS) arrived on the scene. Caraway was transported by EMS to a nearby hospital where he died as the result of his injuries. No injuries were sustained by [redacted] or to any of the Agents and TFOs who participated in the arrest operation. b6 -1,2,4 b7C -1,2,4 b7E -1

(U//~~FOUO~~) At the scene, [redacted], thanked SA [redacted] for not shooting her and stated she was glad the Agents would be going home safe. [redacted] also stated Caraway told her he thought they were being followed by undercover cops. b6 -1,2 b7C -1,2

(U//~~FOUO~~) Agents and TFOs were not wearing ballistic armor at the time of the arrest. Agents and TFOs did not display any markings to identify them as FBI or law enforcement. [redacted] b7E -1

(U//~~FOUO~~) TFO [redacted] and TFO [redacted] were both from the Austin Police Department (APD) while TFO [redacted] was from the Round Rock Police Department (RRPD). After the shooting incident occurred, Executive Management (EM) from the FBI, APD, and RRPD responded to the scene. Because the shooting scene was located in unincorporated Travis County, Texas, EM from all three agencies collectively decided the Travis County Sheriff's Office (TCSO) would process the shooting scene. The SIRT investigation was conducted jointly by the FBI and TCSO. The Travis County District Attorney's Office expected to present the matter before a state grand jury pending the results of the shooting investigation and the report of the medical examiner. b6 -4 b7C -4

## II. Incident Details

### a. Substantive Case Files and Background Information

(U//~~FOUO~~) Prior to the shooting incident, the following substantive 91A case was opened:

Title: TYLER MATTHEW CARAWAY;
CHASE BANK,
11800 DOMAIN DRIVE,
AUSTIN, TEXAS;
08/06/2014

File number: 91A-SA-5331189
Case Agents: SA [redacted] b6 -1 b7C -1

(U//~~FOUO~~) As a result of the Agent-Involved Shooting, the San Antonio Field Office opened the following Assault on a Federal Officer Investigation:

Title: TYLER MATTHEW CARAWAY - SUBJECT;
ATTEMPT TO KILL A FEDERAL OFFICER
09/08/2014

File number: 89B-SA-5530253
Case Agents: SA [redacted] b6 -1 b7C -1

### b. Listing of Personnel Involved in the Incident

1. TFO [redacted] (discharged weapon) - APD
2. TFO [redacted] (discharged weapon) - APD
3. TFO [redacted] (discharged weapon) - RRPD
4. SA [redacted] – FBI ARA
5. SA [redacted] – FBI ARA
6. SA [redacted] – FBI ARA

b6 -1,4 b7C -1,4

### c. Case Review and Operational Briefings

(U//~~FOUO~~) On 08/06/2014 at approximately 11:13 a.m., a bank robbery occurred at the Chase Bank located at 11800 Domain Drive, Austin, Texas. During the robbery, an unknown white male entered the bank, ran to the teller station, jumped over the counter, and verbally demanded money from one of the tellers. The male, who displayed a semi-automatic handgun, told the teller, "It's okay, just give me the money." Because the teller was in fear for her life, she complied with the robber's demands and gave him cash from her teller drawer. The robber then took additional money from an adjacent teller drawer before saying, "I'm sorry." The robber then jumped back over the counter and left the bank with approximately $20,000.00 in U.S. currency.

(U//~~FOUO~~) After the robbery occurred, APD and FBI responded to the scene to conduct a joint investigation. On the "teller side" of the counter, a Camel brand cigarette package was found on the floor. Agents and Officers reviewed the bank surveillance video and determined the pack of cigarettes fell from the robber's right breast pocket during the course of the robbery. The package of cigarettes was collected as evidence.

(U//~~FOUO~~) On 08/26/2014, the package of cigarettes recovered from the Chase Bank was processed by an APD Crime Scene Specialist. A latent print on the cellophane wrapper was recovered. On 09/03/2014, an Automated Fingerprint Identification System (AFIS) search of the latent print identified Tyler Matthew Caraway, date of birth 10/05/1989. The recovered latent print matched Caraway's right thumb. Based on the physical description provided by witnesses, as compared with Caraway's physical description, SA [redacted] believed Caraway to be the bank robber. b6 -1 b7C -1

(U//~~FOUO~~) On 09/04/2014, SA [redacted] conducted surveillance at Caraway's last known address, 13712 Maye Place, Austin, Texas. Parked at the residence on this date was a white Toyota 4Runner which was registered to Caraway. In addition, SA [redacted] determined Caraway had an account with Chase Bank, and his debit card was used on 08/06/2014 to purchase a pack of Camel cigarettes. This purchase was made approximately 34 minutes before the bank robbery occurred. This purchase was made at the Shell gas station approximately two miles from the victim bank. b6 -1 b7C -1

(U//~~FOUO~~) Prior to obtaining an arrest warrant, SA [redacted] obtained a court order [redacted] SA [redacted] SA [redacted] used this information to identify the most strategic time and location for Caraway's arrest. A review of an APD police report, dated 05/23/2014, revealed Caraway owned two handguns which were registered to his 13712 Maye Place residence. b6 -1 b7C -1 b7E -1

**d. Events Leading Up to the Shooting**

(U//~~FOUO~~) On the morning of Monday, 09/08/2014, SA [redacted] A/SSA [redacted] SA [redacted] TFO [redacted] and TFO [redacted] met as a team to discuss the case and formulate an arrest plan. Among the options discussed, Agents and TFOs considered [redacted] Later the same afternoon, A/SSA [redacted] obtained a federal arrest warrant for Caraway and a federal search warrant for his residence. SA [redacted] then drafted an Operations Arrest Plan which was reviewed and approved by ASAC [redacted] b6 -1,4 b7C -1,4 b7E -1

(U//~~FOUO~~) At approximately 5:00 p.m., SA [redacted] A/SSA [redacted] TFO [redacted] TFO [redacted] and TFO [redacted] staged at the [redacted] An operations briefing was conducted to include a review of the FBI's Deadly Force b6 -1,4 b7C -1,4 b7E -1

Policy. The TFOs were advised to follow their respective department's deadly force policy as indicated in the Operations Order.

(U//~~FOUO~~) At approximately 6:00 p.m., SA [redacted], A/SSA [redacted] and TFO [redacted] drove by Caraway's residence in TFO [redacted] At this time, Caraway's Toyota 4Runner was in the driveway, so TFO [redacted] parked his vehicle down the street in order to maintain a visual surveillance of the residence and vehicle. b6 -1,4 b7C -1,4

**e. Shooting Incident Details**

(U//~~FOUO~~) At approximately 6:33 p.m., a white male matching Caraway's description exited the residence and entered the Toyota 4Runner. As the 4Runner pulled out of the driveway, Agents and TFOs began to follow vehicle. A/SSA [redacted] positively identified Caraway as the driver of 4Runner. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] TFO [redacted], and TFO [redacted] were in the first FBI vehicle while A/SSA [redacted] SA [redacted] and TFO [redacted] were in the second FBI vehicle. Caraway drove to a nearby commercial parking lot where he picked up [redacted] sat in the front passenger's seat of the vehicle. Caraway then drove to a nearby McDonald's restaurant drive-thru and placed an order for food. While Caraway was in drive-thru, A/SSA [redacted] discussed possible arrest scenarios with the CTVCTF arrest team. Based on their discussion, A/SSA [redacted] made the decision [redacted] This decision was consistent with the previous Operations Order Contingency Plan which stated [redacted] However, notification was not made to the ASAC to advise of the change in the plan. b6 -1,2,4 b7C -1,2,4 b7E -1

(U//~~FOUO~~) Caraway left the McDonald's drive thru and returned to his residence. As Caraway turned on his street he began to drive very slowly. This led the arrest team to believe Caraway had identified them as law enforcement officers. TFO [redacted] TFO [redacted] and SA [redacted] then [redacted] As soon as Caraway's vehicle stopped, TFO [redacted] TFO [redacted] and SA [redacted] exited the first vehicle, and identified themselves as the FBI and police. Caraway immediately opened his car door and pointed a pistol in the direction of TFO [redacted] TFO [redacted] observing Caraway pointing a pistol in his direction, yelled "gun." Caraway then fired shots at TFO [redacted] TFO [redacted] immediately returned fire at Caraway. As TFO [redacted] exchanged gunfire with Caraway, TFO [redacted] approached the vehicle on the passenger side. When TFO [redacted] had a clear shot, and [redacted] was not in the line of fire, he fired one round which struck Caraway in the head behind his right ear. b6 -1,2,4 b7C -1,2,4 b7E -1

(U//~~FOUO~~) The Toyota 4Runner then began rolling forward until it struck the residence. TFO [redacted] fired one round over Caraway's vehicle which embedded itself into the residence. TFO [redacted] went over to the driver's side door and pulled Caraway out of the vehicle. TFO [redacted] went to the passenger side of the vehicle where he removed and detained [redacted] b6 -2,4 b7C -2,4

(U//~~FOUO~~) At the scene, [redacted] spoke briefly to SA [redacted] During this conversation, [redacted] thanked SA [redacted] for not shooting her and stated she was glad the b6 -1,2 b7C -1,2

Agents would be going home safe. [redacted] also stated Caraway told her he thought undercover police officers were following him as they turned into the driveway on Maye Place. No injuries were sustained by [redacted] or to any of the Agents and TFOs who participated in the arrest operation. b6 -2 b7C -2

(U//~~FOUO~~) SA [redacted], a SWAT Medic, began to render medical aid to Caraway's injuries. TFO [redacted], TFO [redacted], and TFO [redacted] then cleared the residence while A/SSA [redacted] called 911 and requested assistance. b6 -1,4 b7C -1,4

**f. Post Shooting Details**

(U//~~FOUO~~) TCSO and the Travis County Fire Department / EMS responded to the shooting incident scene. Due to the severity of his injuries, Caraway was immediately transported to Saint David's Hospital in Round Rock, Texas. Caraway was pronounced dead at 8:44 p.m. as the result of multiple gun shots. Caraway was later transported to the Travis County Medical Examiner's Office for an autopsy. The autopsy was conducted the following day on 09/09/2014.

(U//~~FOUO~~) Law Enforcement representatives from the APD, RRPD, FBI ARA, and the TCSO responded to the scene. ASAC [redacted] met with executives from these agencies on the scene to coordinate the shooting incident response. Since the actual shooting incident occurred in unincorporated Travis County, Texas and there were no TCSO employees involved in the shooting incident, ASAC [redacted] requested TCSO's assistance to process the shooting incident scene. It was decided the FBI and the TCSO would jointly conduct the shooting incident review. b6 -1 b7C -1

(U//~~FOUO~~) SSSs of the three Agents as well as statements by the three TFOs were consistent with the physical evidence at the shooting incident scene. All three TFOs fired their weapons during this incident. No Agents fired their weapons during this incident.

**g. Accounting of Shots Fired**

(U//~~FOUO~~) TFO [redacted] fired nine rounds from his Smith and Wesson M&P .40 caliber handgun. During the shooting incident, TFO [redacted]'s weapon malfunctioned, so he cleared his weapon and reloaded with a fresh magazine. Once reloaded, TFO [redacted] did not fire any additional rounds. In his weapon at the time it was collected, TFO [redacted] had one round in the chamber, and 14 rounds in his 15 round capacity magazine. TCSO recovered TFO [redacted]'s first magazine which contained seven rounds. b6 -4 b7C -4

(U//~~FOUO~~) TFO [redacted] fired one round from his Smith and Wesson M&P .40 caliber handgun. In his weapon, at the time it was collected, TFO [redacted] had one round in the chamber, and 14 rounds in his 15 round capacity magazine. b6 -4 b7C -4

(U//~~FOUO~~) TFO [redacted] fired one round from his Glock 27 .40 caliber handgun over the vehicle and into the house. TFO [redacted] had one round in the chamber of his weapon and eight rounds in his nine round capacity magazine at the time the weapon was collected.

(U//~~FOUO~~) Caraway fired 13 rounds from his Glock 22 .40 caliber handgun. In his weapon at the time it was collected Caraway had one round in the chamber and two rounds in the 15 round capacity magazine. All of the casings from the rounds discharged from Caraway's weapon were recovered however no bullets or fragments were recovered at the scene.

(U//~~FOUO~~) A total of 23 rounds were fired, and all the shell casings were accounted for at the scene. No other weapons were fired.

**h. Subject Information**

Name: Tyler Matthew Caraway
Sex: Male
Race: White
Height: 6'0"
Weight: 135
Hair: Blonde
Eyes: Brown
DOB: 10/05/1989 (25 yoa)
SSAN: 634-10-3452
FBI #: 767265ED8

(U//~~FOUO~~) Caraway's criminal history included six arrests for offenses including aggravated assault with a deadly weapon, assaulting a public servant, possession of marijuana, resisting arrest, and two occurrences of driving while intoxicated. Caraway was convicted three times, most recently on 04/24/2013, for resisting arrest. He was previously convicted for resisting arrest on 06/20/2012 and driving while intoxicated on 12/17/2009.

(U//~~FOUO~~) At the time of the NCIC query, no active arrest warrants were entered for Caraway at the time of his arrest. The FBI arrest warrant for Bank Robbery had yet to be entered into the NCIC system.

**i. Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) TFOs [redacted] and SAs [redacted] failed to wear their body armor at the time of the arrest. The Agents and TFOs failed to display identifiable markings to indicate they were law enforcement officers. The Agents and TFOs wore their FBI and police badges on their belts; however the badges were not prominently displayed. The FBI leased vehicles driven by TFO [redacted] and TFO [redacted] were not equipped with any emergency lights, equipment, or markings to identify them as law enforcement vehicles.

b6 -1,4
b7C -1,4

**j. Forensic Summary**

(U//~~FOUO~~) On 09/08/2014, the TCSO Crime Scene Unit deployed to 13712 Maye Place, Austin, Texas, the scene of the TFO-Involved Shooting. At 8:34 p.m., TCSO began processing the scene. Items recovered included 11 Speer .40 caliber shell casings and 13

Hornady .40 caliber shell casings, as well as the weapons, magazines, and ammunition carried by the involved TFOs. Evidence collected from the deceased subject included the weapon he was using at the time of the incident. A total of 60 items were collected from the shooting incident scene. At 4:50 p.m. on 09/09/2014, the Toyota 4Runner used by the subject was towed by the TCSO from 13712 Maye Place to their East Sheriff's Substation which concluded the forensic processing of the shooting incident scene.

(U//~~FOUO~~) An inventory of all recovered evidentiary items at the shooting scene follows:

| | |
|---|---|
| SD1 | GSR Kit for [redacted] |
| SD2 | GSR Kit for SA [redacted] |
| SD3 | GSR Kit for SA |
| SD4 | GSR Kit for SA |
| SD5 | GSR Kit for TFO [redacted] |
| SD6 | GSR Kit for TFO |
| SD7 | GSR Kit for TFO |
| SD8 | Smith and Wesson M&P pistol with magazine (Serial# [redacted]) |
| SD8a | One Speer 40 S&W live cartridge (Chamber) |
| SD8b | Fourteen Speer 40 S&W live cartridges (Magazine) |
| SD9 | Smith and Wesson M&P pistol with magazine (Serial# [redacted]) |
| SD9a | One Speer 40 S&W live cartridge (Chamber) |
| SD9b | Fourteen Speer 40 S&W live cartridges (Magazine) |
| SD10 | Glock Model 27 pistol with magazine (Serial# [redacted]) |
| SD10a | One Hornady 40 S&W live cartridge (Chamber) |
| SD10b | Eight Hornady 40 S&W live cartridges (Magazine) |
| SD11 | Speer 40 S&W fired cartridge case |
| SD12 | Emerica sneaker (right, size 10) |
| SD13 | Speer 40 S&W fired cartridge case |
| SD14 | Speer 40 S&W fired cartridge case |
| SD15 | Speer 40 S&W fired cartridge case |
| SD16 | Speer 40 S&W fired cartridge case |
| SD17 | Speer 40 S&W fired cartridge case |
| SD18 | Speer 40 S&W fired cartridge case |
| SD19 | Speer 40 S&W fired cartridge case |
| SD20 | Speer 40 S&W fired cartridge case |
| SD21 | Magazine with seven Speer live cartridges |
| SD22 | Projectile |
| SD23 | Hornady 40 S&W fired cartridge case |
| SD24 | Speer 40 S&W fired cartridge case |
| SD25 | Speer 40 S&W live cartridge |
| SD26 | Small metal piece |
| SD27 | Projectile |
| SD28 | Hornady 40 S&W fired cartridge case |
| SD29 | Hornady 40 S&W fired cartridge case |

b6 -1,4
b7C -1,4

| | |
|---|---|
| SD30 | Emerica sneaker (left, size 10) |
| SD31 | Projectile |
| SD32 | Hornady 40 S&W fired cartridge case |
| SD33a | Hornady 40 S&W fired cartridge case |
| SD33b | Hornady 40 S&W fired cartridge case |
| SD33c | Hornady 40 S&W fired cartridge case |
| SD34 | Projectile |
| SD35a | Projectile |
| SD35b | Hornady 40 S&W fired cartridge case |
| SD36a | Hornady 40 S&W fired cartridge case |
| SD36b | Hornady 40 S&W fired cartridge case |
| SD37 | Glock Model 22 pistol with magazine (Serial# EWE288US) |
| SD37a | One Hornady 40 S&W live cartridge (Chamber) |
| SD37b | Two Hornady 40 S&W live cartridges (Magazine) |
| SD38 | Hornady 40 S&W fired cartridge case |
| SD39 | Hornady 40 S&W fired cartridge case |
| SD40 | Swabs of apparent blood |
| SD41 | Swabs of apparent blood |
| SD42 | Swabs of apparent blood |
| SD45 | Black Sandals |
| SD46 | Pink T-shirt |
| SD47 | Blue Jeans |
| SD48 | Brown Shoes |
| SD49 | Gray Striped Polo Style Shirt |
| SD50 | Blue "Levi" jeans |

(U//~~FOUO~~) On 09/08/2014, pursuant to a federal search warrant, TCSO processed the interior of the Caraway's residence. TCSO seized a handwritten letter from Caraway. On the first page of the letter, Caraway wrote ***"READ me in case of..."*** The next page of the letter read as follows:

*Dear friends and family, if you are reading this, then I'm most likely in jail or dead. I'm sorry but life has been quite a Bitch to me, I've done my best to play the hand I've been dealt, but I got a shitty hand. No reason to blame anyone, it's no body's fault. It's just a REALLY FUCKED UP WORLD we live in and I'm just so tired of all the bullshit. I've attempted suicide 7 times in my life (mostly cries for help) and after the last one, I've decided that I'm not going out the easy way. If I'm going to die, it's going to be for something, for a purpose. The GREATER GOOD, Not with a whimper....but with a BANG. I love each and every one DEARLY, beyond Words. I love y'all with everything I am. I would not have made it this long; if it wasn't for my family and all of you Crazy motherfuckers I call friends. So my final words to you are, live each day like it's your last, do what makes you happy. Fuck anyone who doubts you; Find your DESTINY & Become what you were meant to be.*

*Tyler Caraway*

(U//~~FOUO~~) An inventory of all recovered evidentiary items from inside Caraway's bedroom at the residence follows:

| | |
|---|---|
| 1 | Vehicle registration renewal notice Texas License Plate CY6F101 |
| 2 | Social Security Card for [redacted] |
| 3 | Two Glock Magazines containing .40 caliber rounds (Total of 29 rounds) |
| 4 | Black Windham AR-15 with 30 round magazine |
| 5 | One .40 caliber round, five .40 caliber shells, and eight 5.56 caliber shells |
| 6 | Five boxes of ammunition; one box containing 15 rounds of Hornady .40 caliber ammunition; one box containing 20 rounds Hornady .40 caliber ammunition; one box containing 20 rounds of PMC .223 caliber ammunition, one box containing 17 rounds of PMC .223 caliber ammunition, and one box containing 49 rounds of Ultramax .40 caliber ammunition. |
| 7 | Miscellaneous documents |
| 8 | Hand written note |
| 9 | Two Texas Driver's Licenses issued to Tyler Caraway |
| 10 | Kawasaki motorcycle title registered to Tyler Caraway |
| 11 | Green ballistic vest, tactical knife, four magazines with 119 rounds |
| 12 | Composition Book |
| 13 | Chase Bank letter addressed to Tyler Caraway |
| 14 | Pistol holster and belt |
| 15 | Digital camouflage folder with personal correspondence |
| 16 | Black shoulder holster and magazine pouch |

b6 -2
b7C -2

(U//~~FOUO~~) On 09/12/2014, pursuant to a state search warrant, TCSO's Crime Scene Unit ERT processed the vehicle at TCSO's East Sheriff's Substation. TCSO photographed Caraway's Toyota 4Runner, and conducted a trajectory analysis for each bullet path.

(U//~~FOUO~~) An inventory of all recovered evidentiary items from inside Caraway's vehicle follows:

| | |
|---|---|
| SD51a | Projectile from driver side front seat back |
| SD51b | Projectile fragment from cloth of driver side rear door interior |
| SD52 | Projectile fragments from inside the drive side rear door |
| SD53 | Projectile fragment from the elastic on the driver side front seat cover |
| SD54 | Projectile fragments from under the driver side front seat |
| SD55 | Hornady 40 S&W fired cartridge case from the center console front near the dash |
| SD56 | Samsung cell phone with black Otter cover from passenger side front seat |
| SD57 | Brown Ray Ban sunglasses with missing left lens from passenger side front seat |
| SD58 | Pieces of small tinted plastic from driver side front floorboard |
| SD59 | Projectile from drive side pillar (marked as I-1) |
| SD60 | Projectile from driver side pillar (marked as I-2) |

**k. Medical Summary**

FBI Agents and TFOs involved in the shooting:

(U//~~FOUO~~) No injuries.

Subject:

(U//~~FOUO~~) Travis County Fire Department Paramedics [redacted] and [redacted] responded to 13712 Maye Place, Austin, Texas. Due to the severity of his injuries, Caraway was immediately transported to Saint David's Hospital in Round Rock, Texas. Caraway was pronounced dead at 8:44 p.m. The deceased was transported to the Travis County Medical Examiner's Office, 1213 Sabine Street, Austin, Texas for autopsy. b6 -4 b7C -4

(U//~~FOUO~~) On 09/09/2014 at 10:30 a.m., Deputy Medical Examiner [redacted] MD, performed the autopsy of Caraway. The preliminary examination observed multiple gunshot wounds to the head, buttocks, and knee. Dr. [redacted] observed the following wounds: b6 -4 b7C -4

- One round entered behind Caraway's right ear and exited from the lateral side of the left eye. The round caused injury to the brain and fractured the skull.
- One round entered the left buttock causing two exit wounds located on the left and right side of the penis where it attached to the torso.
- One round entered the inner right knee, and an additional round grazed the right knee.
- One round was a tangential gunshot wound to the left thigh.

The cause of death was listed as "gunshot wounds" with the manner of death listed as a "homicide."

## III. Shooting Incident Review Team Details

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Trent R. Teyema (INSD) b6 -1
Assistant Inspector (AI)/ Team Leader (TL) [redacted] (INSD) b7C -1
Assistant Inspector-in-Place (AIIP) [redacted] (CG)
AIIP [redacted] (LR)
AIIP [redacted] (SU)
AIIP [redacted] (AT)

**b. The FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:**

FBI LSRT personnel did not respond to the scene.

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On 09/08/2014, San Antonio Acting SAC [redacted] spoke with INSD Assistant Director Nancy McNamara to report the Agent-Involved Shooting. IIC Teyema spoke with San Antonio Field Office, Austin RA, ASAC [redacted] to arrange logistics to support the SIRT arrival in Austin, Texas. b6 -1 b7C -1

(U//~~FOUO~~) On 09/09/2014, the SIRT traveled to Austin, TX and reviewed the Inspection Division shooting review protocol with all team members. IIC Teyema and the SIRT members met with Austin RA EM and supervisory personnel. The SIRT also viewed the shooting scene, which occurred in the driveway located at 13712 Maye Place, Austin, Texas. IIC Teyema met with the Travis County Sheriff Greg Hamilton and Travis County Assistant District Attorney [redacted] and discussed the FBI's SIRT process. b6 -4 b7C -4

(U//~~FOUO~~) On 09/10/2014, IIC Teyema met with the APD Chief of Police Art Acevedo to discuss the FBI's SIRT process.

(U//~~FOUO~~) On 09/11/2014, the San Antonio Field Office submitted a FD-1015, Executive Situation Report to the Director. IIC Teyema met with Round Rock Police Department Chief Allen Banks and discussed the FBI's SIRT process. While on the scene, IIC Teyema also met with San Antonio SAC Christopher H. Combs, ASAC [redacted] and ASAC [redacted] and briefed them on the findings of the SIRT. b6 -1 b7C -1

(U//~~FOUO~~) On 09/12/2014, IIC Teyema met with the FBI Agents and TFOs involved in the shooting incident and explained the SIRT process and protocols.

(U//~~FOUO~~) The SIRT obtained three SSS from SAs [redacted]. The SSSs were obtained voluntarily in the presence of their attorney. The Agents signed a FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident). The FBI SIRT participated in a joint interview with TCSO for TFO [redacted]. A copy of TFO [redacted]'s audio recorded interview was provided to TL [redacted]. Both TFO [redacted] and TFO [redacted] participated in a video recorded interviews and a walk-through at the crime scene. A copy of the video for both TFO [redacted] and TFO [redacted] was provided to TL [redacted]. The SIRT did not conduct SSS of the TFOs as their department's regulation compelled a written or video recorded statement from the officers. In addition, the Travis County District Attorney's Office compelled a video recorded walk through of the shooting scene by the officers. The TFOs were represented by an attorney for their statements and commentary during the video recorded walk through. b6 -1,4 b7C -1,4

## V. Administrative

### a. Firearms Training

(U//~~FOUO~~) Firearms qualifications records for TFOs [redacted] were provided to the SIRT from their respective agencies. According to APD, both TFO [redacted] and TFO [redacted] last qualified on 02/28/2014. RRPD records indicated TFO [redacted] last qualified on 02/14/2013. TFO [redacted] were current with their department's firearms qualification policy, TFO [redacted] was not current with his department's firearms policy which required yearly qualification. b6 -4 b7C -4

**b. Deadly Force Training**

(U//~~FOUO~~) San Antonio's Chief Division Counsel (CDC) [redacted] provided FBI Deadly Force Policy Training to the ARA on 12/03/2013 and again on 12/06/2013. A review of the attendance training records verified both Agents [redacted] were present for the training. The records did not reflect SA [redacted] attending any of the training sessions in 2013: According to CDC [redacted], the training was provided on multiple other dates during the year, so it was possible SA [redacted] attended on a different occasion and failed to sign in. The last recorded Deadly Force Training attended by SA [redacted] was on 11/09/2012. b6 -1 b7C -1

(U//~~FOUO~~) On 09/08/2014, SA [redacted] briefed the FBI Deadly Force Policy to the CTVCTF arrest team during the operations briefing. SAs [redacted], TFOs [redacted] were present for the briefing. SA [redacted] also reminded the TFOs they were to follow their respective department's deadly force policy. A copy of APD's and RRPD's Deadly Force Policy was provided to the SIRT and are included in this report. b6 -1,4 b7C -1,4

**c. DOJ Civil Rights Division Prosecutorial Decision**

(U//~~FOUO~~) On 05/08/2015, after review by DOJ's Civil Rights Division, prosecution of the case was declined.

**d. Local Prosecutorial Decision**

(U//~~FOUO~~) On 02/20/2015, after review by the Travis County District Attorney's Office, it was determined the case would not be presented to the Travis County Grand Jury.

## VI. Inspector's Proposed Observations

(U//~~FOUO~~) **Observation 1**: Agents and TFOs were not wearing body armor at the time of a planned arrest of a dangerous subject.

(U//~~FOUO~~) **Analysis 1:** The Manual of Investigative Operations & Guidelines Part 2 states:

(U//~~FOUO~~) ***12-13.1 Policy - Body Armor (Formerly 12-2.3.2)***

*(1)* [redacted] b7E -5

(U//~~FOUO~~) On 09/08/2104, SA [redacted], SA [redacted] A/SSA [redacted] along with TFOs [redacted] were part of the surveillance, search, and arrest teams for Tyler Matthew Caraway, subject of a federal arrest warrant for Bank Robbery, who was known to be armed and dangerous. During the course of surveillance, the decision was made to affect the arrest when Caraway returned to his residence at 13712 Maye Place, Austin, Texas. SA [redacted] and A/SSA [redacted] had their body armor with them in the vehicle but did not wear it. SA [redacted] failed to bring his body armor with him for the surveillance and the planned arrest. SA [redacted] left his body armor in his Bureau vehicle which remained at the [redacted] staging area. b6 -1,4 b7C -1,4 b7E -1

(U//~~FOUO~~) **Instruction 1**: SAC, San Antonio will ensure Agents and TFOs wear their body armor in accordance with Manual of Investigative Operations & Guidelines (MIOG) Part 2 *12.13.1 Policy - Body Armor.*

(U//~~FOUO~~) **Observation 2**: Emergency lights or equipment were not used during a high risk arrest operation.

(U//~~FOUO~~) **Analysis 2:** The operation on 09/08/2014, for the surveillance, search, and arrest of Tyler Matthew Caraway, subject of a federal arrest warrant for Bank Robbery, known to be armed and dangerous, was conducted using [redacted] The plan called for the arrest of Caraway [redacted] b7E -1

(U//~~FOUO~~) **Recommendation 2**: SAC, San Antonio should ensure Agents and TFOs involved in a high risk arrest utilize emergency lights or equipment to identify themselves as law enforcement officers.

(U//~~FOUO~~) **Observation 3**: Agents and TFOs did not wear any visible FBI, police, or law enforcement identifiers at the time of the shooting incident.

(U//~~FOUO~~) **Analysis 3**: When Agents and TFOs from the CTVCTF exited their vehicles to arrest Tyler Matthew Caraway at his residence, 13712 Maye Place, Austin, Texas, they were not wearing any FBI, police, or law enforcement identifiers on their clothing. Although when interviewed both the Agents and TFOs stated they had their badges displayed on

their belts, their un-tucked shirts obscured the area around their waistline. This restricted the ability of the public to see their badges and identify them as law enforcement.

(U//~~FOUO~~) **Recommendation 3**: SAC, San Antonio should ensure Agents and TFOs wear visible FBI or law enforcement identifiers when involved in a high risk arrest.

(U//~~FOUO~~) **Observation 4**: Agents did not consult and obtain ASAC concurrence once the arrest plan was changed.

(U//~~FOUO~~) **Analysis 4**: The arrest of Caraway was to take place [redacted] Caraway did not travel to [redacted] and instead picked up a female passenger and drove to a McDonald's Restaurant before returning to his residence. Once Caraway picked up the female passenger, the operational ASAC should have been notified of the significant change in events. b7E -1

(U//~~FOUO~~) **Recommendation 4:** SAC, San Antonio should ensure Agents notify the operational ASAC when events dictate a deviation from the original Operations Order.

(U//~~FOUO~~) **Observation 5**: SA [redacted] did not attend or failed to sign in for Deadly Force Training. b6 -1 b7C -1

(U//~~FOUO~~) **Analysis 5:** A review of attendance records for the San Antonio Division's annual mandatory legal training reflected SA [redacted] did not attend training in 2013. Corporate Policy Directive 0648D, Section 8.8. The Annual Legal Training Policy consists of: b6 -1 b7C -1

(U//~~FOUO~~) *8.9.1. Mandatory training on core topics for all SAs*

(U//~~FOUO~~) *8.9.1.1. This includes a minimum of [redacted] hours total to address the following mandated topics:* [redacted] b7E -5

(U//~~FOUO~~) **Instruction 5:** SAC, San Antonio should ensure Agents attend mandatory annual legal training and document attendance.

(U//~~FOUO~~) **Observation 6**: A Task Force Officer did not successfully complete his police department's annual firearms training.

(U//~~FOUO~~) **Analysis 6:** A review of training records for the Round Rock Police Department's annual mandatory firearms training reflected TFO [redacted] did not attend training in 2014. TFO [redacted] last qualified his firearm on 02/14/2013. Round Rock Police Department Policy 4/1, 10.09 stated, "*All department members authorized to carry weapons shall successfully complete annual training* [redacted]" b6 -4 b7C -4 b7E -5

(U//~~FOUO~~) **Recommendation 6:** SAC, San Antonio should ensure TFOs document attendance and successfully complete their department's mandatory firearms training.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) TFO Shooting San Antonio Field Office **Date:** 07/24/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297I-HQ-A5523925 (U) San Antonio TFO Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 07/01/2015.

**Administrative Notes:** (U//~~FOUO~~) On 09/09/2014, a Shooting Incident Review Team (SIRT) traveled to Austin, Texas to investigate a 09/08/2014 shooting incident. On 09/11/2014, San Antonio submitted an FD-1015, Executive Situation Report to the Directors Office.

**Details:**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed a TFO Shooting incident which occurred on 09/08/2014, in Austin, Texas involving Task Force Officers (TFOs) [redacted] Austin Police Department, and [redacted] Round Rock Police Department. TFO [redacted] fired nine rounds from his Smith and Wesson M&P .40 caliber handgun at Tyler Matthew Caraway, striking Caraway three times. TFO [redacted] fired one round from his Smith and Wesson M&P .40 caliber handgun at Caraway striking him in the head. TFO [redacted] fired one round from his Glock 27 b6 -4 b7C -4

.40 caliber handgun which struck Caraway's residence. The shooting took place as Agents and TFOs from the Austin Resident Agency (ARA) attempted to execute a federal arrest warrant issued for Caraway by United States Magistrate Judge Andrew W. Austin, Western District Of Texas, for a bank robbery which occurred in Austin, TX, 08/06/2014.

(U//~~FOUO~~) On 09/08/2014, Acting Supervisory Special Agent (A/SSA) [redacted] obtained an arrest warrant for Caraway and a search warrant for his residence at 13712 Maye Place, Austin, TX. In anticipation of executing an arrest and search warrant, Agents and TFOs from ARA's Central Texas Violent Crimes Task Force (CTVCTF) discussed and planned an arrest and search operation to be conducted later in the afternoon on 09/08/2014. SA [redacted] prepared an operations plan, which was approved by A/SSA [redacted] and Assistant Special Agent in Charge (ASAC) [redacted] An operations briefing was conducted at approximately 5:00 p.m. and A/SSA [redacted] went over the plan and briefed the FBI's Deadly Force Policy. The overall plan called for Agents and TFOs [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) On 09/08/2014, at approximately 6:40 p.m., Caraway left his residence in a white Toyota 4Runner and was followed by two unmarked FBI vehicles. SA [redacted] TFO [redacted], and TFO [redacted] were in the first vehicle while A/SSA [redacted] SA [redacted] and TFO [redacted] were in the second vehicle. Caraway drove to a nearby commercial parking lot where he picked up a female adult, later identified as [redacted] sat in the front passenger's seat of Caraway's vehicle. Caraway then drove to a nearby McDonald's restaurant drive-thru and placed an order for food. While Caraway was in the drive-thru, A/SSA [redacted] discussed the possible arrest scenarios and contingencies with the CTVCTF arrest team in the event [redacted] Based on their discussion, A/SSA [redacted] made the decision to arrest Caraway [redacted] b6 -1,2,4 b7C -1,2,4 b6 -1 b7C -1 b7E -1

Title: (U//~~FOUO~~) TFO Shooting San Antonio Field Office
Re: 297I-HQ-A5523925, 07/24/2015

(U//~~FOUO~~) Following receipt of his order, Caraway left the McDonald's drive thru and drove to his residence. As Caraway turned on to his street, he began to drive very slowly. This led the arrest team to believe Caraway had identified them as law enforcement officers. TFO [redacted] TFO [redacted], and SA [redacted]. As soon as Caraway's vehicle stopped, TFO [redacted], TFO [redacted], and SA [redacted] exited the first vehicle, and identified themselves as the FBI and police. Caraway immediately opened his car door and pointed a pistol in the direction of TFO [redacted] TFO [redacted] observed Caraway pointing a pistol in his direction and yelled "gun." Caraway then fired shots at TFO [redacted]. TFO [redacted] immediately returned fire striking Caraway. Agents and TFO [redacted] exited the second vehicle to provide cover to the TFOs and the SA taking fire. As TFO [redacted] exchanged gunfire with Caraway, TFO [redacted] approached the vehicle on the passenger side. When TFO [redacted] had a clear shot, and [redacted] was not in the line of fire, he fired one round which struck Caraway in the head behind his right ear. Caraway was immediately incapacitated. TFO [redacted] fired one round over Caraway's vehicle which embedded itself into the residence. No Agents fired their weapons as they were moving to a position of tactical advantage. Caraway's vehicle then rolled forward and came to rest once it hit his residence. Caraway was removed from his vehicle and restrained. Agent [redacted] a SWAT medic, immediately began to render aid to Caraway until the Travis County Fire Department and Emergency Medical Services (EMS) arrived on the scene. Caraway was transported by EMS to a nearby hospital where he died as the result of his injuries. No injuries were sustained by [redacted] or to any of the Agents and TFOs who participated in the operation.

b6 -1,2,4
b7C -1,2,4
b7E -1

b6 -1,2
b7C -1,2

**SIRG OBSERVATIONS**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed the TFO Shooting incident with the intent to:

1. **Evaluate the application of deadly force.** As the shots fired resulting in the death of Caraway were not fired by the Agents, the

SIRG did not evaluate the application of deadly force.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions concerning operational planning and execution, training and/or safety issues.**

**Observation 1:** Agents and TFOs were not wearing body armor at the time of a planned arrest of a dangerous subject.

**Analysis 1:** The Manual of Investigative Operations & Guidelines Part 2 12-13.1 Policy - Body Armor (Formerly 12-2.3.2), states:
(1) [redacted] b7E -5

On 09/08/2104, SA [redacted] SA [redacted], A/SSA [redacted] along with TFOs [redacted] were part of the surveillance, search, and arrest teams for Tyler Matthew Caraway, subject of a federal arrest warrant for Bank Robbery, who was known to be armed and dangerous. During the course of surveillance, the decision was made to effect the arrest when Caraway returned to his residence at 13712 Maye Place, Austin, Texas. SA [redacted] and A/SSA [redacted] had their body armor with them in the vehicle but did not wear it. SA [redacted] failed to bring his body armor with him for the surveillance and the planned arrest. SA [redacted] left his body armor in his Bureau vehicle which remained at the [redacted] staging area. In addition, TFOs [redacted] were not wearing body armor. b6 -1,4 b7C -1,4 b7E -1

**Instruction 1:** SAC, San Antonio will ensure Agents and TFOs wear their body armor in accordance with Manual of Investigative Operations & Guidelines (MIOG) Part 2 12.13.1 Policy - Body Armor.

**Observation 2:** Emergency lights or equipment were not used during a high risk arrest operation.

**Analysis 2:** The operation on 09/08/2014, for the surveillance, search,

and arrest of Tyler Matthew Caraway, subject of a federal arrest warrant for Bank Robbery, known to be armed and dangerous, was conducted using [redacted] The operation plan called for the arrest of Caraway [redacted] b7E -1

**Recommendation 2a:** SAC, San Antonio should ensure Agents and TFOs involved in high risk arrests utilize emergency lights and equipment to identify themselves as law enforcement officers.

**Recommendation 2b:** AD, FD/FLSD should coordinate with Operational Divisions to ensure all vehicles used for law enforcement operations to include vehicles operated by Task Force Officers, are equipped with permanent or temporary emergency equipment.

**Recommendation 2c:** AD, CID should coordinate with the AD/FLSD to ensure all bureau issued vehicles, to include vehicles operated by CID sponsored Task Force Officers contain permanent or temporary emergency equipment.

**Observation 3:** Agents and TFOs did not wear any visible FBI, police, or law enforcement identifiers at the time of the shooting incident.

**Analysis 3:** When Agents and TFOs from the CTVCTF exited their vehicles to arrest Tyler Matthew Caraway at his residence, 13712 Maye Place, Austin, Texas, they were not wearing any FBI, police, or law enforcement identifiers on their clothing. Although when interviewed both the Agents and TFOs stated they had their badges displayed on their belts, their un-tucked shirts obscured the area around their waistline. This restricted the ability of the public to see their badges and identify them as law enforcement.

**Recommendation 3:** SAC, San Antonio should ensure Agents and TFOs wear visible FBI or law enforcement identifiers when conducting high risk

operations which could culminate in a confrontation with an armed and dangerous subject(s).

**Observation 4:** SA [redacted] did not attend or failed to sign in for annual Deadly Force Training. b6 -1 b7C -1

**Analysis 4:** A review of attendance records for the San Antonio Division's annual mandatory legal training reflected SA [redacted] did not attend or failed to sign in for training in 2013. Corporate Policy Directive 0648D, Section 8.8. The Annual Legal Training Policy consists of: b6 -1 b7C -1

8.9.1. Mandatory training on core topics for all SAs

8.9.1.1. This includes a minimum of [redacted] hours total to address the following mandated topics: [redacted] b7E -5

**Instruction 4:** SAC, San Antonio should ensure Agents attend mandatory annual legal training, and accurate records reflecting said attendance are maintained by the field office.

**Observation 5:** A Task Force Officer did not successfully complete his police department's annual firearms training.

**Analysis 5:** A review of training records for the Round Rock Police Department's annual mandatory firearms training reflected TFO [redacted] did not attend training in 2014. TFO [redacted] last qualified with his firearm on 02/14/2013. Round Rock Police Department Policy 4/1, 10.09 stated, "All department members authorized to carry weapons shall successfully complete annual training [redacted] b6 -4 b7C -4 b7E -5

**Recommendation 5:** SAC, San Antonio should ensure records are maintained documenting TFO compliance with their Agency's mandatory

firearms training requirements.

**3. Provide recommendations for administrative action if deemed necessary.** The SIRG determined no referral for administrative action was necessary to the Internal Investigations Section (IIS), Inspection Division as a result of the captioned shooting incident.

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector David P. Gelios, Office Of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, Department of Justice (DOJ); Unit Chief(UC) [redacted], Investigative Law Unit, Office Of General Counsel (OEC); A/SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division(TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; Section Chief Robert E. Hughes, Violent Crime and Gang Section, Criminal Investigative Division (CID); UC [redacted] Defensive Systems Unit(DSU),TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; and SSA [redacted] Evidence Response Team, Laboratory Division. The following non-voting individuals were also in attendance: Inspectors Scott Vito, Timothy M. Feeney, Eric Welling, Trent R. Teyema, Kathryn Peterson, Justin Tolomeo, Vadim D. Thomas, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; Management Program Analyst (MAPA) [redacted] Inspection Management Unit (IMU), INSD; Supervisory MAPA [redacted] and MAPA [redacted] Inspection Analysis Unit, INSD; and [redacted] Safety and Occupational Health Manager, Occupational Safety and Environmental Programs Unit; SSRA [redacted] (SD), and SSA [redacted], Investigative Law Unit, OGC.

b6 -1,3
b7C -1,3

Title: (U//~~FOUO~~) TFO Shooting San Antonio Field Office
Re: 297I-HQ-A5523925, 07/24/2015

**Procedure for Responding to the Observations**

(U//~~FOUO~~) Receiving offices are responsible for ensuring each Instruction/ Recommendation is satisfactorily resolved. The inspection process is not complete until each Instruction/Recommendation is addressed by the receiving office. The Inspector-in-Charge (IIC) will review the responses to determine if the Instruction/Recommendation was resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, SA; AD, FD/FLSD; and AD, CID are required to provide a written response, via EC, detailing the actions taken to resolve each Instruction/Recommendation. Follow-up EC responses must be directed to Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1

♦♦

[redacted] (SA) (FBI) b6 -1,4 b7C -1,4

**From:** [redacted]@traviscountytx.gov]
**Sent:** Friday, February 20, 2015 5:10 PM
**To:** [redacted] (SA) (FBI)
**Cc:** [redacted]
**Subject:** RE: TFO Involved Shooting 9/8/2014

[redacted]

I've received word back from our First Assistant that we will be passing the investigation of the officer involved shooting involving the Task Force [redacted] off to the FBI for their shooting team to look at. We will not present this investigation to a Travis County grand jury. b6 -4 b7C -4

Please let me know if you or anyone at the FBI has any questions.

[redacted]
Director, Strategic Prosecution Division

Travis County District Attorneys Office
P. O. Box 1748
Austin, TX 78767
[redacted]@traviscountytx.gov

---

**From:** [redacted] (SA) (FBI) [mailto:[redacted]@ic.fbi.gov] b6 -1,4 b7C -1,4
**Sent:** Wednesday, February 18, 2015 1:03 PM
**To:** [redacted]
**Subject:** RE: TFO Involved Shooting 9/8/2014

[redacted]

Have you been able to obtain an answer on the GJ question? I just received another call from FBI HQ. I know you and [redacted] are really busy and sorry for any bother.

Thanks!

---

**From:** [redacted] [mailto:[redacted]@traviscountytx.gov] b6 -1,4 b7C -1,4
**Sent:** Monday, February 09, 2015 2:43 PM
**To:** [redacted] (SA) (FBI)
**Subject:** RE: TFO Involved Shooting 9/8/2014

[redacted]

Wanted to give you an update about the questions you had for us regarding the TFO involved shooting. I spoke with our First Assistant and asked if he'd heard about whether we'd be presenting this case to a state GJ. He's talked to our Elected DA but a final decision has not be made yet. She's out of the office today but will be back tomorrow when he and I will talk to her about this.

Sorry I don't have a firm answer for you but didn't want to let today pass without at least some response from me. I'll let you know as soon as I know something.

[redacted]
Director, Strategic Prosecution Division

Travis County District Attorneys Office
P. O. Box 1748
Austin, TX 78767
[redacted]@traviscountytx.gov

b6 -4
b7C -4

---

**From:** [redacted](SA) (FBI) [mailto[redacted]@ic.fbi.gov]
**Sent:** Friday, February 06, 2015 6:20 PM
**To:** [redacted]
**Subject:** TFO Involved Shooting 9/8/2014

b6 -1,4
b7C -1,4

[redacted]

Thanks again for taking the time out of your day to speak with me about this issue. It was a real pleasure getting to know you better! I look forward to building a strong friendship as we work together.

I was hoping you could help me with the following questions from my management: 1) will the Travis County DA's Office be taking this case to Grand Jury? 2) If so, when do you expect this case to be presented? Both my EM and FBI HQ/DOJ are requesting this information from me by COB Monday. Your assistance would be greatly appreciated.

I will run down the answer for your question involving TFO's off/on duty on Monday.

I'm looking forward to meeting in person! Please reach out to me in the meantime if I can be of assistance.

Thanks for your dedicated service to the community!

SSA [redacted]
Austin VC/VCAC
[redacted]

b6 -1
b7C -1

**From:** [redacted] (CRT) [mailto:[redacted]@usdoj.gov] b6 -3 b7C -3
**Sent:** Wednesday, December 04, 2013 11:51 AM
**To:** Bretzing, Greg T.
**Cc:** [redacted] (CRT)
**Subject:** RE: Albuquerque SIRT

Inspector Greg Bretzing
Inspection Division

This is to confirm in writing an earlier decision that the June 4, 2013 shooting in Albuquerque by an FBI Agent at a suspect's car does not warrant a criminal civil rights investigation. The suspect was driving toward other agents who were attempting to arrest him when the shooter fire three shots; two missing the vehicle and one striking it. None of the shots fired struck the suspect or anyone else. The suspect then ran from the car and was ultimately arrested at another location.

Because the use of force did not constitute a seizure under the 4th Amendment and there is no information to suggest a willful 5th Amendment due process violation, no federally protected right was violated and the matter does not warrant criminal investigation. Please complete the administrative inquiry.

[redacted] b6 -3 b7C -3
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

[redacted]
cell - [redacted]

[redacted] (INSD) (FBI) b6 -1,3 b7C -1,3

**From:** [redacted] (CRT) [redacted]@usdoj.gov]
**Sent:** Friday, May 08, 2015 3:38 PM
**To:** Teyema, Trent R. (INSD) (FBI)
**Cc:** [redacted] (INSD) (FBI); [redacted] (CRT)
**Subject:** RE: San Antonio (Austin) TFO Involved Shooting

Good Afternoon [redacted] and Trent:

Trial Attorney [redacted] and I have completed our review of the investigation into the Austin TFO involved shooting. I am declining this matter for prosecution. This email serves as our declination notice.

Thank you,

[redacted]

[redacted]
U.S. Department of Justice
Civil Rights Division, Criminal Section
[redacted]

-----Original Message-----
From: Teyema, Trent R. (INSD) (FBI) [mailto:[redacted]@ic.fbi.gov] b6 -1,3 b7C -1,3
Sent: Tuesday, May 05, 2015 1:48 PM
To: [redacted] (CRT); Gelios, David P. (INSD) (FBI); [redacted] (CRT)
Cc: [redacted] (INSD) (FBI)
Subject: RE: San Antonio (Austin) TFO Involved Shooting

[redacted]

Thank you so much for meeting with us last week to discuss this inquiry. Please let me know if you have any further questions in order to complete your assessment.

Trent

Inspector Trent R. Teyema
Office of Inspections - FBI Headquarters - Washington, D.C.
JEH: [redacted] O: [redacted] M: [redacted]

-----Original Message-----
From: [redacted] (CRT) [mailto:[redacted]@usdoj.gov] b6 -1,3 b7C -1,3
Sent: Tuesday, April 07, 2015 9:32 AM
To: Gelios, David P. (INSD) (FBI); [redacted] (CRT)
Cc: Teyema, Trent R. (INSD) (FBI); [redacted] (INSD) (FBI)
Subject: RE: San Antonio (Austin) TFO Involved Shooting

Hi Dave,

I received the binder from Trent have not yet completed my review. I'll let you know if I have any questions.

Thanks,
[redacted]

b6 -3
b7C -3

---

From: Gelios, David P. (INSD) (FBI)
Sent: Tuesday, April 07, 2015 7:43:06 AM
To: [redacted] (CRT); [redacted] (CRT)
Cc: Teyema, Trent R. (INSD) (FBI); [redacted] (INSD) (FBI)
Subject: San Antonio (Austin) TFO Involved Shooting

b6 -1,3
b7C -1,3

Good Morning [redacted]

Last September (2014), we sent a Shooting Incident Review Team (SIRT) to Austin, Texas to review a TFO involved shooting. Since that time, we have completed our investigative review and obtained a local prosecutive declination from Texas authorities. On March 16, Team Leader [redacted] provided a binder containing the reporting related to our review to your office. As this was a TFO involved shooting, we don't always present the findings to the SIRG for TFO shootings as their own agency's deadly force policies are the standard to which they must adhere. That said, we do present TFO involved shoots to the SIRG if we see operational or training issues which might spark discussion by the SIRG. We are always trying to consider ways to improve operational performance during these encounters.

The only piece we are missing prior to going to the SIRG is the result of your office's review of the shooting. As we hadn't heard back (TL [redacted] left a follow-up message on March 30), I wanted to check to see if you need further information, are able to provide a declination relative to the TFO shoot, or you believe no prosecutive opinion is necessary in this matter.

b6 -1
b7C -1

Inspector Trent Teyema had lead in this SIRT and TL [redacted] was the lead Team Leader. We would like to have another SIRG in the next 30 - 45 days and would like to include this on our agenda if we can put this final piece into the report. It's our longest pending shooting review so naturally we would like to close this one out.

Let me, Trent, or [redacted] know if you have any questions about the SIRT review.

b6 -1
b7C -1

Thank you.

Dave

Chief Inspector
[redacted]

OFFICIAL RECORD
Document paradoxis have digitally signed. All signatures have been verified by a certified FBI information system.

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Report **Date:** 09/04/2014

**From:** NEW YORK
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5057795 (U) Animal Shooting
New York - June 2014

**Synopsis:** (U) To report results of a review of an animal shooting incident involving Special Agent (SA) [redacted] which occurred 06/10/2014. b6 -1 b7C -1

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the Inspection Division:

1) Original Signed Sworn Statement (SSS) of SA [redacted] dated 07/07/2014. b6 -1,2 b7C -1,2
2) Original FD-927 signed by SA [redacted] dated 06/20/2014.
3) FD-340s containing original interview notes and shooting records.
4) Original FD-927 signed by SA [redacted] dated 08/01/2014.
5) Original Amended SSS of SA [redacted] dated 08/01/2014.
6) Five photographs of [redacted] New York.
7) One spent .40 caliber shell casing.

**Details:**

(U) On 06/10/2014, SA [redacted] discharged two rounds from his Personally Owned Weapon (POW) Glock 27, serial [redacted] at a groundhog which appeared rabid based on the actions of the animal. The shooting incident review was delegated to the New York Field Office by the Chief Inspector on 06/13/2014. Following are the results of the shooting incident review, which included a SSS from SA [redacted]: b6 -1 b7C -1

Title: (U) Shooting Incident Report
Re: 297L-HQ-A5057795, 09/04/2014

(U) On 06/10/2014, at approximately 8:30 p.m., SA [redacted] received a phone call from his neighbor, [redacted] expressing concern she had about a rabid groundhog in her yard. SA [redacted] proceeded to her home across the street from his residence soon after the call. SA [redacted] observed the groundhog at the bottom of the porch area of [redacted]'s home in a crouched position, baring red eyes and foaming at the mouth. b6 -1,2 b7C -1,2

(U) SA [redacted] directed [redacted] to contact the local New York State Police (NYSP) to request dispatch of a Trooper. While awaiting a Trooper, SA [redacted] proceeded back to his home to gather a baseball bat and tarp with which to trap the groundhog. SA [redacted] realized the animal relocated to bushes against the porch when he returned to [redacted]'s home and the Trooper had not responded. SA [redacted] used the baseball bat to strike at the area where the groundhog relocated to see how the animal would react. The groundhog did not move, which would not reflect a normal reaction. b6 -1,2 b7C -1,2

(U) [redacted] placed a follow-up phone call to the NYSP at approximately 9:30 p.m. since no Trooper responded. The Trooper, whose name [redacted] did not know, advised the responding Trooper was diverted to another location. [redacted] informed the duty Trooper of SA [redacted]'s presence and his position as a SA. The Trooper recommended SA [redacted] shoot the animal if the concern with the groundhog continued. b6 -1,2 b7C -1,2

(U) SA [redacted] was standing on [redacted]'s porch which was elevated from the ground. SA [redacted] observed the groundhog moving around in a circular motion in the flowerbed area adjacent to the porch, still appearing aggressive and foaming at the mouth. SA [redacted] drew his POW from a leather waist band holster, secured a two-handed grip, and discharged one round, striking the groundhog in the chest area. As there was limited visibility, SA [redacted] shone his light in the area to assess the animal's condition as he walked down the steps to the ground level. After realizing the groundhog was still alive, SA [redacted] drew b6 -1,2 b7C -1,2

his POW again, assumed a two-handed grip and discharged one more round which struck the groundhog in the neck area. The second shot from SA [redacted] killed the groundhog. b6 -1,2 b7C -1,2

(U) SA [redacted] gathered a disposable shovel from his garage to remove the groundhog. He scooped the animal and all surrounding soil, and placed them into a cardboard box [redacted] supplied. Unsure of proper disposal, he placed the box inside his garage overnight.

(U) On 06/11/2014, SA [redacted] attended firearms training at the West Point Firing Range, West Point, New York. At approximately 12:00 p.m. at the conclusion of firearms training, he placed a call and left a voicemail message on Principal Firearms Instructor (PFI) [redacted] [redacted]'s mobile phone. After leaving the voicemail message, SA [redacted] placed a call to the New York State Department of Environmental Conservation (DEC), Region 3, New Paltz, New York. SA [redacted] was advised by the Wildlife Technician, whose name he did not acquire, to double bag the carcass in plastic and bury it two feet deep. SA [redacted] was also informed DEC only responds to potential rabies situations if they involved a pet or someone was bitten. b6 -1 b7C -1

(U) At approximately 1:30 p.m., SA [redacted] received a call from PFI [redacted] He informed PFI [redacted] of the animal shooting which took place on 06/10/2014. PFI [redacted] advised SA [redacted] to complete a FD-1085 within 48 hours of the incident. During this time, SA [redacted] informed his supervisor, Acting Supervisory Special Agent (A/SSA) [redacted] [redacted] of the shooting and the requirement for completing the FD-1085. SA [redacted] and A/SSA [redacted] completed the FD-1085 on 06/12/2014. A/SSA [redacted] subsequently notified her supervisor, Acting Assistant Special Agent-in-Charge (A/ASAC) [redacted] SA [redacted]'s weapon was not taken from him. b6 -1 b7C -1

(U) The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

Title: (U) Shooting Incident Report
Re: 297L-HQ-A5057795, 09/04/2014

1. FD-1085, Shooting Incident Report, electronically submitted 06/12/2014.

2. FD-302s for interviews of [redacted] Wildlife Technician [redacted] and Trooper [redacted] written by SSA [redacted]

3. FD-302 regarding firearms/training records for SA [redacted] for the 18 month period before the shooting incident.

b6 -1,2,3,4
b7C -1,2,3,4

(U) New York's review of the shooting incident involving SA [redacted] found no discrepancies between SA [redacted]'s account of the shooting and the information obtained from witness interviews. The results of the investigation have been coordinated with Assistant Inspector [redacted].

b6 -1
b7C -1

♦♦

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident New York Field Office 06/10/2014. **Date:** 11/28/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5057795 (U) Animal Shooting New York - June 2014

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned animal shooting following a SIRG meeting held on 10/21/2014.

**Administrative Notes:** (U//~~FOUO~~) The shooting incident review was delegated to the New York Field Office (NYFO) by the Chief Inspector on 06/13/2014. The Shooting Incident Report, dated 09/04/2014, was approved and submitted electronically by NYFO SAC Leo Taddeo.

**Details:**

(U//~~FOUO~~) On 10/21/2014, the SIRG reviewed an animal shooting incident which occurred on 06/10/2014, involving NYFO Special Agent (SA) [redacted] [redacted] b6 -1 b7C -1

(U//~~FOUO~~) On 06/10/2014, SA [redacted] was contacted by his neighbor requesting his assistance to address a rabid groundhog. An attempt was made to get the New York State Police to respond, but the dispatcher

advised there were no Troopers available. At approximately 9:30 p.m., SA [redacted] discharged two rounds from his personally-owned weapon (POW), a Glock 27, serial number [redacted] at the groundhog which appeared rabid based on the actions of the animal. SA [redacted] recovered one of two shell casings and did not take photographs or conduct any other form of basic shooting scene processing. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] went to firearms training at the West Point Firing Range, West Point, New York on 06/11/2014. SA [redacted] reported the shooting incident to a firearms instructor who advised SA [redacted] to contact his supervisor and complete an FD-1085. SA [redacted] did as he was instructed and also contacted the New York State Department of Environmental Conservation (DEC), Region 3, New Paltz, New York to determine how he should properly handle the animal remains. b6 -1 b7C -1

(U//~~FOUO~~) The shooting incident review was delegated to the NYFO on 06/13/2014. Investigation determined SA [redacted] killed the animal since it posed a persistent threat to the family of a nearby neighbor. SA [redacted] was qualified and trained to use his POW in accordance with FBI policy. b6 -1 b7C -1

**SIRG Observations**

(U//~~FOUO~~) On 10/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 06/10/2014 was in compliance with the Department of Justice's Deadly Force policy. b6 -1 b7C -1

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made three observations regarding this shooting incident:

(U//~~FOUO~~) **Observation 1:** The Agent involved in an animal shooting failed to notify NYFO management of the shooting incident in a timely

Title: (U//~~FOUO~~) Shooting Incident New York Field Office 06/10/2014.
Re: 297L-HQ-A5057795, 11/28/2014

manner.

(U//~~FOUO~~) **Analysis 1:** SA [redacted] discharged his POW at approximately 9:30 p.m., on 06/10/2014. SA [redacted] did not notify his supervisor of the shooting until approximately 1:30 p.m., on 06/11/2014. The INSD Shooting Incident Guide stated,"*Following a shooting incident, an Agent who discharges a weapon should ensure the field office operations center and your immediate supervisor, or the next available member of your chain of command, is contacted.*" b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 1:** ADIC, NY will ensure Agents involved in a shooting incident notify management in a timely manner in accordance with INSD's Shooting Incident Guide.

(U//~~FOUO~~) **Observation 2:** NYFO did not notify INSD of the Agent-involved shooting incident in a timely manner.

(U//~~FOUO~~) **Analysis 2:** The shooting incident was reported to NYFO EM on 06/11/2014. The incident was not reported to INSD until 06/13/2014. As specified in the INSD Shooting Incident Guide for animal shootings, *"The SAC or designee will immediately notify the Chief Inspector, Inspection Division."*

(U//~~FOUO~~) **Instruction 2:** ADIC, NY will ensure INSD is promptly notified of all Agent-involved shooting incidents, to include animal shootings, in accordance with INSD's Shooting Incident Guide.

(U//~~FOUO~~) **Observation 3:** NYFO did not have an ERT process the scene following an Agent-involved shooting.

(U//~~FOUO~~) **Analysis 3:** Following the incident, there was no ERT deployed to the scene. NY EM stated there was no ERT available due to the location of the Agent-involved shooting being in a remote RA location. Subsequently, SA [redacted] did not take photographs, b6 -1 b7C -1

immediately recover the shell casings, or conduct any other basic shooting scene processing. SA [redacted]'s neighbor recovered one of two shell casings on 06/11/2014. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 3**: ADIC, NY will ensure the scene of an Agent-involved shooting is processed by an ERT in accordance with INSD Shooting Guide, whenever possible. If an ERT is not available, then an Agent should conduct basic shooting scene processing.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1,3 b7C -1,3

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Acting Chief Inspector Shawn W. Stroud, Office of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, United States Department of Justice (USDOJ); Trial Attorney [redacted] Criminal Division, USDOJ; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted], Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); UC [redacted] New Agent Training Program Section, Defensive Systems Unit (DSU), TD; and SC Roger A. Coe, CD-2, Global Section, Counterintelligence Division. The following non-voting individuals were also in attendance: Gunsmith [redacted] SWAT Operations Unit, CIRG; SSA [redacted] Ballistics Research Facility, DSU; SSA [redacted] Protective Operations Unit, Security Division; UC [redacted] Firearms and Toolmarks Unit, Laboratory Division; Inspectors Trent R. Teyema, R. Justin Tolomeo, Paul D. Delacourt, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; Special Assistant b6 -1 b7C -1

Title: (U//~~FOUO~~) Shooting Incident New York Field Office 06/10/2014.
Re: 297L-HQ-A5057795, 11/28/2014

[redacted] OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD; and MAPA [redacted], Inspection Analysis Unit (IAU), INSD. b6 -1 b7C -1

**Procedures for Responding to the Observations**

(U//~~FOUO~~) ADIC, NY, is responsible for ensuring each Inspection Instruction is satisfactorily resolved. The inspection process is not complete until the Instructions are addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) ADIC, NY, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 -1 b7C -1

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Report **Date:** 06/16/2014

**From:** PHILADELPHIA
PH-CYB2
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A4933783 (U) Animal Shooting

**Synopsis:** (U) To report results of a review of an animal shooting incident involving SA [redacted] which occurred on 05/20/2014. b6 -1 b7C -1

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the Inspection Division:

1) Original Signed Sworn Statement (SSS) of SA [redacted] dated 05/28/2014, maintained in an FD-340 envelope.
2) Original FD-927 signed by SA [redacted] dated 05/21/2014, maintained in an FD-340 envelope. b6 -1,2 b7C -1,2
3) Original SSSs and FD-927s for:
SSRA [redacted] SA [redacted] SOS [redacted]
Automotive Worker [redacted] Automotive Worker [redacted]
[redacted] SA [redacted] SA [redacted] SA [redacted]
and SA [redacted]

**Details:**

On 05/20/2014, during the execution of a search warrant, SA [redacted] discharged nine rounds from his personally owned Glock 21 at a raccoon which had just severely bitten a member of Philadelphia's Evidence Response Team (ERT). The shooting incident review was delegated to the Philadelphia Field Office by Chief Inspector David Paul Gelios on 05/20/2014. Following are the results of the shooting incident review, which included a SSS from SA [redacted] as well as from all other FBI personnel who witnessed the shooting, ERT processing the b6 -1 b7C -1

UNCLASSIFIED

NYT-191

scene, and FD-302s documenting interviews of Pennsylvania State Police (PSP) and Lehigh County Coroner's Office personnel.

On 05/20/2014, the Philadelphia ERT was assisting the Lehigh County Homicide Task Force regarding a cold case homicide investigation. Evidence developed by the task force resulted in the issuance of a search warrant. At approximately 8:00 am, the search team was preparing to begin their search of a privately owned, heavily wooded area when SA [redacted] a member of the ERT, was severely bitten by a raccoon which bit and latched onto her lower leg. SA [redacted] began to swing her leg and kick at the raccoon in an attempt to get it off her. SA [redacted] also began to scream for help at which point other members of the search team began to run in her direction. b6 -1 b7C -1

Shortly before other personnel got to SA [redacted] the raccoon let go and ran down an embankment adjacent to the road. SA [redacted] of the Allentown Resident Agency (ARA) alerted personnel about the raccoon stating words to the effect it needed to be killed and captured so it could be tested for rabies. b6 -1 b7C -1

PSP Trooper [redacted] and Deputy Coroner [redacted] fired at the raccoon. The raccoon was struck, but continued to move downhill, parallel to the road and adjacent to a stream. Once Trooper [redacted] and Deputy Coroner [redacted] shot at the raccoon, SA [redacted] saw the raccoon and fired nine shots at it. The raccoon stopped moving and soon died. b6 -1,4 b7C -1,4

Once the raccoon was dead, SA [redacted] helped place it in a body bag provided by the Lehigh Coroner (who was on scene as part of the homicide investigation) before carrying it to a PSP vehicle. The PSP made arrangements for the raccoon to be rapidly tested for rabies. b6 -1 b7C -1

SA [redacted] was treated with first aid and then transported by ambulance to the Reading Hospital where she was treated. Subsequent testing of the raccoon showed it was infected with rabies and SA [redacted] was treated with a series of rabies vaccinations. b6 -1 b7C -1

Once SA [redacted] had received first aid, and was on the way to the

hospital, Supervisory Senior Resident Agent [redacted] of the ARA, who was on scene, notified Assistant Special Agent in Charge [redacted] of the shooting and injuries to SA [redacted] b6 -1 b7C -1

The ERT processed the shooting scene and were able to recover six .45 caliber shell casings by raking the underbrush. The remaining shell casings could not be located.

Per guidance received from Chief Inspector Gelios, *via* an E-mail sent to Philadelphia on 05/20/2014, INSD did not require the Agent surrender his weapon for submission to the FBI laboratory for a function check.

Due to her injuries, SA [redacted] was on sick leave for approximately one week which delayed the preparation of her SSS. b6 -1 b7C -1

The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. Original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD:

1. FD-1085, Shooting Incident Report, electronically submitted on 05/21/2014.
2. FD-302 of PFI [redacted] regarding firearms/training records for SA [redacted] for the 15-month period before the shooting incident. b6 -1,4 b7C -1,4
3. FD-302 of ACDC [redacted] regarding Deadly Force Policy Training.
4. FD-302s for interviews of Trooper [redacted] and Deputy Coroner [redacted]
5. FD-302 of weather records.
6. FD-302 ERT dated 05/29/2014.
7. All SSSs and associated FD-927s, interview logs, and draft SSSs.

Collected items of evidence will be maintained by Philadelphia pending instruction from INSD regarding their disposal.

Philadelphia's review of the shooting incident involving SA [redacted] found no discrepancies between SA [redacted]'s account of the shooting and the information obtained from witness interviews. The results of the b6 -1 b7C -1

investigation have been coordinated with CDC [redacted] b6 -1 b7C -1

♦♦



NYT-194

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 06/12/2014

Report of: IIC Shawn W. Stroud Office: FBIHQ – INSD

Case ID#: 297L-HQ-A4933783

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
PHILADELPHIA FIELD OFFICE (DELEGATED)
05/20/2014

Investigative Period: 05/20/2014 – 06/04/2014

Reference: E-mail on 05/20/2014 from ASAC [redacted] to Chief Inspector David Paul Gelios. b6 -1 b7C -1

---

## I. Executive Summary

On 05/20/2014, during the execution of a search warrant, Special Agent (SA) [redacted] discharged nine rounds from his personally owned Glock 21 at a raccoon which had just severely bitten a member of Philadelphia's Evidence Response Team (ERT). The shooting incident review was delegated to the Philadelphia Field Office by Chief Inspector David Gelios. b6 -1 b7C -1

## II. Incident Details

On 05/20/2014, the Philadelphia ERT was assisting the Lehigh County Homicide Task Force regarding a cold case homicide investigation. Evidence developed by the task force resulted in the issuance of a search warrant. At approximately 8:00 am, the search team was preparing to begin their search of a privately owned, heavily wooded area when SA [redacted] a member of the ERT, was severely bitten by a raccoon which bit and latched onto her lower leg. SA [redacted] began to swing her leg and kick at the raccoon in an attempt to get it off her. SA [redacted] also screamed for help at which point other members of the search team began to run in her direction. b6 -1 b7C -1

Shortly before other personnel got to SA [redacted] the raccoon let go and ran down an embankment adjacent to the road. SA [redacted] of the Allentown Resident Agency (ARA) alerted personnel about the raccoon stating words to the effect it needed to be killed and captured so it could be tested for rabies. b6 -1,4 b7C -1,4

Pennsylvania State Police (PSP) Trooper [redacted] and Deputy Coroner [redacted] fired at the raccoon. The raccoon was struck, but continued to move downhill, parallel to

the road and adjacent to a stream. Once Trooper [redacted] and Deputy Coroner [redacted] shot at the raccoon, SA [redacted] saw the raccoon and fired nine shots at it. The raccoon stopped moving and soon died. Thereafter, SA [redacted] helped place the raccoon in a body bag provided by the Lehigh Coroner (who was on scene as part of the homicide investigation) before carrying it to a PSP vehicle. The PSP made arrangements for the raccoon to be rapidly tested for rabies.

b6 -1,4
b7C -1,4

SA [redacted] was provided first aid and then transported by ambulance to the Reading Hospital where she was treated. Subsequent testing of the raccoon showed it was infected with rabies and SA [redacted] was treated with a series of rabies vaccinations.

b6 -1
b7C -1

Once SA [redacted] received first aid, and was on the way to the hospital, Supervisory Senior Resident Agent (SSRA) [redacted] of the ARA, who was on scene, notified Assistant Special Agent in Charge (ASAC) [redacted] of the shooting and injuries to SA [redacted]

The ERT processed the shooting scene and was able to recover six .45 caliber shell casings by raking the underbrush. The remaining shell casings could not be located.

**a. Substantive Case File and Background Information**

Prior to the shooting incident, the following [redacted] case was opened. No case was opened as a result of this investigation.

b6 -1,5
b7C -1,5
b7E -2
b7A -1

Title: UNSUB;
Victim: [redacted]
Domestic Police Cooperation

File Number: [redacted]
Case Agent: SA [redacted]

**b. Listing of Personnel Involved in the Shooting**

b6 -1,2,4
b7C -1,2,4

SA [redacted] (discharged weapon)
Trooper [redacted] (discharged weapon)
Deputy Coroner [redacted] (discharged weapon)
SA [redacted] (bitten by raccoon)
SSRA [redacted] (witnessed shooting)
SA [redacted] (witnessed shooting)
SA [redacted] (witnessed shooting)
SA [redacted] (witnessed shooting)
SA [redacted] (witnessed shooting)
SOS [redacted] (witnessed shooting)
Automotive Worker [redacted] (witnessed shooting)
Automotive Worker [redacted] (witnessed shooting)

**c. Case Review and Operational Briefings**

FBI Philadelphia assisted the Lehigh County Homicide Task Force with a cold case homicide investigation. A briefing of the search was conducted by the ERT Team Leader at a staging area prior to the search.

**d. Accounting of Shots Fired**

SA [redacted] fired nine .45 caliber rounds from his personally owned Glock model 21. Six shell casings were recovered at the scene—due to the heavy underbrush the ERT was unable to locate the remaining shells. After counting the remaining rounds in the gun's magazine the following day, SA [redacted] verified the number of rounds fired was nine. b6 -1 b7C -1

**e. Forensic Summary**

SA [redacted] the ERT Team Leader, immediately processed the shooting scene, to include the preparation of a sketch, photography, and recovery of shell casings which were subsequently placed into evidence. No further Laboratory analysis was conducted related to this animal shooting incident. b6 -1 b7C -1

An inventory of all recovered evidentiary items follows:

| | |
|---|---|
| 1B1 | One .45 caliber cartridge casing |
| 1B2 | One .45 caliber cartridge casing |
| 1B3 | One .45 caliber cartridge casing |
| 1B4 | One .45 caliber cartridge casing |
| 1B5 | One .45 caliber cartridge casing |
| 1B6 | One .45 caliber cartridge casing |

**f. Medical Summary**

SA [redacted] was severely bitten by the raccoon. In addition to receiving stitches, SA [redacted] was treated for possible rabies infection. She was cleared for duty one week after the incident. b6 -1 b7C -1

## III. Shooting Incident Review Team Details

The Shooting Incident Review Team comprised the following personnel:

SSA [redacted]
SSA [redacted] b6 -1 b7C -1

## IV. Shooting Incident Review Protocol

The Shooting Incident Review was delegated to Philadelphia by Chief Inspector Gelios on 05/20/2014.

On 05/20/2014, SSA [redacted] briefed SAC [redacted] and ASAC [redacted] regarding shooting investigation protocols. After the briefing, ASAC [redacted] and SSAs [redacted] drove to the shooting scene which was approximately 70 miles from Philadelphia. b6 -1 b7C -1

On 05/21/2014, SSAs [redacted] met with SA [redacted] and explained the review process and protocols. SA [redacted] was represented by [redacted] Esq., who joined the meeting by telephone conference. Thereafter SA [redacted] provided his Signed Sworn Statement (SSS). In total, ten SSS were taken from FBI personnel who were involved in, or witnessed, the shooting. Two FD-302s documented interviews of other Law Enforcement Personnel who discharged their weapons. b6 -1,2 b7C -1,2

A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all interviewed FBI personnel. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized.

## V. Administrative

### a. Firearms Training

Firearms qualifications records for SA [redacted] were provided to the SIRT by FBI PFI [redacted] A review of the training records reflected SA [redacted] s most recent qualification with his personally owned Glock 21 was on 03/05/2014 and he was in compliance with firearms qualifications requirements. b6 -1 b7C -1

### b. Deadly Force Training

Assistant CDC [redacted] advised FBI Deadly Force Policy Training was conducted on 09/17/2013 at a firearms training session, which was memorialized via Electronic Communication (EC). b6 -1 b7C -1

## VI. Inspector's Draft Observations

No Observations.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) SHOOTING INCIDENT PHILADELPHIA FIELD OFFICE 05/20/2014 **Date:** 08/15/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** STROUD SHAWN W, 202-324-5069

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** STROUD SHAWN W

**Case ID #:** 297L-HQ-A4933783 (U) Animal Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following a SIRG meeting held on 07/31/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division (INSD) Shooting Incident Report dated 06/12/2014, prepared by Inspector Shawn W. Stroud. A copy of the complete INSD Shooting Incident Report was uploaded to the captioned file.

**Details:**

(U//~~FOUO~~) On 07/31/2014, the SIRG convened to review a shooting incident which occurred on 05/20/2014, involving Philadelphia Field Office Special Agent (SA) [redacted] On 05/20/2014, the Philadelphia Evidence Response Team (ERT) was assisting the Lehigh County Homicide Task Force regarding a cold case homicide investigation. Evidence developed by the task force resulted in the issuance of a search warrant. At approximately 8:00 a.m., the search team was preparing to begin their search of a privately owned, heavily b6 -1 b7C -1

wooded area when SA [redacted], a member of the ERT, was severely bitten by a raccoon which bit and latched on to her lower leg. SA [redacted] moved her leg and kicked at the raccoon in an attempt to get it to release. SA [redacted] began to scream for help at which point members of the search team ran to her. Shortly before team members arrived at her location, the raccoon released her leg and ran down an embankment adjacent to a nearby road. SA [redacted] of the Allentown Resident Agency (ARA) alerted personnel and advised the raccoon needed to be killed and captured so it could be tested for rabies. b6 -1 b7C -1

(U//~~FOUO~~) Pennsylvania State Police (PSP) Trooper [redacted] and Deputy Coroner [redacted] both fired two shots at the raccoon. The raccoon was struck, but continued to move downhill, parallel to the road and adjacent to a stream. Once PSP Trooper [redacted] and Deputy Coroner [redacted] shot at the raccoon, SA [redacted] saw the raccoon and fired nine shots, killing the raccoon. The raccoon was placed in a body bag provided by the Lehigh Coroner (who was on scene as part of the homicide investigation) and transported to a facility to be tested for rabies. The raccoon tested positive for rabies. b6 -1 b7C -1

**Results of the SIRG**

(U//~~FOUO~~) On 07/31/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 05/20/2014 was in compliance with the Department of Justice's Deadly Force policy. b6 -1 b7C -1

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made no observations regarding this shooting incident.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting b6 -1 b7C -1

Title: (U//~~FOUO~~) SHOOTING INCIDENT PHILADELPHIA FIELD OFFICE 05/20/2014
Re: 297L-HQ-A4933783, 08/15/2014

incident.(U//~~FOUO~~)

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting member. The following members were in attendance: Acting Chief Inspector Paul D. Delacourt, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Criminal Investigative Division; Acting SC [redacted] Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Squad CR-2 Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and UC [redacted] Defensive Systems Unit, TD. The following non-voting individuals were also in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Office of Inspector General, USDOJ; [redacted] Internal Affairs, Customs and Border Patrol (CBP); [redacted] CBP; UC [redacted] Firearms and Toolmarks Unit, LD; SSA [redacted] ERTU, LD; Inspectors Shawn W. Stroud, Timothy M. Feeney, Trent R. Teyema, R. Justin Tolomeo, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD.

b6 -1,3
b7C -1,3

b6 -1,3
b7C -1,3

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT REVIEW; ANIMAL SHOOTING INCIDENT; DALLAS FIELD OFFICE; NOVEMBER 22, 2013

**Date:** 01/08/2014

**CC:** David Paul Gelios

**From:** DALLAS
DL-OS-3
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A3696065 (U) Animal Shooting

**Synopsis:** (U) To report results of a review of an animal shooting incident involving SA [redacted] which occurred November 22, 2014

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the inspection division:

1) Original Signed Sworn Statement (SSS) of SA [redacted] dated December 18, 2013, maintained in an FD-340 envelope b6 -1 b7C -1
2) Original FD-927 signed by SA [redacted] dated December 18, 2013, maintained in an FD-340 envelope
3) FD-340s containing original interview notes and records

**Enclosure(s):** Enclosed are the following items:
1. (U) SSS SA [redacted]
2. (U) FD-927
3. (U) SSS Interview Log
4. (U) Interview Notes

**Details:**

On November 22, 2013, SA [redacted] discharged two rounds from his personally owned weapon (POW), a Glock 27, at an American Bulldog b6 -1 b7C -1

UNCLASSIFIED

NYT-202

which attacked him while he was retrieving his mail near his residence. The shooting incident review was delegated to the Dallas Field Office by the Chief Inspector on November 23, 2013. Following are the results of the shooting incident review, which included SSS from SA [redacted] and coordination with Arlington Police Department (APD). b6 -1 b7C -1

On November 22, 2013, SA [redacted] arrived home from work at about 6:00 p.m. SA [redacted] got out of his car and walked to his mailbox, which is a community mailbox about one house to the north of his residence. After retrieving his mail, SA [redacted] started to walk back to his car when he felt something at his side. SA [redacted] saw a large, white, muscular dog, which was trying to bite him. SA [redacted] jumped back about 10 feet from the dog and yelled at the dog to stop or back down. The dog was growling and appeared ready to attack. SA [redacted] was without cover and, believing the dog was about to spring at him, pulled out his Glock 27 and fired two rounds into the animal. b6 -1 b7C -1

The dog stood and stared at SA [redacted] for about 30 seconds, then turned and limped across the street and lay down in a neighbor's driveway. SA [redacted] had never seen this dog in his neighborhood. There was no one on the street at the time of the shooting.

SA [redacted] immediately called 911 and reported the shooting incident. He then called the Dallas Field Office switchboard and told the operator to inform Dallas Executive Management he had been involved in an animal shooting. b6 -1 b7C -1

APD officers [redacted] arrived on the scene. SA [redacted] identified himself to the officers as an FBI SA. APD Patrol Officer [redacted] took the lead and conducted the majority of the on-scene investigation. Animal Control also came to the scene. b6 -1,4 b7C -1,4

APD officers conducted a thorough search of the area and found two shell casings where SA [redacted] shot the dog. There were seven rounds left in the weapon. APD crime scene investigators took pictures of SA [redacted] and his clothing, which one APD officer pointed out was dirty where SA [redacted] said he first felt the dog attack him. b6 -1 b7C -1



NYT-203

Title: (U) SHOOTING INCIDENT REVIEW; ANIMAL SHOOTING INCIDENT; DALLAS FIELD OFFICE; NOVEMBER 22, 2013
Re: 297L-HQ-A3696065, 01/08/2014

APD Officer [redacted] reported the animal was at large in the neighborhood, was not wearing a collar, and was not registered. b6 -1,4 b7C -1,4

The owners of the dog took the injured animal to an animal hospital in Mansfield, Texas. APD Officer [redacted] who was also present at the animal hospital, said the owners declined to pay to heal the injured animal and instead opted to have it euthanized.

On Monday, November 25, 2013, SA [redacted] collected the Glock 27 used by SA [redacted] In a phone conversation with UC [redacted] Defensive Systems Unit, on December 11, 2013, UC [redacted] indicated there was no need to send the Glock 27 to DSU for a serviceability check as long as there were no questions surrounding the gun's performance. Inasmuch as the gun performed properly in the shooting, the Glock 27 remains secured in the Dallas gun vault. b6 -1 b7C -1

During a telephonic conversation with APD Detective [redacted] on Friday December 13, 2013 and a subsequent meeting at the FBI Dallas Field Office on December 18, Detective [redacted] told SSA [redacted] the animal shooting incident was not going to be presented to the state attorney for prosecution. b6 -1 b7C -1

The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

1. FD-1085, Shooting Incident Report, electronically submitted December 19, 2013
2. FD-302 with attached APD Incident Report
3. FD-302 of PFI [redacted] regarding firearms/training records for SA [redacted] for the 18-month period before the shooting incident b6 -1 b7C -1
4. FD-302 of ADC [redacted] regarding Deadly Force Policy training
5. FD-302 of FBI DSU UC [redacted] regarding weapon serviceability check
6. FD-302s for interviews of FBI SSA [redacted] and SA [redacted]

Title: (U) SHOOTING INCIDENT REVIEW; ANIMAL SHOOTING INCIDENT; DALLAS FIELD OFFICE; NOVEMBER 22, 2013
Re: 297L-HQ-A3696065, 01/08/2014

7. FD-302s for interviews of APD officers [redacted] b6 -1,4 b7C -1,4

8. FD-302 of weather records from SIOC for Arlington, Texas on November 22, 2013

SSA [redacted] obtained APD Incident Report 13-63880 on December 31, 2013. Detective [redacted] was assigned to the case and spoke with the dog's owner, [redacted] on December 17, 2013. [redacted] told [redacted] her dog must have gotten loose through an open gate. [redacted] described her dog as a protector and territorial. b6 -1,2,4 b7C -1,2,4

At the conclusion of his report, Detective [redacted] indicated the case would be cleared administratively.

Dallas' review of the animal shooting incident involving SA [redacted] found no discrepancies between SA [redacted]s account of the shooting and the information obtained from APD officers. The results of the investigation have been coordinated with CDC [redacted] b6 -1 b7C -1

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Animal Shooting incident summary **Date:** 12/24/2013

**From:** LITTLE ROCK
LR-6
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** ASAC [redacted]
SAC MARSHALL HOWARD S

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A3648070 (U) Animal Shooting

**Synopsis:** (U) To report results of a review of an animal shooting incident involving Special Agent (SA) [redacted] which occurred November 18, 2013. b6 -1 b7C -1

**Package Copy:** (U) 1) Original Signed Sworn Statement (SSS) of SA [redacted] dated 12/19/2013, maintained in a FD-340 envelope
2) Original FD-927 signed by SA [redacted] dated 11/20/2013, maintained in a FD-340 envelope
3) Original INSD interview log of SA [redacted]
4) Original SSS of SA [redacted] dated 12/18/2013, maintained in a FD-340 envelope
5) Original FD-927 signed by SA [redacted] dated 11/20/2013, maintained in a FD-340 envelope
6) Original INSD interview log of SA [redacted]
7) FD-340 envelopes containing original interview notes, records, and photographs

**Details:**

(U) On 11/18/2013, Special Agent (SA) [redacted] discharged seven rounds from his FBI-issued Colt AR-15 at a pit bull which was attacking SA [redacted] during an arrest operation at [redacted] Arkansas. The shooting incident was delegated to the Little Rock Field Office by the Chief Inspector on 11/18/2013 and subsequently assigned by ASAC [redacted] to SSAs [redacted] for investigation. Following are the results of the shooting b6 -1,7 b7C -1,7

UNCLASSIFIED

incident review, which included Signed Sworn Statements of SAs [redacted] FD-302 interviews from 11 other members of the Jackson Field Office SWAT team, and other related documents. b6 -1 b7C -1

(U) The investigation maintained in [redacted] was opened in 2010 to investigate violent drug trafficking in the [redacted], Arkansas area. This matter was assigned to SA [redacted] of the Little Rock Field Office, Marion Resident Agency (MRA). The investigation utilized [redacted] several Title III intercepts to gather evidence on subjects. In November 2013, 20 subjects were indicted in the United States District Court, Eastern District of Arkansas, wherein arrest warrants were issued. [redacted] who was known to reside at [redacted] Arkansas, was included among those with active arrest warrants. b6 -1,7 b7C -1,7 b7E -1 b7A -1

(U) Approval to utilize Bureau SWAT teams for arrests of 13 subjects in the [redacted] area on 11/18/2013 was sought. The overall plan was conceptualized to [redacted] The Jackson SWAT team was assigned to affect the arrests of [redacted] b6 -7 b7C -7 b7E -1

(U) SA [redacted] the Jackson SWAT Team Leader (TL), along with his Assistant Team Leaders (ATLs) arrived in [redacted] Arkansas on Friday, 11/15/2013. A briefing had been scheduled to familiarize arrest TLs with the overall case and plans to affect the arrests on 11/18/2013. This briefing was led by the SA [redacted] SSRA [redacted] and Little Rock SWAT TL [redacted] and included the distribution of arrest packets containing photographs of subjects and residences and other documents to assist the TLs with planning their respective arrest plans and Operational Orders. Each TL was also provided with contact information for [redacted] PD [redacted] PD) officers who had been assigned to assist with site surveys of arrest locations and familiarization of the [redacted] area and subjects. b6 -1,7 b7C -1,7

(U) On 11/16/2013, SA [redacted] and ATLs, SAs [redacted] and [redacted] performed site surveys of [redacted]'s known residences. The site surveys included [redacted] b6 -1,7 b7C -1,7 b7E -1



NYT-207

residences located at [redacted], both of which were located in the City of [redacted] Arkansas. During the operational planning, SAs [redacted] inquired specifically about the presence of children, canines, or any pertinent information which would be applicable to conducting an arrest operation at either location. [redacted]PD officers reported there was no indication of canines or children at either residence, though the possibility that [redacted] may be present at the [redacted] address. b6 -1,7 b7C -1,7

(U) An Operational Order was developed which detailed Jackson's plan to affect the arrest of [redacted] The plan outlined [redacted] In the event this approach was unsuccessful, the plan allowed for a [redacted] Based upon the site surveys, it appeared as though the [redacted] Therefore, SA [redacted] elected to identify [redacted] as the primary breach point. In the event the breach directive was given during the operation, [redacted] Once access was gained at each of these points, those team members with positions at the entrances were assigned [redacted] b6 -1,7 b7C -1,7 b7E -1

(U) At approximately 10:00 a.m. on 11/17/2013, SA [redacted] delivered a briefing to the Jackson SWAT team and Troopers of the Arkansas State Police (ASP) who were assisting in the arrests. ASP's role included traveling to both arrest locations with the Jackson SWAT team, [redacted] During the operational planning, it was noted that [redacted] Based on this, SA [redacted] considered the possibility b6 -1,7 b7C -1,7 b7E -1



NYT-208

Title: (U) Animal Shooting incident summary
Re: 297L-HQ-A3648070, 12/24/2013

[redacted] To allow for this possibility, SA [redacted] briefed three of the ASP Troopers [redacted]

b6 -1,7
b7C -1,7
b7E -1

The Operational Order briefing was completed using a PowerPoint (PPT) format which was projected for viewing. The briefing covered all individual assignments of the Jackson SWAT team at both sites, including the time line for the operation, maps of the area, vehicle and equipment assignments for each operator and specific assignments for the ASP representatives. During this briefing, SA [redacted] reviewed out loud, the DOJ/FBI Deadly Force Policy, using the SWAT Operations Unit-issued laminated card.

(U) For the arrest at [redacted] SA [redacted] was assigned to secure a position on an exterior corner [redacted] in the Operational Order. SA [redacted] was assigned to monitor [redacted] SA [redacted] s primary assignment was to monitor [redacted] of the structure.

b6 -1,7
b7C -1,7
b7E -1

(U) An Electronic Communication created by SA [redacted] was also distributed during this briefing. This document contained an overall case review and included a "Concept of Operations" for the overall arrest operation. This document also contained the DOJ/FBI Deadly Force Policy. The document was routed to each Jackson SWAT team member who reviewed and initialed or signed it acknowledging their review.

b6 -1
b7C -1

(U) The Operational Order Execution phase created by SA [redacted] was presented and briefed to LR A/SAC Howard Marshall at approximately 1:00 p.m. - 1:30 p.m. on 11/17/2013. A/SAC Marshall approved the plan which was submitted.

b6 -1
b7C -1

(U) Another briefing was held later on 11/17/2013 and was attended by

all individuals involved with the arrest operation. This briefing was completed using a PPT format and included briefings by the Case Agent, SSRA, A/SAC, Negotiations component, Tactical Operation Center (TOC), Aviation support, and Medical plan. During this briefing, SSA [redacted] read the DOJ/FBI Deadly Force Policy. b6 -1 b7C -1

(U) Following this briefing, members of the Jackson SWAT team conducted rehearsals of individual assignments and ensured vehicles and other equipment was verified for operational readiness. The Jackson SWAT team arrived at the Armory at approximately 2:30 a.m. on 11/18/2013 where they prepared to depart to conduct the arrests. Upon being given the order to depart the Armory, all of the arrest teams travelled to a location near [redacted] Arkansas which had been designated as [redacted] b6 -7 b7C -7 b7E -1

(U) The TOC communicated authorization to affect the arrests and the Jackson SWAT team arrived at [redacted] Arkansas at approximately 5:00 a.m. As planned the SWAT vehicles and ASP units [redacted] b6 -7 b7C -7 b7E -1

(U) Pursuant to their assignment, SA [redacted] and SA [redacted] exited the SWAT van and moved by foot to their assigned position near the corner of the residence. Both were equipped with standard SWAT gear including AR-15s, handguns, and FBI-issued protective gear including ballistic vests and helmets. SA [redacted] was also carrying his medical bag pursuant to his collateral SWAT assignments as one of the medics. As SA [redacted] entered the yard, he saw a pit bull aggressively advancing toward him from the northwest side of the yard. SA [redacted] moved his rifle's muzzle to confront the advancing dog and saw that the dog was suddenly stopped as it was attached to a restraint such as a chain or heavy rope. As the dog no longer appeared to be a threat at this point, SA [redacted] warned SA [redacted] of the dog's presence and they both continued to move to their assigned position. b6 -1 b7C -1

(U) As there was no response to the team's knock and announce attempt, SA [redacted] issued an order to commence breaches at both points. As b6 -1 b7C -1

Title: (U) Animal Shooting incident summary
Re: 297L-HQ-A3648070, 12/24/2013

assigned, SA [redacted] SA [redacted] noticed the pit bull had retreated to an area near a dog house. As SA [redacted] was focused on a window and covering agents in the process of breaching the door, he heard SA [redacted] scream. He turned his attention to him and saw that the pit bull had attacked SA [redacted] and was biting the upper right rear thigh of SA [redacted] SA [redacted] also observed the pit bull's restraint had become wrapped around SA [redacted] s legs. Recognizing that SA [redacted] he could fall to the ground at any instant and potentially be attacked in a vital area, SA [redacted] elected to employ deadly force. An opportunity presented itself when the pit bull's hindquarters were outstretched from SA [redacted] s body, allowing SA [redacted] to fire with minimal danger to SA [redacted] After the first shot, the dog released the bite and SA [redacted] continued to fire a total of seven rounds until the dog's legs stiffened and no longer presented a threat to either agent.

b6 -1
b7C -1
b7E -1
b6 -1
b7C -1

(U) SA [redacted] quickly examined the SA [redacted] s injury and after not finding evidence of excessive bleeding, returned his attention to his assignment. SA [redacted] reloaded his rifle with a fresh magazine and when the residence was clear, collected the spent shell casings and [redacted] used during the operation.

b6 -1
b7C -1
b7E -1

(U) SA [redacted] reported the shooting to the TOC. Medical personnel were immediately dispatched to the location where a more thorough examination of SA [redacted] s injuries was completed.

b6 -1
b7C -1

(U) Occupants of the residence did not include [redacted] was present and indicated [redacted] may be with [redacted] at [redacted] Once it was determined SA [redacted] did not require immediate medical care, the TOC authorized SA [redacted] to mobilize the Jackson team to travel [redacted] and attempt to apprehend [redacted] and possibly [redacted] Upon arrival at [redacted] they found he had been taken into custody by ASP Troopers.

b6 -1,7
b7C -1,7

(U) After checking one additional address for [redacted] SA [redacted] was directed by the TOC to direct the Jackson SWAT team to the MRA.

Title: (U) Animal Shooting incident summary
Re: 297L-HQ-A3648070, 12/24/2013

The AR-15, seven spent shell casings and one magazine used during the shooting incident were collected by Little Rock's Principal Firearms Instructor [redacted] and SSA [redacted] b6 -1,7 b7C -1,7

(U) The [redacted] Animal Control Office collected the deceased pit bull and transported it to the MRA where it was photographed by Little Rock Photographer [redacted] The pit bull was taken to a local veterinarian where it was prepared to be sent to the Arkansas Department of Health for a rabies examination. The results were negative for the presence of rabies.

(U) SA [redacted] completed a rough sketch of the area of the residence where the shooting incident occurred. Photographs of SA [redacted]'s injury sustained during the attack were also taken by Photographer [redacted] b6 -1 b7C -1

(U) The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

b6 -1,4,7
b7C -1,4,7

1. SSS of SA [redacted]
2. SSS of SA [redacted]
3. FD-302s of SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted]
4. FD-302s of ASP Troopers [redacted]
5. FD-302 of ASP SA [redacted]
6. Copy of Operations Order
7. Copy of Electronic Communication-Concept of Operations, dated 11/15/2013
8. FD-302 of [redacted] Animal Control Office
9. FD-302 of City of [redacted] Police Officer
10. Department of Health Laboratory report
11. FD-302 of PFI [redacted]
12. Photographs of injuries to SA [redacted]
13. Photographs of the deceased pit bull
14. Sketch

Title: (U) Animal Shooting incident summary
Re: 297L-HQ-A3648070, 12/24/2013

15. FD-1085
16. Photographs of [redacted] AR

b6 -1,7
b7C -1,7

(U) Little Rock's review of the shooting incident involving SA [redacted] found no discrepancies between SA [redacted] s account of the shooting and the information obtained from witness interviews.

♦♦



NYT-213

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Report of actions by NK as part of delegated shooting incident investigation at SJ.

**Date:** 12/26/2013

**From:** NEWARK
NK-CE4
**Contact:** [redacted]

b6 -1
b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A3142161 (U) Animal Shooting

**Synopsis:** (U) To report to the San Juan Field Office investigative actions completed by the Newark Field Office as part of the delegated shooting incident investigation of the animal shooting which occurred on August 28, 2013 in Puerto Rico.

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the San Juan Field Office:

b6 -1
b7C -1

1.) Original signed sworn statement (SSS) of SA [redacted] dated October 30, 2013, maintained in a FD-340 envelope.
2.) Original FD-927 singed by SA [redacted] dated October 30, 2013, maintained in a FD-340 envelope. Original shooting review interview log, dated October 30, 2013.
3.) Original notes prepared by SA [redacted] after the shooting incident.
4.) Original notes prepared by SA [redacted] in preparation for the operation related to the shooting incident (notes taken from three separate notebooks).
5.) Original photographs, maps, and administrative notes provided to SA [redacted] in preparation for the operation related to the shooting incident.
6.) Original drafts (Draft 1 & Draft 2) of SA [redacted]'s SSS, prepared on October 30, 2013.
7.) Original signed sworn statement (SSS) of SA [redacted] dated October 17, 2013, maintained in a FD-340 envelope.
8.) Original FD-927 singed by SA [redacted] dated October 17, 2013, maintained in a FD-340 envelope. Original shooting review interview

UNCLASSIFIED

NYT-214

Title: (U) Report of actions by NK as part of delegated shooting incident investigation at SJ.
Re: 297L-HQ-A3142161, 12/26/2013

log, dated October 17, 2013.
9.) FD-340 containing original notes of the SA [redacted] interview on October 17, 2013. b6 -1 b7C -1
10.) FD-340 containing original note of the SA [redacted] interview on October 23, 2013.
11.) FD-340 containing original notes of the SA [redacted] interview on October 23, 2013.
12.) FD-340 containing original notes of the SA [redacted] interview on October 28, 2013. Scanned copy of photographs provided by SA [redacted] during the interview.
13.) FD-340 containing one original CD and one copy CD of photographs provided by SA [redacted] during the October 28, 2013 interview.
14.) FD-340 containing records provided by PFI [redacted] during interview conducted on October 29, 2013.
15.) FD-340 containing original notes of the SA [redacted] interview on November 13, 2013.
16.) FD-340 containing original notes of the SA [redacted] interview on November 13, 2013.
17.) FD-340 containing original notes of the SA [redacted] interview on November 13, 2013. b6 -1
18.) FD-340 containing original notes of the SA [redacted] interview on 12/04/2013. b7C -1

**Enclosure(s)**: Enclosed are the following items:

1. (U) SSS of SA [redacted]
2. (U) FD-927 SA [redacted]
3. (U) Interview Log, SA [redacted]
4. (U) SA [redacted] Notes
5. (U) SA [redacted] Notes
6. (U) SA [redacted] Notes
7. (U) SA [redacted] Notes
8. (U) SA [redacted] photos & maps
9. (U) SA [redacted] admin
10. (U) SSS of SA [redacted] Draft 1
11. (U) SSS of SA [redacted] Draft 2
12. (U) SSS of SA [redacted]
13. (U) FD-927 for SA [redacted]
14. (U) Interview Log for SA [redacted]
15. (U) SA [redacted] interview notes b6 -1
16. (U) SA [redacted] interview notes. b7C -1

Title: (U) Report of actions by NK as part of delegated shooting incident investigation at SJ.
Re: 297L-HQ-A3142161, 12/26/2013

17. (U) SA [redacted] interview notes.
18. (U) SA [redacted] interview notes and photos.
19. (U) Original and one copy of photographs.
20. (U) Records provided by PFI [redacted]
21. (U) SA [redacted] interview notes.
22. (U) SA [redacted] interview notes.
23. (U) SA [redacted] interview notes.
24. (U) SA [redacted] interview notes.

b6 -1
b7C -1

**Details:**

On August 28, 2013, SA [redacted] discharged three rounds from his FBI-issued Colt M4, at a pit bull breed dog which came charging at him and his team during the execution of an arrest warrant. The shooting incident review was delegated to the San Juan Field Office (SJ) with the assistance of the Newark Field Office (NK).

b6 -1
b7C -1

In June 2013, the Newark Field Office (NK) was contacted by the SWAT Operations Unit (SOU) requesting support for the August 28, 2013, mission in Puerto Rico for the San Juan Field Office (SJ). NK executive management offer two twelve member SWAT teams [redacted] for the operation. From mid-July through mid-August NK received several communications from SOU with guidance about the SJ operation. The communications included information about required equipment, team assignments, and descriptions of the area of assignment. The SJ operation was major takedown of approximately 100 targets of a large scale drug enterprise. The drug organization was known to employ violence and to employ the use of lookout towers in the planned arrest area, [redacted] Information about the operation was distributed to the NK SWAT operators by email and during weekly training sessions. The NK SWAT team conducted a firearms qualification shortly before travelling to SJ for the operation.

b6 -7
b7C -7
b7E -1

On Saturday, August 24, 2013, the NK SWAT team met at Fort Dix, New Jersey to caravan to the Washington, DC area. On Sunday the team traveled by plane from Andrews Air Force Base to San Juan. The team reported to Fort Buchanan on Monday for an "All Hands" briefing. The

Title: (U) Report of actions by NK as part of delegated shooting incident investigation at SJ.
Re: 297L-HQ-A3142161, 12/26/2013

"All Hands" briefing consisted of a full briefing of the mission. The FBI Deadly Force Policy was briefed. It was clear and understandable. Contingencies were addressed. On Tuesday the NK SWAT team reported again to Fort Buchanan for breakout briefings with SWAT teams in specific sectors. Each SWAT team leader was required to provide a brief back.

On Wednesday, August 23, 2013, the NK SWAT team reported to Fort Buchanan to gather their gear and convoy with other SWAT teams to the arrest locations. Both NK SWAT's [redacted] had two arrest missions that morning. [redacted] SA [redacted] led the [redacted] b6 -1 b7C -1 b7E -1

[redacted] entered its second assigned location to clear a house and execute a subject arrest. While clearing the interior of the house SA [redacted] proceeded through a door from the kitchen to an exterior stairwell. The stairwell led to an alley. SA [redacted] followed SA [redacted] and he held a position on the stair to protect fellow SWAT members from a potential threat posed by several dogs perched on an adjacent structure. SA [redacted] followed SA [redacted] down the stairwell to clear the alley below. SA [redacted] planned to clear the area to the right while SA [redacted] cleared the area to the left. As soon as SA [redacted] got to the bottom of the stairwell, a large, light-brown, pit bull breed dog began charging at him. SA [redacted] immediately recognized that the dog was attacking. Fearing for his safety and the safety of his fellow SWAT operators, SA [redacted] fired his weapon at the charging dog. After firing three rounds at the charging dog, it retreated into a crawl space under the house. As soon as the dog retreated from view, SA [redacted] announced on the radio that shots had been fired, a canine had been struck, there were no operators or civilians injured, and there was no additional assistance required at that time. NK SWAT Senior Team Leader, SA [redacted], advised the Tactical Operations Center (TOC) of the shooting. b6 -1 b7C -1

When the location was declared clear SA [redacted] took b6 -1 b7C -1



NYT-217

Title: (U) Report of actions by NK as part of delegated shooting incident investigation at SJ.
Re: 297L-HQ-A3142161, 12/26/2013

photographs of the scene where the dog was shot. SA [redacted] pulled the dog's body out from under the residence. The dog's body was placed in a plastic bag and the plastic bag was placed in a pet carrier which was found at the scene. SA [redacted] recovered the spent shell casings. The dog was carried by SA [redacted] SA [redacted] and SA [redacted] to a designated rally point. A member of the NK SWAT team remained with the dog's body until it was released to members of another FBI SWAT team.

b6 -1
b7C -1

SA [redacted] contacted the SJ Principal Firearms Instructor (PFI) to report the discharge of his weapon. Custody of the weapon used in the shooting incident remained with SA [redacted] Interviews of the NK SWAT team regarding the animal shooting incident did not commence until the SWAT team returned to NK.

b6 -1
b7C -1

The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews conducted by NK were packaged in FD-340 envelopes and sent to SJ.

1.) Original signed sworn statement (SSS) of SA [redacted] dated October 30, 2013, maintained in a FD-340 envelope.

b6 -1
b7C -1

2.) Original FD-927 singed by SA [redacted] dated October 30, 2013, maintained in a FD-340 envelope. Original shooting review interview log, dated October 30, 2013.
3.) Original notes prepared by SA [redacted] after the shooting incident.
4.) Original notes prepared by SA [redacted] in preparation for the operation related to the shooting incident (notes taken from three separate notebooks).
5.) Original photographs, maps, and administrative notes provided to SA [redacted] in preparation for the operation related to the shooting incident.
6.) Original drafts (Draft 1 & Draft 2) of SA [redacted]'s SSS, prepared on October 30, 2013.
7.) Original signed sworn statement (SSS) of SA [redacted] dated October 17, 2013, maintained in a FD-340 envelope.

Title: (U) Report of actions by NK as part of delegated shooting incident investigation at SJ.
Re: 297L-HQ-A3142161, 12/26/2013

8.) Original FD-927 singed by SA [redacted] dated October 17, 2013, maintained in a FD-340 envelope. Original shooting review interview log, dated October 17, 2013. b6 -1 b7C -1

9.) FD-340 containing original notes for the corresponding FD 302 of the SA [redacted] interview on October 17, 2013.

10.) FD-340 containing original note for the corresponding FD 302 of the SA [redacted] interview on October 23, 2013.

11.) FD-340 containing original notes for the corresponding FD 302 of the SA [redacted] interview on October 23, 2013.

12.) FD-340 containing original notes for the corresponding FD 302 of the SA [redacted] interview on October 28, 2013. Scanned copy of photographs provided by SA [redacted] during the interview. b6 -1 b7C -1

13.) FD-340 containing one original CD and one copy CD of photographs provided by SA [redacted] during the October 28, 2013 interview.

14.) FD-340 containing records provided by PFI [redacted] during interview conducted on October 29, 2013.

15.) FD-340 containing original notes for the corresponding FD 302 of the SA [redacted] interview on November 13, 2013.

16.) FD-340 containing original notes for the corresponding FD 302 of the SA [redacted] interview on November 13, 2013.

17.) FD-340 containing original notes for the corresponding FD 302 of the SA [redacted] interview on November 13, 2013.

18.) FD-340 containing original notes for the corresponding FD 302of the SA [redacted] interview on 12/04/2013.

On October 30, 2013, SA [redacted] provided Supervisory Special Agents (SSA) [redacted] the three original .223 shell casings collected at the scene of the shooting incident. These shell casings have been submitted to the NK Evidence Control Unit for shipment to SJ under the captioned file number. b6 -1 b7C -1

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED//~~FOUO~~

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Reporting results EC. **Date:** 03/16/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** PITTSBURGH
PG-16
**Contact:** [redacted]

**Approved By:** CDC [redacted]
ASAC [redacted]
SAC Scott S Smith

**Drafted By:** [redacted]

**Case ID #:** 297J-HQ-A6128365 (U) Pittsburgh Animal Shooting

**Synopsis:** (U) To report results of a review of an animal shooting incident involving SSA [redacted] which occurred on February 16, 2015. b6 -1 b7C -1

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the Inspection Division:

1.) Original Signed Sworn Statement (SSS) of SSA [redacted] dated 03/05/2015, maintained in a FD-340 envelope. b6 -1 b7C -1

2.) Original FD-927 signed by SSA [redacted] dated 02/27/2015, maintained in a FD-340 envelope.

3.) FD-340s containing original interview notes and records.

**Details:**

(U//~~FOUO~~) On 02/16/2015, at approximately 6:15 p.m., Pittsburgh (PG) SSA [redacted] discharged two rounds into a deer from his personally owed weapon (POW) Glock 27, serial number [redacted] The Shooting Incident Review Team (SIRT) was delegated to Pittsburgh Field Office (PGFO) by the Acting Chief Inspector on 02/16/2015. Following are the results of the shooting incident review, which included a SSS b6 -1 b7C -1

UNCLASSIFIED//~~FOUO~~

NYT-220

Title: (U) Reporting results EC.
Re: 297J-HQ-A6128365, 03/16/2015

from SSA [redacted] PFI review of the weapon and coordination with the Northern Regional Police Department (NRPD). b6 -1,2 b7C -1,2

(U//~~FOUO~~) On the evening of Monday, 02/16/2015, SSA [redacted] was driving his personal vehicle enroute to a soccer practice with [redacted] and [redacted] in the backseat. At approximately 6:15 p.m. a deer jumped over the guard rail into SSA [redacted] s lane of traffic and collided with the front passenger side of his vehicle. After he stopped the vehicle, SSA [redacted] believed the deer was dead and assessed the damage to his vehicle. SSA [redacted] photographed the area of damage and then observed the deer raise its head and attempt to move with two broken legs.

(U//~~FOUO~~) At approximately 6:19 p.m., SSA [redacted] called the NRPD to request assistance. The call to the NRPD rolled over to the Allegheny County Emergency Services dispatch for 911. The 911 dispatcher advised there would be no law enforcement sent if the vehicle was driveable. Due to oncoming traffic and the subsequent stoppage of traffic, SSA [redacted] determined a safe direction by which to aim his weapon and euthanized the deer. SSA [redacted] fired two shots to incapacitate the deer and then removed the deer from the roadway. b6 -1 b7C -1

(U//~~FOUO~~) SSA [redacted] reported the shooting to PGFO ASAC [redacted] at 7 p.m. on 02/16/2015. ASAC [redacted] contacted PGFO Chief Division Counsel (CDC) [redacted] and then ASAC [redacted] immediately contacted the Inspection Division. In discussions with INSD, PGFO was advised that ERT deployment to the scene was not necessary. There were no injuries or property damage as a result of this shooting incident. The delegated PGFO SIRT documented Primary Firearm Instructor (PFI) [redacted] s review of the weapon, magazine and ammunition count of eight rounds on 02/17/2015. SSA [redacted] s POW was not sent to Quantico for review. The PGFO SIRT also confirmed the call to NRPD and the standard operating procedures. SSA [redacted] s Signed Sworn Statement (SSS) was completed on 03/05/2015. b6 -1 b7C -1

(U//~~FOUO~~) The SIRT noted that although SSA [redacted] s SSS states the incident happened in the vicinity of the 500 block of Pearce Mill Road, b6 -1 b7C -1



NYT-221

Title: (U) Reporting results EC.
Re: 297J-HQ-A6128365, 03/16/2015

Wexford, PA: Wexford is the mailing address where the incident occurred and Pine Township is the actual municipality. b6 -1 b7C -1

(U//~~FOUO~~) The Pittsburgh CDC confirmed SSA [redacted] received deadly force training on 10/21/2014. The Pittsburgh PFI [redacted] confirmed SSA [redacted] was authorized to carry the Glock 27, serial number [redacted] and SSA [redacted] had last qualified on 08/15/2014 with the weapon.

(U//~~FOUO~~) On 03/16/2015, Pittsburgh CDC advised the he had researched municipal codes for Pine Township and the incident did not violate of any municipal ordinances. As a result there was no need to seek a prosecutive opinion.

(U//~~FOUO~~) The following reports and applicable FD-1057s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

1. FD-1085, Shooting Incident Report, electronically submitted 03/05/2015.
2. FD-1057 documenting PFI [redacted] s post incident response and weapon inspection. b6 -1 b7C -1
3. Firearms records of SSA [redacted] from the time from of 06/14/2013 until present.
4. FD-1057 documenting CDC [redacted] s post incident discussions with SSA [redacted] and Deadly Force Policy training.
5. FD-1057 documenting weather data and internet searches for media reports of the incident.
6. FD-1057 documenting vehicle damage to SSA [redacted] s vehicle.
7. FD-1057 documenting SSA [redacted] s call to the Northern Regional Police Department.
8. FD-1057 documenting Pine Township municipal codes.

(U//~~FOUO~~) Pittsburgh's review of the shooting incident involving SSA

Title: (U) Reporting results EC.
Re: 297J-HQ-A6128365, 03/16/2015

[redacted] found no discrepancies in SSA [redacted]'s account of the shooting. b6 -1 b7C -1
The results of the investigation have been coordinated with CDC [redacted]
[redacted]

♦♦

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Pittsburgh Animal Shooting 2/16/2015 **Date:** 07/20/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-OFFICE OF INSPECTIONS SECTION
**Contact:** FRANK S. VITO, [redacted]

**Approved By:** FRANK S. VITO
David Paul Gelios
Nancy McNamara

**Drafted By:** FRANK S. VITO

**Case ID #:** 297J-HQ-A6128365 (U) Pittsburgh Animal Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned Animal Shooting incident following the SIRG meeting held on 07/01/2015.

**Administrative Notes:** (U//~~FOUO~~) The shooting incident review was delegated to the Pittsburgh Field Office by the A/Chief Inspector on 02/16/2015. The Shooting Incident Report, dated 03/16/2015, was electronically submitted by Supervisory Special Agent [redacted] Pittsburgh Field Office. b6 -1 b7C -1

**Details:**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed an Animal Shooting incident involving Supervisory Special Agent [redacted] Pittsburgh Field Office (PG).

(U//~~FOUO~~) On 02/16/2015, at approximately 6:15 p.m., Pittsburgh (PG) SSA [redacted] discharged two rounds into a deer from his personally owned weapon (POW) Glock 27, serial number [redacted] The b6 -1 b7C -1

Title: (U) Pittsburgh Animal Shooting 2/16/2015
Re: 297J-HQ-A6128365, 07/20/2015

Shooting Incident Review Team (SIRT) was delegated to Pittsburgh Field Office by the Acting Chief Inspector on 02/16/2015. Following are the results of the shooting incident review, which included a SSS from SSA [redacted] PFI review of the weapon, and coordination with the Northern Regional Police Department (NRPD). b6 -1 b7C -1

(U//~~FOUO~~) On the evening of Monday, 02/16/2015, SSA [redacted] was driving his personal vehicle en route to a soccer practice with [redacted] and [redacted] in the backseat. At approximately 6:15 p.m., a deer jumped over the guard rail into SSA [redacted]'s lane of traffic and collided with the front passenger side of his vehicle. After he stopped the vehicle, SSA [redacted] believed the deer was dead and assessed the damage to his vehicle. SSA [redacted] photographed the area of damage and then observed the deer raise its head and attempt to move with two broken legs. b6 -1,2 b7C -1,2

(U//~~FOUO~~) At approximately 6:19 p.m., SSA [redacted] called the NRPD to request assistance. The call to the NRPD rolled over to the Allegheny County Emergency Services dispatch for 911. The 911 dispatcher advised there would be no law enforcement sent if the vehicle was drivable. Due to oncoming traffic and the subsequent potential danger to other vehicles, SSA [redacted] determined a safe direction by which to aim his weapon and euthanized the deer. SSA [redacted] fired two shots to incapacitate the deer and then removed the deer from the roadway. b6 -1 b7C -1

(U//~~FOUO~~) SSA [redacted] reported the shooting to PG ASAC [redacted] at 7 p.m. on 02/16/2015. ASAC [redacted] contacted PG Chief Division Counsel (CDC) [redacted] and then ASAC [redacted] immediately contacted the Inspection Division. In discussions with INSD, PG was advised that ERT deployment to the scene was not necessary. There were no injuries or property damage as a result of this shooting incident. The delegated PG SIRT documented Primary Firearm Instructor (PFI) [redacted]'s review of the weapon, magazine, and ammunition count of eight rounds on 02/17/2015. SSA [redacted]'s POW was not sent to Quantico for review. The b6 -1 b7C -1

Title: (U) Pittsburgh Animal Shooting 2/16/2015
Re: 297J-HQ-A6128365, 07/20/2015

PG SIRT also confirmed the call to NRPD and the standard operating procedures by which they decided not to respond to the scene. SSA [redacted]'s Signed Sworn Statement (SSS) was completed on 03/05/2015. b6 -1 b7C -1

(U//~~FOUO~~) The SIRT noted that although SSA [redacted]'s SSS stated the incident happened in the vicinity of the 500 block of Pearce Mill Road, Wexford, PA., Wexford is the mailing address where the incident occurred and Pine Township is the actual municipality.

(U//~~FOUO~~) The Pittsburgh CDC confirmed SSA [redacted] received deadly force training on 10/21/2014. Pittsburgh PFI [redacted] confirmed SSA [redacted] was authorized to carry the Glock 27, serial number [redacted] and SSA [redacted] had last qualified on 08/15/2014 with the weapon. b6 -1 b7C -1

**SIRG Observations**

On 07/01/2015, the SIRG reviewed the Animal Shooting with the intent to:

**1. Evaluate the application of deadly force.** Inasmuch as the incident reviewed was a mercy Animal Shooting, the SIRG evaluated the totality of the circumstances and determined the use of SSA [redacted]'s weapon was in accordance with policy. b6 -1 b7C -1

**2. Provide the Director with evaluative analyses, observations and recommendations for corrective actions concerning operational planning and execution, training, and or/safety issues.**

No observations were noted and SSA [redacted]'s use of his weapon was deemed to be appropriate and within policy. b6 -1 b7C -1

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector David P. Gelios, Office Of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, Department of Justice (DOJ); Unit Chief [redacted] Investigative Law Unit, Office Of General Counsel b6 -1,3 b7C -1,3

Title: (U) Pittsburgh Animal Shooting 2/16/2015
Re: 297J-HQ-A6128365, 07/20/2015

(OGC); A/SSA [redacted], Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division(TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; Section Chief Robert E. Hughes, Violent Crime and Gang Section, Criminal Investigative Division; Unit Chief [redacted] Defensive Systems Unit(DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division and, SSA [redacted] Evidence Response Team, Laboratory Division. The following non-voting individuals were also in attendance: Inspectors Scott Vito, Timothy M. Feeney, Eric Welling, Trent R. Teyema, Kathryn Peterson, Justin Tolomeo, Vadim D. Thomas, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; Management Program Analyst (MAPA) [redacted] Inspection Management Unit (IMU), INSD; Supervisory MAPA [redacted] and MAPA [redacted] Inspection Analysis Unit, INSD; [redacted] Safety and Occupational Health Manager, Occupational Safety and Environmental Programs, FLSD; SSRA [redacted] (SD); and SSA [redacted] Investigative Law Unit, OGC.

b6 -1
b7C -1

♦♦

OFFICIAL RECORD
Document(s) contained herein digitally signed
All signatures have been verified by a
certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Atlanta Field Office Shooting Incident Report **Date:** 04/27/2015

**CC:** [redacted]
Trent R. Teyema

b6 -1
b7C -1

**From:** ATLANTA
AT-A1
**Contact:** [redacted]

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297J-HQ-A6059596 (U) Atlanta Field Office Shooting

**Synopsis:** (U//~~FOUO~~) The final EC is forwarded following investigative activities examining the agent involved shooting on February 3, 2015. No corrective observations were noted as a result of the aforementioned investigation.

**Details:**

Investigative Period: 02/03/2015 - 03/09/2015

**I. Executive Summary**

On 02/02/2015, Agents with the Atlanta Field Office (AT) SWAT Team were involved in a shooting incident while attempting to apprehend [redacted] on a federal arrest warrant issued from the Dallas Field Office of the FBI. Neither [redacted] nor any FBI personnel were injured as a result of the incident. [redacted] was arrested pursuant to the charges filed in Texas. However, Assault on a Federal Officer (AFO) charges are under consideration. The Shooting Incident Review Team (SIRT) was delegated to the Atlanta Division for investigation on 02/02/2015.

b6 -1,7
b7C -1,7

On 02/02/2015, at approximately 6:00 a.m., the AT SWAT team moved to

[redacted]' apartment. SA [redacted] performed a knock and announce several times. With each knock, [redacted] announced their official presence and legal authority to enter the residence. While at the door, a camera above the door was identified and called out by SWAT Operators because of the compromise potential and related safety issues. After the third knock without a response, SA [redacted] moved forward and breached the door. With a positive breach, SAs [redacted] moved into the apartment and cleared the living room to the immediate left of the front entrance. SAs [redacted] moved forward and to the right to clear the dining room and kitchen area. SAs [redacted] moved straight ahead to hold the hallway and provide cover for the first two shield teams. SAs [redacted] and [redacted] moved in last and posted behind SAs [redacted] Each operator announced "FBI" as they crossed the threshold into the apartment.

b6 -1,7
b7C -1,7

From his vantage point posting on the hallway, SA [redacted] called out doorways for safety and search points to the SWAT Operators. As he called out the doorways, [redacted] stuck his head out of the doorway on the left side of the hallway with what appeared to be a black semi-automatic pistol raised to eye level and pointed at the SWAT Operators. [redacted] fired one round from his Bureau issued Glock 22 pistol striking the wall near [redacted] and yelled, "He's got a gun, he's got a gun."

b6 -1,7
b7C -1,7

From his vantage point, SA [redacted] could see an arm and black semi-automatic pistol raised and pointing down the hallway. SA [redacted] viewed what appeared to be a black semi-automatic pistol in the doorway, but could not see who or how the weapon was being held. [redacted] retreated back into the room and SA's [redacted] moved up beside [redacted] Numerous SWAT Agents then began shouting commands for [redacted] to come out with his hands up. [redacted] subsequently came out of another room and surrendered. [redacted] replied "it's not a real gun." However, when he did not comply with the many commands to come out of the room, SA [redacted] Soon thereafter, [redacted] came out of the room and surrendered. There were no physical

b6 -1,7
b7C -1,7
b7E -1

injuries resulting from the entry and arrest.

SAs [redacted] were assigned outside perimeter and transport Agent duties subsequent to arrest. From their vantage point during the arrest operation they could see and hear the knock and announcement. When [redacted] failed to open the door, they witnessed SWAT Operators breached the door and entered the apartment. They could hear SWAT commands for [redacted] to get his hands up. Shortly thereafter, a gunshot was heard and Agents shouting "he's got a gun!" and "drop the gun!" They then heard [redacted] Following his arrest, [redacted] was afforded medical care due to statements made relative to ingesting a controlled substance (Oxycotin). b6 -1,7 b7C -1,7 b7E -1

SA [redacted] advised [redacted] of his Advice of Rights with SA [redacted] present during the transport by ambulance to [redacted] Medical Center in [redacted] Georgia. [redacted] told them he was in the living room and heard the knock and announce by the SWAT Operators. [redacted] ran back into the office on the left side of the hallway to look at the computer which was connected to a camera outside the front door. Recognizing law enforcement was at the door, he told [redacted] "it was over." He retrieved a box with his drugs, a "plastic" pistol, and an "anonymous" mask. [redacted] stated he was shot at while he was in the hallway. When he did not come out of the room as commanded by the SWAT Operators a [redacted] told SA [redacted] he "probably deserved to be shot at." [redacted] told SAs [redacted] "hypothetically speaking, if I were a cop, I would have shot myself." Following the medical examination, [redacted] was transported and processed into the Atlanta Detention Center, without further event. b6 -1,7 b7C -1,7 b7E -1

After the shooting incident occurred, FBI Agents secured the scene, obtained a search warrant, and processed the apartment to collect evidence. Assault on a Federal Officer (AFO) charges are pending against [redacted] Based upon the facts and circumstances Agents were b6 -7 b7C -7

cleared of criminal liability by both state and federal prosecutors.

## II. Incident Details

### a. Substantive Case Files and Background

The Agent Involved Shooting occurred while in the process of executing the arrest warrant for [redacted] The initial lead to locate and arrest [redacted] was set by the Dallas Field Office based upon the captioned [redacted] investigation. The Atlanta Field Office opened the Assault on a Federal Officer [redacted] investigation following the shooting incident.

b6 -7
b7C -7

[redacted]
[redacted] ET AL;
[redacted] - VICTIM;
[redacted]
SA [redacted]

[redacted]
SA [redacted]
[redacted]
[redacted] GEORGIA [redacted]
ASSAULTING, KILLING OR ATTEMPTING TO KILL FEDERAL OFFICIER
[redacted]
SA [redacted]

b6 -1
b7C -1
b7A -1

b6 -1,7
b7C -1,7
b7A -1

### b. Listing of Personnel Involved in the Incident

1. SA [redacted] discharged weapon)
2. SA [redacted]
3. SA [redacted]
4. SA [redacted]
5. SA [redacted]

b6 -1
b7C -1

6. SA [redacted] b6 -1
7. SA [redacted] b7C -1
8. SA [redacted]
9. SA [redacted]

**c. Case Review and Operational Briefings**

On 01/29/2015, Atlanta received a priority lead from the Dallas Field Office to locate and arrest [redacted] b6 -1,7
[redacted] was a Federal Fugitive and [redacted] was wanted on state b7C -1,7
warrants issued in Georgia and Alabama. Atlanta Case Agent [redacted] identified and confirmed [redacted] residence to be [redacted] apartment [redacted] Georgia [redacted] SA [redacted] requested SWAT assistance based upon [redacted] criminal history. SA [redacted] submitted and received proper approvals of his Operation Plan from his supervisor, SSA [redacted] CY-1; ASAC-Criminal [redacted] and SAC J. Britt Johnson. The designated On-Scene Commander was ASAC [redacted]

On 02/02/2015, SA [redacted] conducted an operational plan briefing. In b6 -1,7
doing so he covered all aspects of the arrest plan to include: suspect b7C -1,7
information, case, background, location medical, communication, and FBI Deadly Force Policy. As part of the operation plan, SA [redacted] provide photos with identifying information for both [redacted] He further briefed [redacted] to be considered Armed and Dangerous. SA [redacted] provided a SWAT brief immediately afterwards. The SWAT plan consisted of four (4) two man shield teams for entry into [redacted] apartment with a SWAT medic and two additional SWAT Operators performing perimeter security.

**d. Events Leading Up to the Shooting**

On Thursday, 01/29/2015, SSA [redacted] received telephonic notification b6 -1,7
from the Dallas Field Office of an incoming priority lead to arrest b7C -1,7
[redacted] During the notification SSA [redacted] learned [redacted] indictment contained a charge of "Swatting." Swatting occurs when an individual contacts a law enforcement agency to falsely report an extremely violent crime has occurred at a residence. Criminals

frequently use this technique against law enforcement officers who prosecute or investigate their crimes. SSA [redacted] stated this type of crime puts officers at greater danger since it increases the risk of a blue-on-blue confrontation. b6 -1 b7C -1

Due to the nature of the Swatting charges, SSA [redacted] immediately decided he would request the Atlanta Field Office SWAT Team to conduct the arrest of [redacted] A review of the case file also determined the subject's NCIC report contained Armed and Dangerous warnings. SSA [redacted] assigned the lead to SA [redacted] knowing his experience as a former SWAT Supervisor and current SWAT Operator best suited him for the operation. SA [redacted] located the subject, and obtained [redacted] on Friday, 01/30/2015. Using [redacted] SA [redacted] presented a draft operations plan to SSA [redacted] by the close of business, with a tentative plan to conduct the arrest Tuesday, 02/03/2015. SA [redacted] did additional work on the plan Saturday morning and sent an updated copy to SSA [redacted] SSA [redacted] approved of the draft, and forwarded them to ASAC [redacted] on Saturday for further review. SSA [redacted] anticipated the final discussion and approval would occur on Monday, 02/02/2015, in the office. b6 -1,7 b7C -1,7 b7E -1

However, SA [redacted] called SSA [redacted] on Sunday, 02/01/2015, at approximately 10:00 p.m. The Dallas Field Office Case Agent called SA [redacted] with information indicating [redacted] intended to leave town as early as Monday afternoon or Tuesday morning. SSA [redacted] determined he needed approval to move the operation to the next morning. SSA [redacted] did not receive a response from email, text and voicemails left for ASAC [redacted] by 10:30 p.m. Therefore, SSA [redacted] contacted SWAT ASAC [redacted] at 10:30 p.m. SSA [redacted] briefed ASAC [redacted] and forwarded him a copy of the Operations Plan. ASAC [redacted] approved the Operations Plan and sent it to Special Agent-in-Charge J. Britt Johnson for final approval. When SSA [redacted] received approval from ASAC [redacted] he relayed the approval to SA [redacted] SA [redacted] already had the arrest team assembled and notified SSA [redacted] several substitutions of personnel occurred due to the date change. b6 -1,7 b7C -1,7

SSA [redacted] arrived at the staging area near a [redacted] store in [redacted] Georgia at approximately 5:00 a.m. on 02/02/2015. SA [redacted] and ASAC [redacted] conducted the operations order briefing at 5:20 a.m. SSA [redacted] did not attend the briefing as he conducted a spot check of the subject's residence during the briefing. Visibility was clear, but the only light SSA [redacted] noted was a porch light at the apartment door. After returning from the spot check, SA [redacted] informed SSA [redacted] local deputies would drive with the convoy. The deputies also provided an ambulance on standby in the area during the arrest. b6 -1,7 b7C -1,7

The arrest team departed the staging area at 5:55 a.m. and proceeded to the subject's residence. At approximately 6:00 a.m. the AT SWAT team moved to [redacted] apartment to execute the arrest warrant. b6 -7 b7C -7

**e. Incident Shooting Details**

SA [redacted] performed a knock and announce several times. With each knock, [redacted] announced "FBI" with an arrest warrant. SA [redacted] moved forward and breached the door. With a positive breach, SAs [redacted] moved into the apartment and cleared the living room to the immediate left of the front entrance. SAs [redacted] moved forward and to the right to clear the dining room and kitchen area. SAs [redacted] moved straight ahead to hold the hallway and to provide cover for the first two shield teams. SAs [redacted] moved in last and posted behind SAs [redacted] Each operator announced "FBI" as they crossed the threshold into the apartment. b6 -1 b7C -1

Inside the apartment, SA [redacted] called out open doorways for safety and search points to the SWAT Operators. As he called out the doorways, [redacted] stuck his head out of the doorway on the left side of the hallway with what appeared to be a black semi-automatic pistol raised to eye level and pointed at the SWAT Agents. [redacted] fired one round from his Bureau issued Glock 22 pistol striking the wall near [redacted] and yelled, "He's got a gun, he's got a gun." From his vantage point, SA [redacted] could see an arm and black semi-automatic pistol raised and b6 -1,7 b7C -1,7

pointing down the hallway. SA [redacted] viewed what appeared to be a black semi-automatic pistol in the doorway, but could not see who or how the weapon was being held. [redacted] retreated back into the room and SA's [redacted] moved up beside [redacted] Numerous SWAT Agents then began shouting commands for [redacted] to come out with his hands up. [redacted] subsequently came out of another room and surrendered. [redacted] replied "it's not a real gun." However, when he did not comply with the many commands to come out of the room, SA [redacted] Soon thereafter, [redacted] came out of the room and surrendered. b6 -1,7 b7C -1,7 b7E -1

**f. Post Shooting Details**

There were no physical injuries resulting from the entry and arrest. However, [redacted] told the arresting agents he ingested an unknown amount of Oxycotin prior to the FBI entry into the apartment. The SWAT Team Medic, SA [redacted] performed an initial assessment and request local EMS, staged nearby, to provide a full assessment. Based upon [redacted] verbal responses, it was determined he should be transported to the [redacted] Medical Center, [redacted] Georgia [redacted] Following the medical examination, [redacted] was transported and processed into the Atlanta Detention Center, 254 Peachtree Street, SW, Atlanta, Georgia, without further event. b6 -1,7 b7C -1,7

After the shooting incident occurred, FBI Agents secured the scene, obtained a search warrant, and processed the apartment to collect evidence. Seized items of evidence listed included a Crossman Phantom air pistol (1B5) recovered from the left room in which [redacted] exited as he surrendered to the FBI. b6 -1,7 b7C -1,7

CDC [redacted] received notification of the shooting after 6:00 a.m. on 02/02/2015, and proceeded to the scene of the Agent Involved Shooting. CDC [redacted] arrived at approximately 7:30 a.m. CDC [redacted] provided the Agent Shooter, Special Agent [redacted] advice about the post shooting process, and gave him an opportunity to ask

questions about the process. CDC [redacted] also asked inquired of his physical and mental health. CDC [redacted] departed the scene at approximately 8:30 a.m. b6 -1 b7C -1

Signed Sworn Statements (SSS) of nine Agents and interviews of 11 others were documented to account the facts and circumstances of the shooting. The statements, interviews, and utterances of [redacted] are substantially consistent. Assistant United States Attorney (AUSA) [redacted] [redacted] intends to indict [redacted] for AFO on 04/21/2015. b6 -3,7 b7C -3,7

**g. Accounting of Shots Fired**

SA [redacted] fired one round from his FBI issued Glock 22 pistol S/N [redacted]. No other rounds were fired and no one was injured. b6 -1 b7C -1

**h. Subject Information**

| | Name | Name |
|---|---|---|
| **Identifiers** | | |
| Sex | | |
| Race | | |
| Height | | |
| Weight | | |
| Eyes | | |
| Hair | | |
| DOB | | |
| SSAN | | |
| FBI# | | |

b6 -7 b7C -7

[redacted] contained the following criminal charges for [redacted]: b6 -7 b7C -7

The [redacted] report contained no driver history records and five criminal charges. The criminal charges included Fugitive from Justice, Porn- Intent to Distribute, Rape 1st degree, Use/Possession of Drug b7E -8

Paraphernalia, and a second count of Porn- Intent to Distribute. [redacted] was the subject of Dallas Field Office investigation [redacted] b6 -7 b7C -7 b7A -1

An NCIC report, dated 02/06/2015, contained multiple entries for [redacted] The first message included a caution statement stating [redacted] was an Escape Risk and Full Extradition was authorized for Failure to Appear. Additional entries include: Extortion (13 months in jail), Unlawful Access to Stored Communication Extortion (supervised release), Probation Violation, Failure to Appear, and nine charges of Failure to Support Child (120 Days+). b6 -7 b7C -7

The [redacted] contained multiple entries for [redacted] to include: five arrests for offenses including two counts of Possession of a Controlled Substance; Theft of Property; and two counts of Conspiracy to Manufacture Controlled Substances. The [redacted] query indicated current warrants for [redacted] arrest in the state of Alabama for Failure to Appear and Possession of a Controlled Substance. b6 -7 b7C -7 b7E -8

**i. Use of Body Armor and Law Enforcement Identifiers**

All FBI personnel were wearing appropriate SWAT body armor with attached FBI identifiers.

**j. Forensic Summary**

On 02/02/2015 at 9:11a.m., the Atlanta ERT deployed to [redacted] Georgia where they recovered SA [redacted]'s weapon and ammunition. Atlanta ERT did a site survey of the shooting incident location. The weapon was rendered safe by Firearms Instructor SA [redacted] On examination the weapon's magazine contained 14 "SPEER" duty rounds for the Glock 22 and there was one "SPEER" duty round inside the chamber of the Glock 22. Inside the apartment Atlanta ERT recovered an expended .40 caliber round, an expended .40 caliber shell casing, a black BB Pistol labels "PHANTOM," and [redacted] b6 -1,7 b7C -1,7 b7E -1

An inventory of all recovered evidentiary items follows:

Title: (U//~~FOUO~~) Atlanta Field Office Shooting Incident Report
Re: 297J-HQ-A6059596, 04/27/2015

b6 -1,7
b7C -1,7

| | |
|---|---|
| 1B1 | Glock 22 S/N [redacted] |
| 1B2 | Glock 22 magazine with 14 rounds |
| 1B3 | 1 round .40 cal (SPEER) |
| 1B4 | Shell casting .40 cal (SPEER) |
| 1B5 | Black BB Pistol "PHANTOM" |
| 1B6 | [redacted] |
| 1B7 | Camera which had been suspended over front door entrance |
| 1B8 | GE Wireless Monitor |
| 1B9 | Sign - Eardrum Theater |
| 1B10 | .40 Caliber bullet |
| 1B11 | Samsung Model SGH T399, SN [redacted] |
| 1B12 | Samsung Model SM-N900T |
| 1B13 | ASUS Table Black case Unk Model/SN |
| 1B14 | ASUS Laptop Pink/Black model X407A, [redacted] |
| 1B15 | Netgear wireless router SN [redacted] |
| 1B16 | ASUS Q301L Notebook 839 S/N [redacted] |
| 1B17 | Simple tech external HD 1 Terabyte |
| 1B18 | Free Agent Goflex 2 Terabyte external hard drive |
| 1B19 | San Disk Card Reader |
| 1B20 | Box with ID cards (Texas and Alabama Drivers Licenses) |
| 1B21 | Canon Video Camera SN [redacted] |
| 1B22 | 35 unknown white pills, 9 broken pieces (44 total) |
| 1B23 | 13 unknown white pills |
| 1B24 | 2 blue pills L368 |
| 1B25 | 16 unknown white pills |
| 1B26 | 40 unknown red and blue pills |
| 1B27 | 10 unknown white pills |
| 1B28 | 5 unknown yellow pills |
| 1B29 | 20 complete pills and 49 pieces "Xanax .5" (69 total) |
| 1B30 | 24 unknown pills (two tablets broken) |
| 1B31 | 7 unknown white pills |
| 1B32 | 19 unknown white pills |
| 1B33 | Pill bottles, bags, misc wrappers and cutting devices |

Title: (U//~~FOUO~~) Atlanta Field Office Shooting Incident Report
Re: 297J-HQ-A6059596, 04/27/2015

| | | |
|---|---|---|
| 1B34 | HP Pavilion computer [redacted] | b6 -7<br>b7C -7 |

On 03/16/15, SA [redacted] s weapon was received at the Defensive Systems Unit gun vault. On 03/17/15, Gunsmith [redacted] inspected and tested the captioned weapon. The weapon functioned as designed and there were no noted issues. b6 -1 b7C -1

**k. Medical Summary**

FBI Agents involved in the shooting:

No Injuries.

Subjects:

At approximately 6:07 a.m., SWAT Team Medic SA [redacted] examined subject [redacted] in the apartment following his arrest. After SA [redacted] learned [redacted] ingested large amounts of drugs during the entry operation, he requested the assistance of an on call ambulance. The ambulance arrived at 6:14 a.m. After the paramedics evaluated [redacted] they initiated transport him to the [redacted] Medical Center located at [redacted] Georgia at 6:27 a.m. [redacted] arrived at the medical center at 6:50 a.m. Once [redacted] arrived at the hospital he received treatment from Physician, [redacted] (MD) for the effects of an overdose of drugs. Doctor [redacted] released [redacted] at 3:45 p.m. for transport by Agents to the custody of the US Marshals for the Northern District of Georgia. Prior to departing the hospital, [redacted] voluntarily provided the visit records to the transporting Agents. b6 -1,2,7 b7C -1,2,7

**III. Shooting Incident Review Team Details**

**a. The shooting Incident Review Team (SIRT) was comprised of the following personnel:**

SSA [redacted] FBI Atlanta b6 -1
SSA [redacted] FBI Atlanta b7C -1

**b. The FBI Laboratory Shooting Reconstruction Team (LSRT Personnel):**

Not applicable.

**IV. Shooting Incident Review Protocol**

On 02/02/2015, Atlanta ASAC [redacted] provided a telephonic Executive Situation Report to SIOC, which conducted subsequent notifications. Additionally, SAC Johnson telephonically provided Inspection Division AD Nancy McNamara with the details of the shooting, noting no injuries occurred. Thereafter, Chief Inspector David Paul Gelios notified ASAC [redacted] the Agent Involved Shooting (AIS) was delegated to the Atlanta Field Office. b6 -1 b7C -1

**V. Administrative**

**a. Firearms Training**

Special Agent (SA) [redacted] Principal Firearms Instructor (PFI), assigned to the Atlanta Field Office provided SA [redacted] [redacted]'s firearms qualifications. SA [redacted]'s most recent qualification score with his FBI issued Glock 22 occurred on 01/29/2015 and he was in compliance with the firearms qualifications requirements. b6 -1 b7C -1

**b. Deadly Force Training**

SA [redacted] confirmed SA [redacted] attended firearms and qualified on 03/21/2014. SA [redacted] also received the annual Deadly Force Training utilizing the IES system and legal briefing. Assistant Chief Division Counsel [redacted] provided the legal training, and SA [redacted] operated the IES system. The comments section of the firearms record contains the annotation of this training. SA [redacted] also b6 -1 b7C -1

attended the operations order briefing prior to the [redacted] arrest operation. SA [redacted] read the Deadly Force Policy to all Agents attending directly from the operations order. b6 -1,7 b7C -1,7

**c. Prosecutorial Decision**

On 02/18/2015, Assistant United States Attorney (AUSA) [redacted] of the Northern District of Georgia provided Assistant Inspector-in-Place [redacted] a prosecutorial decision for SA [redacted] regarding the 02/02/2015 Shooting Incident involving [redacted] AUSA [redacted] stated based on the facts presented, the United States Attorney would not pursue any charges against SA [redacted] AUSA [redacted] also stated since the Sheriff Office Deputies did not complete an incident report about the Agent-Involved Shooting, he knows the local District Attorney had no knowledge of the case at this time. b6 -1,3,7 b7C -1,3,7

**VI. Inspector's Draft Observations**

No observations were noted.

◆◆

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident Atlanta Field Office 02/02/2015 **Date:** 07/20/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297J-HQ-A6059596 (U) Atlanta Field Office Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned Agent Involved Shooting incident following the SIRG meeting held on 07/01/2015.

**Administrative Notes:** (U//~~FOUO~~) The shooting incident review was delegated to the Atlanta Field Office by the Chief Inspector on 02/02/2015. The Shooting Incident Report, dated 04/27/2015, was electronically submitted by Supervisory Special Agent (SSA) [redacted] [redacted] Atlanta Field Office. b6 -1 b7C -1

**Details:**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed an Agent Involved Shooting incident involving SA [redacted] Atlanta Field Office, on 02/02/2015. b6 -1 b7C -1

(U//~~FOUO~~) On 02/02/2015, Atlanta Field Office SWAT operators were involved in a shooting incident while attempting to apprehend [redacted] [redacted] on a federal arrest warrant. A lead to execute the arrest warrant was issued from the Dallas Field Office. Neither [redacted] nor b6 -7 b7C -7

Title: (U//~~FOUO~~) Shooting Incident Atlanta Field Office 02/02/2015
Re: 297J-HQ-A6059596, 07/20/2015

any FBI personnel were injured as a result of the incident. [redacted] was arrested pursuant to a federal warrant for his failure to appear in court, related to earlier charges filed in [redacted] for [redacted] The Shooting Incident Review Team (SIRT) investigation was delegated to Atlanta.

b6 -7
b7C -7
b7A -1

(U//~~FOUO~~) On 01/29/2015, Atlanta received a priority lead from [redacted] to locate and arrest [redacted] was also wanted and had a state warrant from Alabama issued for her arrest for failing to appear relative to charges of possession of a controlled substance. Atlanta SA [redacted] identified and confirmed [redacted] residence as [redacted] Apartment [redacted] Georgia. SA [redacted] requested SWAT assistance based upon [redacted] violent criminal history. SA [redacted] submitted and received proper approvals of his Operation Plan from SSA [redacted] CY-1, ASAC [redacted] and SAC J. Britt Johnson. The designated On-Scene Commander was ASAC [redacted]

b6 -1,7
b7C -1,7

(U//~~FOUO~~) On 02/02/2015, SA [redacted] conducted an operational plan briefing. In doing so he covered all aspects of the arrest plan, to include the Deadly Force Policy. As part of the operation plan, SA [redacted] provided photos with identifying information for both [redacted] and [redacted] He further briefed [redacted] to be considered Armed and Dangerous. A SWAT briefing was conducted immediately following the operational briefing. The SWAT plan consisted of [redacted] to make entry into [redacted] apartment. A SWAT medic and two additional SWAT Agents were assigned to perimeter security.

b6 -1,7
b7C -1,7
b7E -1

(U//~~FOUO~~) At approximately 6:00 a.m., Atlanta SWAT moved to [redacted] apartment and SA [redacted] performed a knock and announce several times. With each knock, SA [redacted] announced "FBI" and arrest warrant. While at the door, a camera above the door was identified and called out by SWAT operators. After the third knock without a response, SA [redacted] moved forward and breached the door.

b6 -1,7
b7C -1,7

Title: (U//~~FOUO~~) Shooting Incident Atlanta Field Office 02/02/2015
Re: 297J-HQ-A6059596, 07/20/2015

With a positive breach, SAs [redacted] moved into the apartment and cleared the living room to the immediate left of the front entrance. SAs [redacted] moved forward and to the right to clear the dining room and kitchen area. SAs [redacted] moved straight ahead to hold the hallway and provide cover for the first two shield teams. SAs [redacted] moved in last and posted behind SAs [redacted] The operators announced "FBI" as they crossed the threshold into the apartment. b6 -1 b7C -1

(U//~~FOUO~~) From his vantage point posting on the hallway, SA [redacted] called out doorways for safety and search to the SWAT Agents. As he called out the doorways, [redacted] stuck his head out of the doorway on the left side of the hallway with what appeared to be a black semi-automatic pistol raised to eye level and pointed at the SWAT Agents. SA [redacted] fired one round from his Bureau issued Glock 22 pistol, striking the wall near [redacted] b6 -1,7 b7C -1,7

(U//~~FOUO~~) Subject [redacted] retreated back into the room and SAs [redacted] and [redacted] moved up beside SA [redacted] Numerous SWAT Agents then began shouting commands for [redacted] to come out with his hands up. [redacted] replied "it's not a real gun." However, when he did not comply with the many commands to come out of the room, SA [redacted] Soon thereafter, [redacted] came out of the room and surrendered. There were no physical injuries resulting from the entry and arrest. Following his arrest, [redacted] was taken to a hospital and afforded medical care due to statements indicating he had ingested numerous OxyContin pills. [redacted] was provided treatment for potential overdose by the hospital medical staff. b6 -1,7 b7C -1,7 b7E -1

(U//~~FOUO~~) After the shooting incident occurred, FBI Agents secured the scene, obtained a search warrant, and processed the apartment to collect evidence. Atlanta's ERT confirmed one shot had been fired and recovered the round from within the apartment wall. The ERT also recovered other notable items, such as [redacted] BB gun, various drugs in pill form, several computers, and other electronic media. Based b6 -7 b7C -7

upon the facts and circumstances Agents were cleared of criminal liability by both state and federal prosecutors. [redacted] was indicted on one count of Assault on a Federal Officer (AFO) on 05/19/2015. b6 -7 b7C -7

(U//~~FOUO~~) **SIRG Observations**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed the Agent Involved Shooting incident with the intent to:

**1. (U//~~FOUO~~) Evaluate the application of deadly force.** The SIRG voted unanimously and determined the use of deadly force was in accordance with Department of Justice Deadly Force policy.

**2. (U//~~FOUO~~) Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG had no observations, recommendations or instructions.

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector David P. Gelios, Office Of Inspections (OI), INSD; Deputy Chief [redacted], Civil Rights Division, Criminal Section, Department of Justice (DOJ); Unit Chief (UC) [redacted] Investigative Law Unit, Office Of General Counsel; A/SSA [redacted], Squad CR-2, Washington Field Office; Supervisory Special Agent (SSA) [redacted] Practical Applications Unit, Training Division(TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; Section Chief Robert E. Hughes, Violent Crime and Gang Section, Criminal Investigative Division; UC [redacted] Defensive Systems Unit(DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; and SSA [redacted] Evidence Response Team, Laboratory Division. The following non-voting individuals were also in attendance: Inspectors Scott Vito, Timothy M. b6 -1,3 b7C -1,3

Title: (U//~~FOUO~~) Shooting Incident Atlanta Field Office 02/02/2015
Re: 297J-HQ-A6059596, 07/20/2015

Feeney, Eric Welling, Trent R. Teyema, Kathryn Peterson, Justin Tolomeo, Vadim D. Thomas, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] b6 -1 b7C -1 [redacted] OI, INSD; Management Program Analyst (MAPA) [redacted] Inspection Management Unit (IMU), INSD; Supervisory MAPA [redacted] and MAPA [redacted] Inspection Analysis Unit, INSD; [redacted] Safety and Occupational Health Manager, Occupational Safety and Environmental Programs, FLSD; SSRA [redacted] San Diego Field Office, and SSA [redacted] Investigative Law Unit, OGC.

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident Report Summary - Cincinnati Division **Date:** 02/19/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** CINCINNATI
CI-13
**Contact:** [redacted]

**Approved By:** A/ASAC [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5836068 (U) Cincinnati Field Office Animal Shooting

**Synopsis:** (U//~~FOUO~~) To report results of a review of an animal shooting incident involving SA [redacted] which occurred on December 9, 2014. b6 -1 b7C -1

**Package Copy:** (U//~~FOUO~~) Electronic copy of FD-1085 related to shooting incident.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) FD-1085

**Details:**

On December 9, 2014, Special Agent (SA) [redacted] of the FBI Cincinnati Special Weapons and Tactics (SWAT) team, discharged four rounds from his FBI issued M4 rifle at a pit bull dog in the garage at [redacted] Ohio, the scene of a federal search warrant. At the time of the shooting, the pit bull was charging toward two Cincinnati FBI SWAT operators located on the stairwell leading from the garage into the main residence. The shooting incident review was delegated to the Cincinnati Field Office by Chief Inspector David Gelios on December 9, 2014. The following are the results of the shooting incident review, to include the signed sworn statements (SSS) b6 -1,7 b7C -1,7



NYT-247

Title: (U//~~FOUO~~) Shooting Incident Report Summary - Cincinnati Division
Re: 297L-HQ-A5836068, 02/19/2015

from SAs [redacted] Evidence Response Team (ERT) documentation, and witness interviews of the shooting incident. b6 -1 b7C -1

On December 3, 2014, at approximately 2:00 p.m., United States Magistrate Judge Michael J. Newman, from the United States District Court for the Southern District of Ohio, issued a search warrant to case agent SA [redacted] for the purpose of searching the property at [redacted] Ohio, including any garages, sheds, vehicles, or outbuildings on the property, for heroin and any other illegally controlled substances or related paraphernalia. b6 -1,7 b7C -1,7

The search warrant was requested following a thorough investigation conducted by the Southern Ohio Safe Streets Task Force, the Bureau of Alcohol Tobacco and Firearms (ATF), and the Drug Enforcement Agency (DEA). This investigation identified [redacted] as a large scale narcotics dealer supplying several individuals in the [redacted] area with fentanyl-laced heroin from North Carolina (NC). b6 -7 b7C -7

Since late 2013, the [redacted] of Ohio experienced a significant increase in fentanyl-laced heroin overdose deaths. During a proffer, a subject of a joint [redacted] case identified Charlotte, NC, as the potential source for the deadly fentanyl-laced heroin. The same subject identified [redacted] as the main recipients and re-sellers of the fentanyl-laced heroin in [redacted] Ohio. b6 -7,8 b7C -7,8 b7D -1

The investigation identified several additional narcotic dealers in the [redacted] area being supplied by [redacted] including: [redacted] b6 -7 b7C -7

The investigation identified several residences being utilized by [redacted] and his associates to store, process, and distribute both heroin and cocaine. The addresses of [redacted] were identified as two of these residences. Additional

intelligence identified the individuals associated with these residences. [redacted] and [redacted] were identified as running [redacted] and [redacted] were identified as running [redacted] b6 -7 b7C -7

On December 9, 2014, the Cincinnati SWAT Team assembled at 7:45 a.m. at [redacted] Ohio, to execute two federal search warrants in [redacted] Ohio. One warrant was issued for [redacted] and a second warrant was issued for [redacted] The SWAT Senior Team Leader (STL) SA [redacted] briefed the teams assigned to both locations on the operation orders associated with each target location. The briefing included an overview of the FBI's Deadly Force Policy along with the team's line-up. SA [redacted] also covered individual operator assignments, specific areas of responsibility, and the assignment of specialty equipment. Following the briefing, SA [redacted] supervised the team as they conducted gear checks and mission rehearsals. At approximately 9:45 a.m., the team was given the execution order and SA [redacted] joined the team assigned to execute the search warrant at [redacted] Ohio. b6 -1,7 b7C -1,7

The team assigned to execute the warrant at [redacted] included the following agents, with their designated assignments: b6 -1 b7C -1 b7E -1

1. SA [redacted] Number one on entry; [redacted]
2. SA [redacted] Number two on entry
3. SA [redacted] Number three on entry; [redacted]
4. SA [redacted] (TL): Number four on entry; [redacted] knock and announce
5. SA [redacted] Number five on entry; [redacted]
6. SA [redacted] Number six on entry; [redacted]
7. SA [redacted] Number seven on entry; [redacted]
8. SA [redacted] Number eight on entry; [redacted]
9. SA [redacted] Perimeter security; [redacted]
10. SA [redacted] Perimeter security; [redacted]

[redacted] b6 -1

11. SA [redacted] Perimeter security; [redacted] b7C -1 b7E -1

[redacted]

The SWAT Team set the perimeter and SA [redacted] noticed the outer windows and door were both barred. The SWAT breached the outer door of the residence between 10:05 a.m. and 10:10 a.m. After breaching the first outer door, the SWAT Team moved into a porch area and then encountered a second hardened door leading into the residence. After breaching the second door, the SWAT Team entered the main residence. SA [redacted] ordered SA [redacted] to hold on the stairs going up to the second floor, while the remainder of the team cleared the first floor and ended up in the kitchen. SA [redacted] thought someone was in the house because the television was on and there was a bowl of cereal on a table in the kitchen. b6 -1 b7C -1

The SWAT Team encountered two doors in the kitchen. The first door was identified as going downstairs to a basement. SA [redacted] ordered SA [redacted] The second door led to the garage. SAs [redacted] positioned themselves to enter the garage [redacted] The agents encountered two doors leading to the garage, a solid door and a screen door, both of which were locked. SA [redacted] unlocked both doors and pinned the solid door open. The garage was dark. SA [redacted] looked into the garage with his flashlight and determined it was a two-car garage with no cars present. SA [redacted] instructed the other two operators to find the button to activate the garage door. The operators announced twice, "FBI, come out with your hands up." After receiving no response, SA [redacted] SA [redacted] entered the garage, followed by SA [redacted] and SA [redacted] b6 -1 b7C -1 b7E -1

After entering the garage, SA [redacted] raised the automatic garage door by pressing the button located at the top of the stairs. Once the door was opened, the operators could clearly see the contents of the garage. The operators saw some dog cages, a heroin press, and some small child b6 -1 b7C -1



NYT-250

quad runners inside the garage. The operators also saw a 40 - 50 pound dark brown Pit Bull exit of the garage and run circles in the driveway.

SA [redacted] exited the garage and notified SA [redacted] who was providing perimeter security along the fence line adjacent to the search property. SA [redacted] wanted to close the garage door to keep the dog outside. SA [redacted] informed SA [redacted] there was a second dog outside, a large pit bull, with a chain around its neck, but he was not sure if the dog was secure. b6 -1 b7C -1

SA [redacted] returned to the garage and asked SA [redacted] and SA [redacted] if it was "cool" to "drop" the garage door. SA [redacted] returned to the stairs to close the garage door, but was unable to get the automatic door to close. SA [redacted] moved to the stairs to assist SA [redacted] SA [redacted] walked back toward the center of the garage and noticed SAs [redacted] were both on the stairs leading back into the kitchen trying to activate the garage door. SA [redacted] turned back to check on the dog and saw the dog's ears pinned back as he charged toward SA [redacted] and SA [redacted] on the stairs. SA [redacted] was concerned the dog would cause serious injury to SAs [redacted] SA [redacted] yelled "dog" and said "no, no, no." The dog was not barking and made no audible noise to alert the operators to his movement. SA [redacted] engaged the dog with four shots from his M4 rifle, from a range of approximately five feet. SA [redacted] fired the first three shots in rapid succession, then paused and fired a fourth shot. The dog skidded to a stop at the bottom of the stairs only a few inches from where SA [redacted] was standing on the stairs. b6 -1 b7C -1

After the shooting, SA [redacted] checked with the operators in the garage and announced on the radio, "shots fired, all operators ok." SA [redacted] went outside the garage to verify SAs [redacted] were ok. SA [redacted] asked SA [redacted] to check the side of the house to look for any obvious bullet exit sites. SA [redacted] found one hole, but could not confirm it was a bullet hole. SAs [redacted] then assisted the SWAT team in clearing the remainder of the house. b6 -1 b7C -1

Title: (U//~~FOUO~~) Shooting Incident Report Summary - Cincinnati Division
Re: 297L-HQ-A5836068, 02/19/2015

After the house was clear, the operators moved to the box truck for extraction. SA [redacted] discussed the incident with A/ASAC [redacted] [redacted] and A/SAC [redacted] Prior to leaving the area, SA [redacted] secured SA [redacted]'s rifle. On December 10, 2014, in the parking garage at the Columbus Resident Agency, SA [redacted] took photographs of SA [redacted]'s rifle, counted the rounds in the magazine, and returned the rifle to SA [redacted] b6 -1 b7C -1

On December 9, 2014, at approximately 11:50 a.m., members of the Cincinnati Evidence Response Team (ERT) arrived and began processing the scene of the agent-involved shooting at [redacted] The scene consisted of an attached two-car garage with the garage door open and a deceased canine. ERT photographed the scene, drew a sketch, and recovered four 5.56 mm shell casings. ERT prepared a log of the recovered items. At approximately 1:50 p.m. on December 9, 2014, ERT completed the processing of the scene and departed the search location. b6 -7 b7C -7

The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

1. FD-1085, Shooting Incident Report, digitally attached to this communication and electronically submitted on December 23, 2014

2. ERT Evidence Log accounting for collection of four 5.56 mm shell casings

3. FD-302 interview of Animal Resource Center employee

4. FD-302 SIOC weather report for [redacted] Ohio for December 9, 2014 b6 -1,7 b7C -1,7

5. FD-302 of SA [redacted] SWAT operator

6. FD-302 of follow-up interview of SA [redacted]

7. FD-302 of SWAT Senior Team Leader [redacted]

Title: (U//~~FOUO~~) Shooting Incident Report Summary - Cincinnati Division
Re: 297L-HQ-A5836068, 02/19/2015

8. FD-302 of Search Warrant, [redacted] Ohio b6 -1,7 b7C -1,7

9. FD-302 of follow-up interview of SWAT STL [redacted] regarding the inspection of SA [redacted]'s M4 and ammunition

10. FD-302 of CDC [redacted] regarding FBI Deadly Force Policy Training

11. FD-302 of PFI [redacted] regarding firearms training records for SA [redacted] for the 18-month period before the shooting incident

12. FD-302 of SWAT STL [redacted] regarding SA [redacted]'s SWAT certification

13. FD-302 Operational Plan for [redacted] Ohio b6 -1,7 b7C -1,7

14. FD-302 SWAT Operations Order

15. FD-302 of ERT administrative log, sketch, photographs, and photographic log

16. SSS for SA [redacted]

17. SSS for SA [redacted]

18. SSS for SA [redacted]

The shooting review identified no discrepancies between SA [redacted]'s account of the shooting and information obtained from witness interviews.

♦♦



NYT-253

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Animal Shooting Cincinnati Field Office **Date:** 04/14/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** BOSTON
BS-ASCT
**Contact:** [redacted]

**Approved By:** THOMAS VADIM DANIEL
David Paul Gelios
TWERSKY RONALD
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5836068 (U) Cincinnati Field Office Animal Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 03/17/2015.

**Administrative Notes:** (U//~~FOUO~~) The shooting incident review was delegated to the Cincinnati Field Office by the Chief Inspector on 12/09/2014. The Shooting Incident Report, dated 12/23/2014, was submitted electronically by Supervisory Special Agent [redacted] Cincinnati Field Office. b6 -1 b7C -1

**Details:**

On 03/17/2015, the SIRG reviewed an Animal Shooting incident which occurred on 12/09/2014, involving Special Agent (SA) [redacted] Cincinnati Field Office. SA [redacted] discharged four rounds from his Bureau-issued M4 rifle into a pit bull breed dog. The shooting took b6 -1 b7C -1

place as the Cincinnati Field Office SWAT Team executed a search warrant, issued by the United States District Court, Southern District Of Ohio, on a residence located at [redacted] Ohio. The purpose of the warrant was to search the property for heroin and any other illegally controlled substances and related paraphernalia. b6 -7 b7C -7

On 12/09/2015, at approximately 10:05 a.m., the search warrant was executed at [redacted] and after breaching several doors, the SWAT Team made entry into the residence. SA [redacted] along with SAs [redacted] were in the kitchen of the residence and located a door leading to a garage. SA [redacted] looked into the garage with a flashlight and could not determine if anyone was present. SA [redacted] stated, "FBI, come out with your hands up." After no response, SA [redacted] b6 -1,7 b7C -1,7 b7E -1

SAs [redacted] entered the garage. SA [redacted] pushed an automatic garage door button located at the top of the stairs which opened the garage door. As the door opened, SAs [redacted] observed a pit bull dog run out of the garage and onto the driveway. SA [redacted] walked out of the garage and advised a SWAT Team member assigned to the perimeter of the residence that he was going to close the garage door to keep the pit bull out of the garage while they conducted a search. b6 -1 b7C -1

SAs [redacted] went back to the stairway and attempted to close the garage door using the garage door button, however the garage door would not close. SA [redacted] standing in the center of the garage, observed the pit bull run back into the garage. The Pit bull's ears were pinned back and the dog did not make any noise as it ran toward SAs [redacted] who were on the stairs. SA [redacted] stated, "dog," and "no, no, no." SA [redacted] feared the dog could cause serious bodily harm to SAs [redacted] and as the dog closed to within five feet of the Agents, SA [redacted] four rounds from his M4 rifle b6 -1 b7C -1

into the pit bull. The dog stopped at the foot of the stairs and expired.

**SIRG OBSERVATIONS**

(U//~~FOUO~~) On 03/17/2015, the SIRG reviewed the Animal Shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined the application of deadly force towards the pit bull breed dog was justified under the DOJ Deadly Force Policy.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions concerning operational planning and execution, training and/or safety issues.** The SIRG determined there were no safety issues and operational plans were followed in accordance with Bureau policy.

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector David P. Gelios, Office Of Inspections (OI) INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, Department of Justice (DOJ); [redacted] Criminal Section, DOJ; Supervisory Special Agent(SSA) [redacted] Investigative Law Unit, Office Of General Counsel; SSA [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division(TD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; SSA [redacted] Violent Crime and Gang Section; SSA [redacted] Defensive Systems Unit(DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; SSA [redacted] Evidence Response Team, Laboratory Division. The following non-voting members were also in attendance: Assistant Special Agent In Charge [redacted] Office Of Inspector General; UC [redacted]

b6 -1,3
b7C -1,3

Title: (U/~~FOUO~~) Animal Shooting Cincinnati Field Office
Re: 297L-HQ-A5836068, 04/14/2015

Firearms and Toolmarks Unit, Laboratory Division; Inspectors Trent R. Teyema, Vadim D. Thomas, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; UC, [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD; MAPA [redacted] Inspection Analysis Unit, and Special Assistant [redacted] OI, INSD.

b6 -1
b7C -1

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Report Summary **Date:** 11/21/2014

**CC:** STROUD SHAWN W

**From:** DETROIT
DE-C8
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5637323 (U) Animal Shooting

**Synopsis:** (U) To report results of a review of an animal shooting incident involving SA [redacted] and TFO [redacted] which occurred on 10/15/2014. b6 -1,4 b7C -1,4

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the Inspection Division:
1). FD-340s containing original interview notes, records, logs and photographs.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) FD-1085

**Details:**

On October 15, 2014, Special Agent (SA) [redacted] b6 -1,4 b7C -1,4 discharged one round from his FBI-issued M4 rifle and Squad C-7 Task Force Officer (TFO) [redacted] discharged three rounds from his Detroit Police Department (DPD)-issued handgun at a pit bull dog. The pit bull acted aggressively toward them and other members of an entry team during the execution of an arrest and search warrant. The shooting incident review was delegated to the Detroit Field Office by Acting Chief Inspector Shawn W. Stroud on October 16, 2014. The following are the results of the shooting incident review, to include

Title: (U) Shooting Incident Report Summary
Re: 297L-HQ-A5637323, 11/21/2014

the SSS from SA [redacted] statement from TFO [redacted] ERT processing the scene, and witness interviews of the shooting incident. b6 -1,4 b7C -1,4

On October 15, 2014, Case Agent [redacted] Squad C-7, received authorization from the 36th District Court, County of Wayne, State of Michigan, Magistrate Judge to enter the residence located at [redacted] Detroit, Michigan for the purpose of searching and securing [redacted] was wanted for an outstanding felony warrant, which was entered into NCIC by the Huntington Police Department, Huntington, West Virginia. The warrant was issued for [redacted] after an investigation revealed he shot a home-owner during a home-invasion robbery in West Virginia. b6 -1,7 b7C -1,7

Prior to October 15, 2014, SA [redacted] received tip information from the Detroit Police Department [redacted] was wanted for a shooting/robbery and might be staying at [redacted] Detroit, Michigan. On October 14, 2014, SA [redacted] conducted surveillance on this location and positively identified [redacted] while he was on the front porch of [redacted] Once [redacted] entered the home, SA [redacted] requested assistance from Squad C-7 members to conduct additional surveillance on the house. On October 14, 2014, surveillance was conducted on the house between 2:30 p.m. and 6:30 p.m. b6 -1,7 b7C -1,7

On October 15, 2014 surveillance was initiated on [redacted] by Squad C-7. [redacted] was observed several times leaving the residence and standing on the front porch of the house then re-entering the house. After several hours of surveillance, SA [redacted] obtained a State of Michigan search warrant to enter the location to arrest [redacted] A team comprised of two FBI Agents, eight Task Force Officers, and four uniform Detroit Police Officers were assigned to serve the search warrant and conduct the arrest of [redacted] at [redacted] Detroit, Michigan. A team briefing was conducted at approximately 1:00 PM on October 15, 2014 in a school parking lot located on [redacted] Detroit, Michigan. The briefing was attended by all participants of the operation except for b6 -7 b7C -7

Title: (U) Shooting Incident Report Summary
Re: 297L-HQ-A5637323, 11/21/2014

TFO [redacted] and TFO [redacted] who were conducting surveillance on the house to ensure [redacted] did not leave. SA [redacted] discussed all aspects of the operations order, including the FBI's Deadly Force Policy. b6 -1,4 b7C -1,4

The team was comprised of the following members:

SA [redacted] (Case Agent)

SA [redacted]

TFO [redacted]

TFO [redacted]

TFO [redacted]

TFO [redacted]

TFO [redacted] b6 -1,4 b7C -1,4

TFO [redacted]

TFO [redacted]

TFO [redacted]

TFO [redacted]

DPD Police Officer [redacted]

DPD Police Officer [redacted]

DPD Police Officer [redacted]

DPD Police Officer [redacted]

On October 15, 2014, at approximately 2:00 PM, the team departed the school parking lot located at [redacted] and drove directly to [redacted] One DPD police car (two officers) drove [redacted] b6 -7 b7C -7 b7E -1

the second DPD police car [redacted] When the entry team arrived at [redacted] TFO [redacted] and TFO [redacted] who were still conducting surveillance on the house, positioned themselves on the outside perimeter in case [redacted] fled the house.

b6 -1,4,7
b7C -1,4,7
b7E -1

Once the entry team arrived at [redacted] they took their positions on the porch of the house. Several of the entry team members knocked on the front door and announced, "police, search warrant." The announcement was repeated numerous times. Approximately one minute passed and no one answered the door or made their presence known. TFO [redacted] and TFO [redacted] Once the door was opened, a pit bull dog immediately appeared at the threshold of the door and barked, growled, and lunged towards the entry team. The pit bull was aggressive and SA [redacted] TFO [redacted] and others on the entry team believed they would be attacked by the pit bull. SA [redacted] and TFO [redacted] believed they were in imminent danger of being attacked.

b6 -1,4,7
b7C -1,4,7
b7E -1

SA [redacted] fired one round from his FBI-issued M4 rifle striking the pit bull one time. The pit bull fell and immediately got back up. The pit bull started barking again and lunged again towards the entry team. TFO [redacted] believed himself and others were in imminent danger of being attacked by the pit bull and TFO [redacted] fired three rounds from his Detroit Police Department-issued Smith & Wesson .40 caliber handgun. The pit bull stopped its aggressive attack and ran off the porch and down the street. The other members were not in a position to fire at the dog since they were focusing their attention to the inside of the house.

b6 -1,4
b7C -1,4

The entry team entered the residence and continued to announce their presence. They searched the house for approximately ten minutes before the occupants identified themselves to the Agents. SA [redacted] talked with the individuals for 10-15 minutes before they decided to surrender. [redacted] and a second individual, [redacted]

b6 -1,7
b7C -1,7

[redacted] were located in the rear bedroom of the house. [redacted] b6 -1,7
and [redacted] followed directions given by SA [redacted] and b7C -1,7
exited the bedroom. Both were handcuffed, removed from the residence and transported to DPD's detention center.

A second search warrant was obtained to recover two pistols and three long guns discovered inside the bedroom where [redacted] and [redacted] were hiding. Three pit bull dogs were located in the house, but during the search one ran out the front door. A City of Detroit Animal Control Officer arrived and picked up the two pit bulls in the house and located the shot pit bull several blocks away. b6 -7 b7C -7

While SA [redacted] talked to [redacted] and [redacted] he requested TFO [redacted] b6 -1,4,7
[redacted] who is a sergeant with the Detroit Police Department, to call b7C -1,4,7
the Detroit Police Department Dispatch and advise them [redacted] b7E -1
[redacted] The process would initiate DPD's [redacted]
[redacted] TFO [redacted] also contacted Supervisory Special Agent [redacted] Squad C-7 supervisor and advised him of the situation. SSA [redacted] arrived at the location twenty minutes later. SSA [redacted] contacted Assistant Special Agent in Charge [redacted] and updated him on the situation prior to arriving at the location. After the subjects were arrested, SA [redacted] a SWAT team member arrived, met with SA [redacted] and secured his M4 rifle. No inspection of the weapon or round count was performed. On October 16, 2014, ASAC [redacted] authorized SA [redacted] to retrieve his M4 rifle from SA [redacted]

On October 15, 2014 after the scene was secure, TFO [redacted] and TFO [redacted] met with TFO [redacted] to inspect his weapon, a process required by Detroit Police Department policy. TFO [redacted] is a sergeant and TFO [redacted] is a lieutenant with the Detroit Police Department. TFO [redacted] determined TFO [redacted] carried the DPD-issued Smith & Wesson M&P .40 caliber, serial number [redacted] handgun. TFO [redacted] observed three rounds missing from the magazine in b6 -4 b7C -4

Title: (U) Shooting Incident Report Summary
Re: 297L-HQ-A5637323, 11/21/2014

TFO [redacted]'s gun. TFO [redacted] had two fully loaded spare magazines with DPD-issued ammunition. TFO [redacted] permitted TFO [redacted] to keep his gun under Detroit Police Department rules. b6 -4,7 b7C -4,7

On October 15, 2014 at approximately 5:30 PM, Detroit Field Office Evidence Response Team (ERT) arrived at [redacted] ERT photographed the scene and recovered three .40 caliber shell casings and one 5.56 mm casing. At approximately 6:30 PM, ERT left the location.

The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

1. FD-1085, Shooting Incident Report, electronically submitted on November 14, 2014.

2. FD-302 of PFI [redacted] regarding firearms training records for SA [redacted] for the 18-month period before the shooting incident. b6 -1,4,7 b7C -1,4,7

3. FD-302 of CDC [redacted] regarding the FBI Deadly Force Policy Training.

4. FD-302s for interviews of TFOs [redacted]

5. FD-302 of Search Warrant, [redacted] Detroit, Michigan.

6. FD-302 of NCIC printout for [redacted]

7. FD-302 of ERT sketch, photographs and photograph log.

8. FD-302 SIOC weather report for October 15, 2014.

9. FD-302 Operational Order.

Title: (U) Shooting Incident Report Summary
Re: 297L-HQ-A5637323, 11/21/2014

10. FD-302 SWAT training for SA [redacted] b6 -1 b7C -1

11. FD-302 Firearms qualification scores for SA [redacted]

12. FD-302 of Detroit Police Department DPD-669 form.

13. FD-302 Memorandum of Understanding between FBI and Detroit Police Department.

14. FD-302 Interview with City of Detroit Animal Control Department Supervisor.

15. FD-302 Weapon and Ammunition.

Detroit's review of the shooting incident involving SA [redacted] and TFO [redacted] found no discrepancies between their account of the shooting and information obtained from witness interviews. b6 -1,4 b7C -1,4

♦♦



NYT-264

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Animal Shooting Detroit Field Office **Date:** 01/08/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** R Justin Tolomeo
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5637323 (U) Animal Shooting

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 12/15/2014.

**Administrative Notes:** (U) The shooting incident review was delegated to the Detroit Field Office by the Acting Chief Inspector on 10/15/2014. The Shooting Incident Report, dated 11/06/2014, was submitted electronically by Supervisory Special Agent (SSA) [redacted] [redacted] Detroit Field Office. b6 -1 b7C -1

**Details:**

On 12/15/2014, the SIRG reviewed an Animal Shooting incident involving SA [redacted] Detroit Field Office, on 10/15/2014. SA [redacted] discharged one round from his Bureau-issued M4A1 rifle at a pit bull breed dog. The shooting took place as the Detroit Field Office, Violent Crimes Task Force, consisting of Squad C-7 Special Agents and Task Force Officers (TFOs) from the Detroit Police Department, executed a search warrant, issued by the State of Michigan, District Court, on a

Title: (U) Animal Shooting Detroit Field Office
Re: 297L-HQ-A5637323, 01/08/2015

residence located at [redacted] Detroit, Michigan. The purpose of the search warrant was to arrest a fugitive wanted in West Virginia for a violent home invasion and enhance an ongoing violent gang investigation. The fugitive was suspected of being a member of the Dirty Dogs street gang investigated by the Detroit Field Office, but not listed as a subject or reference in the case. The Dirty Dogs street gang was involved in multiple robberies and shootings in Detroit and West Virginia. Detroit executed the state warrant in an attempt to garner more information about the gang and the subject. The Detroit Field Office did not initiate a separate fugitive investigation nor was a federal Unlawful Flight to Avoid Prosecution (UFAP) warrant obtained. b6 -7 b7C -7

On October 15, 2014, at approximately 2:15 p.m., Squad C-7 Agents and TFOs approached the front door of the residence located on [redacted] Detroit, Michigan, while other TFOs and uniformed police maintained a perimeter around the residence. Agents and TFOs knocked loudly on the door and announced their presence. After approximately one minute and a lack of response, Agents and TFOs breached a steel gate located approximately three feet in front of the main door threshold. Agents and TFOs subsequently breached the wooden front door to gain access to the residence. Immediately upon opening the door, a pit bull dog lunged aggressively towards the entry team barking and growling. Fearing the dog was going to attack the entry team, SA [redacted] fired one round from his FBI-issued M4A1 rifle at the dog striking it on the neck area. The dog fell to the ground but immediately got up and continued charging towards the entry team. A TFO then fired three rounds from his DPD-issued Smith & Wesson .40 caliber handgun at the dog striking it at least once in the face. The dog stopped charging and ran away towards the street. The pit bull dog was recovered several blocks away by the Detroit Animal Control Department and subsequently euthanized. b6 -1,7 b7C -1,7

**SIRG Observations**

Title: (U) Animal Shooting Detroit Field Office
Re: 297L-HQ-A5637323, 01/08/2015

(U//~~FOUO~~) On 12/15/2014, the SIRG reviewed the Animal Shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined the application of deadly force towards a pit bull breed dog was justified under the DOJ Deadly Force Policy.

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

**Observation 1:** Detroit did not properly follow requirements for Unlawful Flight to Avoid Prosecution (UFAP) investigations.

**Analysis 1:** Criminal Investigative Division, Fugitive Policy Implementation Guide, 0404PG, Section 3.4.2 indicated requirements to initiate fugitive investigations. The Fugitive Policy Implementation Guide (FPIG) requires local authorities to have a warrant for a subject's arrest and agree to extradite and prosecute upon apprehension. A request for assistance must have been received by the local FBI Field Office and the United States Attorney's Office (USAO) must authorize the filing of a complaint. Per the FPIG, there *"must be sufficiently articulated facts to show with reasonable certainty that the subject fled interstate for the purpose of avoiding prosecution."*

Field Offices have the option of initiating an 88 classification Preliminary Investigation (PI) *"to ascertain if an articulable factual basis of interstate flight exists or to establish probable cause of interstate flight for obtaining a UFAP warrant."*

Detroit did not receive a request for assistance from local authorities for the arrest of the fugitive and did not seek U.S. Attorney's Office concurrence for a UFAP warrant. Detroit obtained a state of Michigan

Title: (U) Animal Shooting Detroit Field Office
Re: 297L-HQ-A5637323, 01/08/2015

search warrant to locate the fugitive and effect a West Virginia arrest warrant.

The Detroit Field Office did not follow the requirements stated within Section 3.4.2 of the Criminal Investigative Division, Fugitive Policy Implementation Guide, 0404PG.

**Instruction 1:** SAC, Detroit will ensure fugitive investigations follow the requirements listed under section 3.4.2 of the Fugitive Policy Implementation Guide, 0404PG.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG found this Animal Shooting to be justified under the DOJ Deadly Force Policy and did not recommend any administrative action be taken against SA [redacted] **b6 -1,3 b7C -1,3**

(U//~~FOUO~~) Acting Deputy Assistant Director David P. Gelios, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Deputy Chief [redacted] Civil Rights Division, Criminal Section, Department of Justice; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office Of General Counsel; SSA [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; UC [redacted] New Agent Training Program Section, Defensive Systems Unit (DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; SSA [redacted], Evidence Response Team, Laboratory Division; and Inspector Trent R. Teyema, Office Of Inspections (IO), INSD; The following non-voting members were also in attendance: Inspectors Vadim D. Thomas and Douglas A. Leff, OI,INSD; Assistant

Title: (U) Animal Shooting Detroit Field Office
Re: 297L-HQ-A5637323, 01/08/2015

Inspectors/Team Leaders [redacted] OI, INSD; UC [redacted], INSD; Program Management Analyst [redacted] Inspection Management Unit (IMU), INSD; and Special Assistant [redacted] OI, INSD.

b6 -1
b7C -1

**Procedures for Responding to Observations**

(U//~~FOUO~~) SAC, Detroit, is responsible for ensuring the Inspection Instruction is satisfactorily resolved. The inspection process is not complete until the Instruction is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration to implement.

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Report **Date:** 11/18/2013

**CC:** BRETZING GREGORY T

**From:** MILWAUKEE
MW-4
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A3454153 (U) Animal Shooting

**Synopsis:** (U) To report the results of a review of an animal shooting incident involving MW Division SA [redacted] which occurred on October 24, 2013 b6 -1 b7C -1

**Details:**

On Thursday, October 24, 2013, SA [redacted] discharged five rounds from his FBI approved, personally owned Glock 27, at an injured deer. The shooting incident review was delegated to the Milwaukee Field Office by Chief Inspector Gregory T. Bretzing on October 25, 2013. The following are the results of the shooting incident review, which included a SSS from SA [redacted] and reports obtained from the Marquette County (WI) Sheriff's Office: b6 -1 b7C -1

On October 24, 2013 at approximately 9:20 am, Milwaukee Division SA [redacted] was driving his Bureau vehicle from Wausau (WI) to the Madison (WI) Resident Agency. While traveling southbound on Interstate 39, near miler marker 100, just south of Highway 23 and the Endeavor on ramp, SA [redacted] observed a disoriented and injured deer on the left shoulder of the interstate, adjacent to the median that separated north and southbound traffic. Interstate 39 is a four-lane divided highway separated by a downward sloping natural median. The deer was b6 -1 b7C -1



NYT-270

struggling to stand on the roadway's shoulder, moving towards the far left lane of southbound traffic. The deer's movement caused at least one southbound vehicle to swerve out of the left lane into the right lane causing a second vehicle to drive onto the far right shoulder. As SA [redacted]s vehicle passed the deer, he observed the deer was continuing to struggle to move between the median and left shoulder. As a result, SA [redacted] believed the deer posed a threat to the safety of passing motorists and returned to the scene. He subsequently activated his emergency lights, exited his vehicle and approached the deer to better assess the situation. b6 -1 b7C -1

SA [redacted] observed the deer appeared panicked and continued to struggle to stand. SA [redacted] believed the deer had been struck by a passing vehicle and suffered significant injuries to its rear legs and/or back area. He believed the deer not only posed a threat to passing motorist, but was also likely in severe pain and suffering from its injuries. As a result, SA [redacted] believed it was in the best interest of both the public and the deer to humanely use his bureau approved handgun to euthanize the animal. b6 -1 b7C -1

The deer was located in the center, downward sloping, grassy median moving away from SA [redacted] SA [redacted] waited until there was no northbound traffic. He subsequently drew his bureau approved, personally owned weapon, a Glock 27 (serial number [redacted] handgun and from of distance of approximately 15 yards, fired four (4) rounds. All four rounds were fired downward into the median from an elevated position and struck the deer in the back. As a result, the deer collapsed. However, it was still alive and moving. SA [redacted] approached the deer and fired one additional round, striking the deer in the neck causing its death. All five rounds are believed to have struck the deer and were accounted for. However, due to the deer's body position, SA [redacted] was unable to examine its entire body. There were no injuries to SA [redacted] or anyone else. b6 -1 b7C -1

SA [redacted] returned to his Bureau vehicle and notified Supervisory Senior Resident Agent (SSRA) [redacted] of the incident. SA b6 -1 b7C -1

Title: (U) Shooting Incident Report
Re: 297L-HQ-A3454153, 11/18/2013

[redacted] then contacted the Marquette County (WI) Sheriff's Department to report the incident. b6 -1,4 b7C -1,4

On Thursday, October 24, 2013 at approximately 9:43 am, MCSD, Squad 244, Deputy Sheriff [redacted] arrived at the scene. Deputy [redacted] spoke with SA [redacted] and confirmed that the deer had injuries to its rear hind quarter that were consistent with being struck by a vehicle. Deputy [redacted] also observed a visible bullet wound to the deer's neck. Deputy [redacted] cleared the scene at 9:50 am. He subsequently filed Incident Report # 13-S03439.

On Friday, October 25, 2013, SA [redacted] obtained a copy of the referenced incident report. On Tuesday, October 29, 2013, SA [redacted] provided MW SSA [redacted] a copy of the referenced MCSD report, as well as a narrative report he drafted describing the incident. A review of the report indicated it supported SA [redacted]'s account of the incident. b6 -1 b7C -1

On October 29, 2013, SSA [redacted] attempted follow-up with MCSD Deputy [redacted] However, Deputy [redacted] was on vacation/annual leave and unavailable until after November 20, 2013. b6 -1,4 b7C -1,4

On Tuesday, November 5, 2013, SSA [redacted] and SSA [redacted] interviewed SA [redacted] regarding the referenced shooting incident. SSA [redacted] read SA [redacted] the FD-927 "Warning and Assurance to Employee Requested To Provide Information Following a Shooting Incident." SA [redacted] voluntarily provided a statement, which was memorialized in a Signed Sworn Statement (SSS).. b6 -1 b7C -1

The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

1. FD-1015, FBI Executive Summary Report, electronically submitted on October 24, 2013.
2. FD-1085, Shooting Incident Report, electronically submitted on October 29, 2013.

Title: (U) Shooting Incident Report
Re: 297L-HQ-A3454153, 11/18/2013

3. FD-302 of PFI [redacted] regarding firearms/training records for SA [redacted] for the 24-month period before the shooting incident. b6 -1 b7C -1
4. FD-927, Warning and Assurance to Employee Requested To Provide Information Following A Shooting Incident
5. Signed Sworn Statement of SA [redacted]
6. Inspection Division Shooting Review Interview Log
7. Marquette County Sheriff's Department Incident Report 13-S03439.

Milwaukee's review of the shooting incident involving SA [redacted] found no discrepancies between SA [redacted]'s account of the shooting and information documented in the MCSD incident report. b6 -1 b7C -1

♦♦



NYT-273

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Report **Date:** 09/11/2014

**From:** LOS ANGELES
LA-C-1 SSA [redacted]
**Contact:** [redacted]

b6 -1
b7C -1

**Approved By:** SSA [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297J-HQ-A5319916 (U) Los Angeles Shooting Incident

**Synopsis:** (U) To report results of a review of an agent involved shooting involving SA [redacted] that occurred in Chatsworth, California on July 30, 2014 at approximately 6:45 p.m.

b6 -1
b7C -1

**Reference:** 297J-HQ-A5319916 Serial 23
297J-HQ-A5319916 Serial 35
297J-HQ-A5319916 Serial 37

**Details:**

## I. Executive Summary

On July 30, 2014, off-duty SA [redacted] intervened in [redacted]'s kidnapping at gunpoint of [redacted] from the parking lot of LA Fitness Gym, located in Chatsworth, California. During the intervention, [redacted] pointed a handgun at SA [redacted] Fearing for his safety and the safety of [redacted] SA [redacted] after repeatedly identifying himself as law enforcement and repeated verbal commands to [redacted] to drop his handgun, fired nine (9) rounds from his personally-owned, FBI-approved, Glock 27 striking [redacted] at least once. [redacted] fired at least one round at SA [redacted] During the exchange of gunfire and unknown to law enforcement at that time, [redacted]'s handgun was made inoperable when a bullet fragment struck the front of [redacted]'s handgun and became logged

b6 -1,5,7
b7C -1,5,7



NYT-274

in the recoil spring housing. This caused the slide to become dislodged and partially separated from the frame, making the handgun inoperable.

After SA [redacted] stopped shooting due to his weapon being empty, [redacted] forced [redacted] to drive him away for the scene of the shooting and responding law enforcement in her [redacted] was able to escape the [redacted] when she made a turn onto a side street. [redacted] flagged down a bystander who assisted her in getting to the Los Angeles Police Department ("LAPD"). b6 -1,5,7 b7C -1,5,7

[redacted] now driving [redacted] continue to flee from police. At the intersection of Woodlake Avenue and Ventura Boulevard, [redacted] pointed his handgun at a California Highway Patrol Officer as he was driving. The officer, fearing for his safety and believing [redacted] was about to fire his handgun at him, fired eight rounds at [redacted] as he drove by him. b6 -5,7 b7C -5,7

After a lengthy high-speed pursuit involving several local law enforcement agencies on Los Angeles freeways and mountain roads, [redacted] stopped his vehicle at the Malibu Bluffs Park in Malibu, California, approximately 21.3 miles from the scene of the AIS. As he fled on foot from the [redacted] pointed his handgun at a responding LAPD officer. Fearing for that officer's safety and believing [redacted] was about to fire his handgun at that officer, another LAPD officer fired one round at [redacted] then ran down a steep cliff from the park and eventually discarding the handgun in a bush. Approximately two hours after the initial shooting, [redacted] was taken into custody by LAPD's SWAT on the hillside below the Malibu Bluffs Park. b6 -7 b7C -7

## II. Incident Details

### a. Substantive Case Filings and Background Information

Title: (U) Shooting Incident Report
Re: 297J-HQ-A5319916, 09/11/2014

Prior to the shooting the FBI did not have an active FBI investigation into [redacted] born [redacted] b6 -7 b7C -7 There was an active LAPD domestic violence investigation with felony criminal charges pending against [redacted] As a result of the Agent-Involved-Shooting, the Los Angeles Field Office opened an Assault on a Federal Officer investigation.

Title: [redacted] b6 -1,7 b7C -1,7 b7A -1
FBI SA [redacted] - VICTIM;
ASSAULT FEDERAL OFFICER;
07/30/2014

File Number: [redacted]
Case Agent: SA [redacted]

In addition, LAPD Robbery Homicide Division ("RHD") is conducting an investigation and has filed a 12-count complaint in Los Angeles Superior Court charging [redacted] with two counts each of Attempted Murder and Assault with a Firearm (Victims [redacted] and SA [redacted] and one count each of Kidnapping (Victim [redacted], Carjacking (Victim [redacted], Criminal Threats (Victim [redacted], Stalking (Victim [redacted], Disobeying Domestic Relations Court Order (Victim [redacted], Injuring a Spouse After a Prior Conviction (Victim [redacted]), Possession of Firearm by a Felon, and Evading an Officer. FBI and LAPD are jointly pursuing the investigations into this matter. b6 -1,5,7 b7C -1,5,7

**b. Listing of Personnel Involved in Incident**

1. SA [redacted] (discharged weapon) b6 -1 b7C -1

**c. Case Review and Operational Briefings**

This event did not involve an active FBI investigation nor was it part of an active FBI operation. At the time of the Agent-Involved-Shooting, SA [redacted] was off-duty on his way to have dinner with his family when he encountered [redacted] b6 -1,7 b7C -1,7

Title: (U) Shooting Incident Report
Re: 297J-HQ-A5319916, 09/11/2014

**d. Events Leading Up to the Shooting**

On Wednesday, July 30, 2014, SA [redacted] arrived home from work and changed into exercise attire in preparation to go to the gym. Prior to departing for the gym, SA [redacted] reminded him they needed to retrieve their second personally-owned vehicle from a car dealership in Woodland Hills, California. Instead of going to the gym, SA [redacted] drove [redacted] to the dealership to retrieve their second vehicle. SA [redacted] remained dress in his exercise attire. Prior to leaving his residence, SA [redacted] retrieved his FBI credentials, his personally-owned, FBI-approved, Glock 27, his handcuffs, and his personal and bureau mobile telephones. The Glock 27 was loaded with one nine-round magazine. There was not a round in the chamber of the weapon at the time SA [redacted] left his residence.

b6 -1,2
b7C -1,2

At some point, SA [redacted] decided that they would have dinner at Chipotle Restaurant located on De Soto Avenue north of Nordhoff Street in Chatsworth, California after retrieving their second vehicle. Now driving their second personally-owned vehicle, SA [redacted] followed [redacted] to the Chipotle Restaurant. Upon arriving at the restaurant, SA [redacted] was unable to locate parking in the lot for the restaurant so he drove south in an alleyway to a large parking lot where he found a spot in the northwest corner of the lot. SA [redacted] later learned this was the parking lot for the LA Fitness Gym located at 9143 De Soto Avenue, Chatsworth, California.

b6 -1,2
b7C -1,2

While SA [redacted] and his family were traveling to the Chipotle Restaurant, [redacted] born [redacted] (hereinafter referred to as "the Victim") was driving to the LA Fitness Gym located at 9143 De Soto Avenue [redacted] The Victim's [redacted] born [redacted] (hereinafter referred to as "the Subject") knew this and was lying in wait for her to arrive in the parking lot. In

b6 -1,5,7
b7C -1,5,7

the Subject's possession was a Glock 35, .40 caliber S&W, and a bag containing, among other things, five (5) 36-inch zip ties and pepper spray.

As of July 30, 2014, the Victim had a Civil Restraining Order and a Criminal Protective Order, against the Subject. The Subject was prohibited from purchasing and/or possession a firearm, as well as contacting or being within 100 yards of the Victim. During the March 22, 2014, felony-level domestic violence incident that resulted in the Subject's arrest and issuance of the Criminal Protective Order, the Subject told the Victim "I'm going to buy a gun and I'm going to finish you."

When the Victim stepped out of her [redacted] in the parking lot of the LA Fitness Gym, the Subject approached the Victim and stated "I have a gun, just get in the car." The Victim attempted to flee, but the Subject grabbed her by the hair and would not let her go. The Subject took the keys to her [redacted] and continued to struggle with the Victim. SA [redacted] had no knowledge these events were taking place. b6 -1,5 b7C -1,5

While switching to his second personally-owned vehicle in Woodland Hills, California, SA [redacted] realized that the shortness of his exercise shirt failed to properly conceal his Glock 27, resulting exposure of his weapon in public. Not wanting to expose his weapon while in the Chipotle Restaurant, SA [redacted] decided to secure his Glock 27 by locking it in the glove box of his personally-owned vehicle. SA [redacted] took with him his telephones, FBI credentials, handcuffs, and keys, all of which were placed in his pockets. SA [redacted] then secured his vehicle and began walking east towards De Soto Avenue. b6 -1 b7C -1

After a few steps, SA [redacted] heard a ruckus consisting of several loud voices. Having his view blocked by a large vehicle, SA [redacted] continued walking east and cleared the vehicle blocking his view. SA [redacted] then observed the Subject and the Victim arguing near a [redacted] SA [redacted] observed the Victim screaming and the Subject b6 -1,5 b7C -1,5

attempting to force the Victim into the driver's seat of the [redacted] by pushing her head, pulling her hair, and shoving her body. The Victim was resisting the Subject's efforts. b6 -5 b7C -5

SA [redacted] approached the Subject and the Victim in a casual manner and asked in a low, non-aggressive voice something to the effect of "Hey guys, what's going on?" The Subject was bladed at a 45° angle to SA [redacted] as he approached. Upon hearing SA [redacted]'s voice, the Subject pulled out a black semi-automatic handgun with his right hand from his midsection and pointed it directly at SA [redacted] The Subject continued to hold onto the Victim with his left hand. At the same time as the Subject produced the handgun, the Victim began yelling "Help!" "Help!" to SA [redacted] SA [redacted] immediately recognized the handgun was authentic and not a toy or replica gun. b6 -1 b7C -1

SA [redacted] put both hands in the air, tilted his head down, and began backing away from the Subject while stating something to the effect of "This is your business, not my business." Maintaining a visual on the Subject and the handgun, SA [redacted] observed the Subject move the muzzle of the handgun away from him and point it directly at the Victim's head as he continued to try to force the Victim into the car. The Victim continued her cries for help. b6 -1 b7C -1

**e. Shooting Incident Details**

Upon reaching the cover of the large vehicle, SA [redacted] fearing for the safety of the Victim, ran to his vehicle to retrieve his Glock 27. SA [redacted] believed the Subject was about to seriously injure, kidnap, and/or kill the Victim. SA [redacted] retrieved his Glock 27, chambered a round by racking the slide, placed his mobile telephones and handcuffs on the car seat, and retrieved his FBI credentials from his pocket. SA [redacted] then returned to the large vehicle where he peered around the vehicle while using it for cover. b6 -1 b7C -1

At this time, SA [redacted] observed the Victim in the driver's seat of the [redacted] and the Subject entering the front passenger seat. The Victim attempted to flee the vehicle through the driver's door but the Subject b6 -1,5 b7C -1,5

grabbed the Victim from the passenger side of the vehicle and pulled her back into the vehicle. The Victim continued her screams for help.

SA [redacted] then ducked down and low-walked east to the vehicle parked directly in front of the [redacted] While behind cover, SA [redacted] opened up his FBI credentials and held them in his left hand so anyone facing him could clearly see his picture, name and title on his FBI credentials. SA [redacted] held his Glock 27 in his right hand. As SA [redacted] stood up and faced the Subject, he raised his FBI credentials above his head, pointed his weapon at the Subject and stated repeatedly in a loud and authoritative voice, "Police! Drop the weapon! Show me your hands!" The Subject was still seated in the passenger seat of the [redacted] with the passenger door closed. The Subject heard SA [redacted] 's commands, looked at SA [redacted] and immediately pointed his handgun at SA [redacted] through the front windshield. b6 -1,5 b7C -1,5

SA [redacted] immediately ducked behind the cover vehicle fearing that the Subject was about to fire his handgun at him through the windshield. Due to the Subject willingness to point his handgun at an armed and identified law enforcement officer, as well as point it at the Victim, SA [redacted] determined in the split second available to him to assess the threat that the Subject was an imminent threat to himself and the Victim. SA [redacted] feared the Subject would shoot him, the Victim, or both. b6 -1 b7C -1

As SA [redacted] ducked down, he placed his FBI credentials on the cover vehicle and assumed a two-handed grip to reduce the chance of injury to the Victim. He then immediately stood up and used a two-handed shooting grip to engage the Subject. This motion took approximately one second and SA [redacted] continued to identify himself as police and ordered the Subject to drop his weapon. SA [redacted] fired his weapon into the front passenger area where the Subject was seated. SA [redacted] shot the nine rounds in his weapon resulting in the weapon locking back on an empty chamber. The Subject fired at least one round from inside the vehicle at SA [redacted] During the exchange of gunfire, a bullet fragment struck the Subject handgun head-on and became logged in the recoil b6 -1 b7C -1

spring housing located directly under the barrel. This fragment caused the slide to become dislodged and partially separated from the frame of the weapon.

During the engagement with SA [redacted] the Victim, while leaning to her left in the vehicle towards the open driver's door window, observed the Subject having trouble with his handgun. The Victim observed the Subject pulling the slide of the magazine back and tapping the bottom of the magazine repeatedly. During this time, the Subject also told the Victim to drive away but the Victim could not because the Subject retained possession of her keys. After giving her the keys, the Victim began driving the car while the Subject pointed the handgun at her head and neck. The Subject told her to drive south on De Soto Avenue, west on Nordhoff Street, and then south on Owensmouth Avenue. While in the car, the Subject repeatedly struck the Victim in her head with the handgun. b6 -1 b7C -1

**f. Post Shooting Details**

As the [redacted] departed the LA Fitness Gym parking lot, SA [redacted] followed the vehicle on foot through the parking lot using parked vehicles for cover. SA [redacted] sprinted after the vehicle and was able to reach the strip mall parking lot on the northwest corner of De Soto Avenue and Nordhoff Street as the [redacted] drove westbound on Nordhoff. Realizing he could not maintain visual of the vehicle, SA [redacted] sprinted back to the scene of the shooting to secure the scene and any witnesses. As SA [redacted] initially ran south and then back north through the parking lots, he continued to display his credentials above his head and identified himself as law enforcement. Once he returned to the scene of the shooting, SA [redacted] was able to speak with a 911 operator using a witness's mobile telephone. SA [redacted] gave a description of himself, the [redacted] the direction of travel of the [redacted] and the fact the Subject was bleeding. b6 -1,5 b7C -1,5

Shortly thereafter, the initial LAPD units arrived and assisted SA [redacted] in securing the scene. At that time SA [redacted] attempted to notify his supervisor, SSA [redacted] but only reach his voice mail as b6 -1 b7C -1

SSA [redacted] was in a plane returning to Los Angeles. SA [redacted] then called and spoke with ASAC [redacted] who made appropriate notifications and started the FBI response to the scene. b6 -1 b7C -1

As the Victim continued to drive away from the scene following the Subject's orders, she observed LAPD squad cars responding to the shooting. As the Victim drove south on Owensmouth Avenue, the Subject ordered her to turn on to Schoenborn Street, a smaller side street. Knowing she was near LAPD's Topanga Area Station and not wanting to go down the side street, the Victim used the time it took to make the turn to jump from the [redacted] and flee on foot. The Victim was able to flag down a bystander who drove her towards LAPD's Topanga Station. On the way to the station, they flagged down a LAPD squad car and obtained assistance. The Victim was eventually taken to Northridge Hospital where she was treated for a laceration to her right ear. b6 -5 b7C -5

After the Victim fled from the [redacted] the Subject drove the [redacted] from the area and parked along the curb on Woodlake Avenue just north of Ventura Boulevard and the entrance to the westbound 101 Freeway. While parked there, California Highway Patrol ("CHP") Officer [redacted] who was driving westbound on Ventura Boulevard looking for the [redacted] heard an airship broadcast the location of the [redacted] Officer [redacted] responded to the area with lights and sirens. As he turned north on Woodlake Avenue from westbound Ventura Boulevard, he observed the [redacted] Officer [redacted] stopped his car on Woodlake Avenue just north of Ventura Boulevard but south of the [redacted] and exited his vehicle standing behind the driver's door with his .40 caliber Smith and Wesson service weapon unholstered. b6 -4,5 b7C -4,5

Seeing Officer [redacted] the Subject accelerated south on Woodlake Boulevard toward Ventura Boulevard driving past Officer [redacted] Officer [redacted] observed the Subject point a black semi-automatic handgun at him as he drove south on Woodlake Boulevard. Fearing for his life and believing the Subject was about to shoot him, Officer b6 -4 b7C -4

[redacted] fired eight rounds at the Subject as he drove south on Woodlake Boulevard. The Subject fled the area by driving onto the westbound 101 Freeway. b6 -4 b7C -4

The Subject proceeded to lead several local law enforcement agencies on a high-speed pursuit west on the 101 and south on Malibu Canyon Road ending at Malibu Bluffs Park, in Malibu, California, approximately 21.3 miles from the scene of the AIS. As the Subject exited the vehicle in Malibu Bluffs Park, he pointed a handgun at an LAPD Officer. Fearing for that officer's safety and believing the Subject was about to shoot that officer, another LAPD officer fired one round at the Subject.

The Subject fled on foot through the park, dropping a bag but maintaining possession of the handgun. He ran down a steep cliff, falling through bushes and cactus. The Subject eventually discarded the handgun on the hillside. The Subject was taken into custody by LAPD SWAT approximately two hours after the initial AIS occurred in Chatsworth, California.

**g. Accounts of Shots Fired**

SA [redacted] fired nine (9) FBI .40 caliber S&W Winchester 180-grain, hollow-point service rounds from his personally owned Glock 27. Nine discharged .40 caliber S&W cases with the head stamp marking "Winchester 40 S&W" were recovered at the scene. Eight of SA [redacted] s fired rounds have currently been accounted. Three (3) fired copper bullets, unknown caliber with brass disks at their base, were recovered from the cinder block wall directly behind the area where the [redacted] was parked in the LA Fitness Gym parking lot. One (1) fired copper bullet, unknown caliber with brass disks at its base, was recovered from the front right floorboard of the [redacted] One (1) bullet fragment, unknown caliber, was recovered from the right rear passenger seat of the [redacted] One (1) fired copper bullet with a brass disk at its base was recovered in the right shoulder area of the shirt the Subject was wearing at the time of the shooting. One (1) fired copper bullet with a brass disk at its base was found in the right-side hood-area of b6 1,5 b7C 1,5

the hooded sweatshirt the Subject was wearing at the time of the shooting. One (1) bullet fragment was found logged in the recoil spring housing, located directly under the barrel, of the Subject's Glock 35. Additional fired bullets and bullet fragments were located in the [redacted] but LAPD's Scientific Investigation Division ("SID") reports regarding these bullets and fragments are still pending at the time of this writing. A preliminary review of photographs of the recovery suggest these rounds are similar to the other fired copper bullets of unknown caliber with brass disks at their base. b6 -5 b7C -5

**h. Subject Information**

| | | |
|---|---|---|
| Name | | |
| Position at time of shooting | | |
| Sex | | |
| Race | | |
| Height | | |
| Weight | | |
| Hair | | |
| Eyes | | |
| DOB | | |
| POB | | |
| SSAN | | |
| FBI# | | |
| CII# | | |
| Alien # | | |

b6 -7 b7C -7

A criminal history check revealed [redacted] had prior arrests for battery, kidnapping, stalking, terrorist threats, domestic violence, false imprisonment, and driving under the influence. b6 -7 b7C -7

**i. Use of Body Armor and Law Enforcement Identifiers**

At the time of the Agent-Involved-Shooting, SA [redacted] was off-duty, dressed in exercise attire, going to meet his family for dinner, after having driven his personally-owned vehicle. As such, SA [redacted] was not wearing, nor did he have immediate access to, his bureau-issued body b6 -1 b7C -1

armor or raid jacket. Using what was available to him, SA [redacted] displayed his FBI credentials in a prominent and continuous manner such that [redacted] and all interviewed witnesses stated that they either saw SA [redacted]'s FBI credentials, heard him identify himself as a law enforcement officer, or both. b6 -1,5,7 b7C -1,5,7

**j. Forensic Summary**

On July 30, 2014, at approximately 7:30 p.m., ASAC [redacted] collected SA [redacted]'s Glock 27, .40 caliber S&W, S/N [redacted] and one nine-round magazine, from SA [redacted] at the incident scene, 9143 De Soto Avenue, Chatsworth, California. At the time it was collected, the Glock 27 and the nine-round magazine did not contain any ammunition. The firearm was entered into FBI LA Evidence after being cleared by a certified firearms instructor. b6 -1 b7C -1

Due to the nature of the events and the State of California criminal charges to be filed, FBI, LAPD, and CHP agreed LAPD would be the lead investigative agency and would take possession of and conduct all analysis of any evidence found and collected.

On July 30, 2014, at approximately 8:52 p.m. FBI LA ERT arrived at 9143 De Soto Avenue, Chatsworth, California and began processing the Agent-Involved-Shooting ("AIS") scene. Items recovered included nine discharged .40 caliber S&W cartridge cases with the head stamp marking "Winchester 40 S&W," three (3) fired copper bullets, unknown caliber with brass disks at their base, the smashed passenger-side window of the [redacted] and one [redacted] water bottle. FBI ERT's request of the Operational Projects Unit to process ERT survey data and complete crime scene diagrams is still pending. b6 -5 b7C -5

CHP conducted the crime scene investigation of the CHP Officer-Involved-Shooting ("OIS") scene located at the intersection of Woodlake Avenue and Ventura Boulevard. Items recovered included eight discharged .40 caliber S&W cases with the head stamp marking "Win 40 S&W."

Title: (U) Shooting Incident Report
Re: 297J-HQ-A5319916, 09/11/2014

LAPD SID conducted the crime scene investigation of the LAPD OIS scene located in the Malibu Bluffs Park, Malibu, California. LAPD SID also conducted the crime scene investigation of the Victim's [redacted] and [redacted] s rental car which was located one block east of the Agent-Involved-Shooting scene. b6 -5,7 b7C -5,7

LAPD SID's examination of the Victim's [redacted] found six bullet holes in the passenger-side of the front windshield. Preliminary findings indicate that five bullet holes were entrance holes from shots fired outside the vehicle going into the vehicle. The sixth bullet hole appears to be an exit hole from a shot fired inside the vehicle going out of the vehicle toward the front of the vehicle. One fired copper bullet, unknown caliber with brass disks at its base, was recovered from the front right floorboard of the [redacted] A bullet fragment, unknown caliber, was recovered from the right rear passenger seat of the [redacted] Preliminary information from LAPD SID's examination showed at least one additional fired bullet and one additional bullet fragment were located in the right, rear passenger-seat area of [redacted] as well as blood found on the console between the driver's seat and the front passenger seat. SID reports containing their official findings are pending at the time of this writing. b6 -5 b7C -5

LAPD SID's examination of the Subject's rented Chrysler 200 found five (5) zip ties and a hand written note stating "My car broke down [sic] Will come back tomorrow to take it [sic] Please Please dont [sic] tow !!"

LAPD SID's examination of the Subject's weapon revealed it was a Glock 35, .40 caliber S&W, S/N [redacted] At the time it was recovered, the weapon had one discharged .40 caliber S&W cartridge case, with the head stamp of "WIN 40 S&W," in the chamber. A ten-round magazine loaded with five live rounds, all .40 caliber S&W with the head stamp "WIN 40 S&W," was seated in the magazine well of the handgun. A bullet fragment was found logged in the recoil spring housing located directly under the barrel. This fragment caused the slide to become dislodged b6 -7 b7C -7

and partially separated from the frame of the weapon. A visual inspection of the exterior of the metal recoil spring housing revealed little to no damage indicating the fragment entered from the front of the housing and not the side.

LAPD SID conducted a function test of SA [redacted]s Glock 27 and obtained ballistic samples using FBI-issued Winchester .40 caliber S&W, 180-grain, hollow-point service ammunition. The Glock 27 was found to be properly functioning at the time of the testing. LAPD SID noted to writer on the day of testing that the ballistic samples of the FBI service ammunition revealed that the FBI service round is a copper bullet with a brass disk in its base. b6 -1 b7C -1

A partial inventory of all documented items in possession of LAPD as of this writing, which is currently 109 items, is in contained in serials 23, 35 and 37 of captioned case file. In addition, FBI Los Angeles is in possession of and analyzing at RHD request two mobile telephones and a laptop computer.

**k. Medical Summary**

FBI Agent involved in shooting:

No injuries

Subject:

After Subject's arrest by LAPD SWAT, an initial assessment of the Subject indicated he received one through-and-through gunshot wound to his shoulder and one through-and-through gunshot wound to his right cheek. He was airlifted from Malibu, California to UCLA Ronald Reagan Emergency Department, in Los Angeles, California. Doctors determined the wounds were superficial and released the Subject to LAPD for booking that evening.

Victim:

After fleeing from the Subject and getting assistance from LAPD, the Victim was treated by Los Angeles Fire Department paramedics for lacerations to her right ear and transported to Northridge Hospital where she was treated for a ½ inch laceration to her right ear, which also had a piece missing. The medical report indicated the injury was the result of the Subject striking the Victim with his handgun and/or flying glass debris. The Victim was released later that evening.

## III. Shooting Incident Review Team Details

On July 31, 2014, the shooting incident review was delegated to Los Angeles Field Office, Violent Crimes/Major Offender Squad, C-1, by the Chief Inspector. The review team consisted of the following personnel:

| | | |
|---|---|---|
| SSA | [redacted] | b6 -1<br>b7C -1 |
| SA | | |
| SA | | |
| SA | | |
| SA | | |
| SA | | |
| SA | | |
| TL | [redacted] | Inspection Team Leader, Inspection Liaison |

## IV. Shooting Incident Review Protocol

On July 30, 2014, FBI Los Angeles contacted SIOC and Inspection Division to advise them of the Agent-Involved Shooting. FBI Los Angeles, through the Operations Communications Center, submitted FD-1015 Executive Situation Report. FBI Los Angeles coordinated investigative efforts with LAPD and CHP.

On July 31, 2014, FBI Los Angeles was advised that the Chief

Inspector had delegated the shooting incident review to Los Angeles Field Office. Los Angeles Field Office submitted FD-1085, Shooting Incident Report. FBI Los Angeles continues to document investigative activity to the substantive 89B file as well as the 297J administrative investigation file.

To date, one voluntary SSS was taken of FBI SA [redacted] who read and signed an FD-927. SA [redacted]'s attorney was present during his SSS. Interviews of witness present during the AIS were conducted jointly by FBI Los Angeles and LAPD RHD, with the interviews being recorded per LAPD policy. Three crime scenes and two vehicles were processed for evidence. One State of California search warrant was executed, jointly by FBI Los Angeles and LAPD RHD, on the Subject's residence. Processing of evidence continues with reports being generated when completed. b6 -1 b7C -1

## V. Administrative

### a. Firearms Training

Firearms qualifications records for SA [redacted] were provided by Los Angeles PFI [redacted] A review of the training records revealed that SA [redacted] is current on his firearms training attendance. SA [redacted] last shot his Glock 27 during the Second Quarter 2013 Firearms Training earning a score of 59 out of 60. On September 5, 2014, during FBI Los Angeles' ongoing Fourth Quarter 2014 Firearms Training, SA [redacted] qualified with his Glock 27, obtaining a score of 57 out of 60. SA [redacted] is in compliance with firearms qualifications requirements as established in MIOG Part 2 Section 12. b6 -1 b7C -1

### b. Deadly Force Training

Los Angeles ADC [redacted] advised that Department of Justice Deadly Force policy training was conducted during the Second Quarter 2014 Legal Training held during May and June 2014. A review of b6 -1 b7C -1

Title: (U) Shooting Incident Report
Re: 297J-HQ-A5319916, 09/11/2014

attendance records revealed SA [redacted] attended that training on June 15, 2014. b6 -1 b7C -1

◊◊

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Los Angeles Shooting Incident **Date:** 01/05/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-OFFICE OF INSPECTIONS SECTION
**Contact:** LEFF DOUGLAS A, [redacted]

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** LEFF DOUGLAS A

**Case ID #:** 297J-HQ-A5319916 (U) Los Angeles Shooting Incident

**Synopsis:** (U//~~FOUO~~) Following the SIRG meeting held on 12/15/2014, this communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting.

**Administrative Notes:** (U//~~FOUO~~) Reference Shooting Incident Report submitted electronically by Special Agent (SA) [redacted] dated 09/11/2014. b6 -1 b7C -1

**Details:**

(U//~~FOUO~~) On 07/30/2014, at approximately 6:45 p.m., SA [redacted] from the Los Angeles Field Office was involved in a shooting incident in Chatsworth, California. On 07/30/2014, SA [redacted] arrived home from work sometime after 5 p.m. SA [redacted] drove their personally owned vehicle (POV) to a car dealership to pick up their second POV. SA [redacted] then drove his second POV to Chipotle restaurant in Chatsworth to get dinner. SA [redacted] was dressed in gym clothes. Prior to exiting his vehicle, SA [redacted] locked his personally b6 -1,2 b7C -1,2

owned weapon (POW), a Glock 27 .40 caliber handgun, in the glove box of his vehicle. Earlier, he loaded the POW by inserting a nine-round magazine in the slide, but did not put a round in the chamber. SA [redacted] was current on his POW qualification. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] parked his POV in the parking lot and exited his vehicle carrying his mobile phones, FBI credentials, handcuffs, and car keys. After exiting his vehicle, SA [redacted] heard several loud voices arguing in the parking lot. SA [redacted] saw a male ([redacted] and female ([redacted]) arguing near a [redacted] was screaming and [redacted] attempted to shove [redacted] into the driver's seat of the [redacted] pushed [redacted]'s head, pulled her hair, and shoved her body in an attempt to get her into the [redacted] SA [redacted] approached [redacted] and asked what was going on. [redacted] pulled a black semi-automatic handgun from his midsection and pointed it at SA [redacted] SA [redacted] immediately put his hands up and his head down to minimize any impression he posed a threat. He stated something to the effect of, "This is your business, not my business," and backed away with his hands in the air. As SA [redacted] backed away, [redacted] pointed his weapon directly at the head of [redacted] and continued to try to get her into the [redacted] b6 -1,5,7 b7C -1,5,7

(U//~~FOUO~~) After reaching the cover of a large vehicle, SA [redacted] ran to his POV, retrieved his POW, and chambered a round by racking the slide. He put his mobile telephones and handcuffs on the car seat and retrieved his FBI credentials from his pocket. Concerned for [redacted]'s safety, SA [redacted] ran back to the large vehicle for cover. [redacted] was in the driver's seat of the [redacted] and [redacted] entered the front passenger seat of the [redacted] tried to exit the vehicle from the driver's side door but [redacted] grabbed her and pulled her back into the vehicle. [redacted] continued to scream for help. b6 -1,5,7 b7C -1,5,7

(U//~~FOUO~~) While behind cover, SA [redacted] held his FBI credentials in his left hand to ensure anyone facing him could see his picture, name, and title. He held his handgun in his right hand. SA [redacted] stood up from his place of cover, pointed his handgun at [redacted] and repeatedly b6 -1,7 b7C -1,7

stated in a loud authoritative voice, "Police! Drop the weapon! Show me your hands!" [redacted], who was seated in the front passenger seat with the door closed, looked at SA [redacted] and pointed his weapon at SA [redacted] through the windshield. b6 -1,7 b7C -1,7

(U//~~FOUO~~) Fearing for his life and the life of [redacted] SA [redacted] immediately ducked down behind cover for a split second to secure a two handed grip, stood up, and fired nine rounds. [redacted] fired at least one round at SA [redacted] During the exchange of gunfire and unknown to law enforcement at the time, a bullet fragment struck the front of [redacted]'s handgun and became lodged in the recoil spring housing. This caused the slide to become dislodged and partially separated from the frame, and made the handgun inoperable. b6 -1,5,7 b7C -1,5,7

(U//~~FOUO~~) [redacted] forced [redacted] to drive the car out of the parking lot and into the street. SA [redacted] kept his credentials above his head and continued to verbally identify himself as "police." SA [redacted] used parked cars as cover and chased the [redacted] in order to assess whether he could successfully rescue [redacted] and also so he could gather information for responding law enforcement. The [redacted] accelerated and SA [redacted] was unable to keep up. SA [redacted] returned to the parking lot, continued to display his credentials, identified himself as "police," and used a bystander's telephone to provide a description of the events to a 911 operator. Approximately one minute later, a Los Angeles Police Department (LAPD) vehicle responded and gave chase. b6 -1,5,7 b7C -1,5,7

(U//~~FOUO~~) [redacted] was able to escape from the [redacted] when she made a turn onto a side street. [redacted] flagged down a bystander who assisted her in getting to the LAPD. [redacted] now driving [redacted]'s [redacted] continued to flee from police. At an intersection, [redacted] pointed his handgun at a California Highway Patrol Officer. The officer, fearing for his safety and believing [redacted] was about to fire his handgun at him, fired eight rounds at [redacted] as he drove by. b6 -5,7 b7C -5,7

(U//~~FOUO~~) After a lengthy high-speed pursuit involving several local law enforcement agencies on Los Angeles freeways and mountain roads, [redacted] stopped [redacted] at the Malibu Bluffs Park in Malibu, b6 -5,7 b7C -5,7

California, approximately 21.3 miles from the scene of the Agent Involved Shooting (AIS). As he fled on foot from the [redacted] pointed his handgun at a responding LAPD officer. Fearing for the officer's safety and believing [redacted] was about to fire his handgun at the officer, another LAPD officer fired one round at [redacted] then ran down a steep cliff and eventually discarded the handgun in a bush. Approximately two hours after the initial shooting, [redacted] was taken into custody by LAPD SWAT on the hillside below Malibu Bluffs Park. b6 -5,7 b7C -5,7

(U//~~FOUO~~) [redacted] was taken to UCLA medical hospital where he was treated for what was erroneously believed to be a superficial gunshot wound to the chin, but was later determined to be a cut sustained during a fall while he fled on foot from the police. He was released into LAPD custody after several hours. [redacted] was treated by Los Angeles Fire Department paramedics and transported to Northridge Hospital, where she was treated for a half-inch laceration to her right ear. The medical report indicated the injury was the result of [redacted] striking her with his handgun or was caused by flying glass debris. [redacted] was released later that evening. b6 -5,7 b7C -5,7

(U//~~FOUO~~) On 07/30/2014, at approximately 8:52 p.m., FBI LA ERT arrived at the AIS scene. Items recovered included nine discharged Winchester S&W .40 caliber cartridge cases, three fired copper bullets of unknown caliber with brass disks at their base, the smashed passenger-side window of the [redacted] and one '[redacted]' water bottle. b6 -7 b7C -7

(U//~~FOUO~~) LAPD Robbery Homicide Division conducted an investigation and filed a 12-count complaint in Los Angeles Superior Court which charged [redacted] with two counts each of Attempted Murder and Assault with a Firearm (Victims [redacted] and SA [redacted]), one count each of Kidnapping (Victim [redacted]), Carjacking (Victim [redacted], Criminal Threats (Victim [redacted], Stalking (Victim [redacted], Disobeying a Domestic Relations Court Order (Victim [redacted]), Injuring a Spouse After a Prior Conviction (Victim [redacted], Possession of Firearm by a Felon, and Evading an Officer. b6 -1,5,7 b7C -1,5,7

Title: (U//~~FOUO~~) Los Angeles Shooting Incident
Re: 297J-HQ-A5319916, 01/05/2015

**SIRG Observations**

(U//~~FOUO~~) On 12/15/2014, the SIRG reviewed the AIS incident with the intent to:

1. (U//~~FOUO~~) **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 07/30/2014 was in compliance with the Department of Justice's deadly force policy. b6 -1 b7C -1

2. (U//~~FOUO~~) **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions from an operational planning and execution, training, and safety perspective.**

The SIRG made the following observations:

(U//~~FOUO~~) **Observation 1:** Los Angeles Field Office failed to provide INSD with updated, accurate information on the subject's medical condition.

(U//~~FOUO~~) **Analysis 1:**

(U//~~FOUO~~) The shooting took place on 07/30/2014. Initial reporting indicated [redacted] received one through-and-through gunshot wound to his shoulder and one through-and-through gunshot wound to his right cheek. On 08/20/2014, INSD requested [redacted]'s booking photo. Upon receipt of the photo, INSD observed [redacted] did not have a gunshot wound through the cheek, but instead had a band-aid on his chin. INSD followed up with Los Angeles Field Office (LAFO) to confirm injuries. On 08/26/2014, LAFO uploaded a medical report (serial 36), dated 07/31/2014, which revealed [redacted]'s wounds were superficial. LAFO either had not followed up to determine whether [redacted] in fact sustained gunshot wounds through the cheek and shoulder, or was aware but failed to notify INSD. In either case, this resulted in inaccurate information which was relayed to FBIHQ senior executive management. It was LAFO's responsibility to properly update INSD on [redacted]'s medical condition as the investigation progressed. b6 -7 b7C -7

Title: (U//~~FOUO~~) Los Angeles Shooting Incident
Re: 297J-HQ-A5319916, 01/05/2015

(U//~~FOUO~~) **Recommendation 1:** ADIC, Los Angeles, should ensure INSD is advised of significant investigative developments when handling a delegated AIS.

(U//~~FOUO~~) **Observation 2:** Los Angeles Field Office failed to immediately send SA [redacted]'s weapon to the Defensive Systems Unit (DSU). **b6 -1 b7C -1**

(U//~~FOUO~~) **Analysis 2:**

(U//~~FOUO~~) LAFO collected SA [redacted]'s firearm immediately after the AIS and turned it over to the LAPD so it could be processed consistently with the remaining evidence to be used in the state criminal case against [redacted] On 08/15/2014, INSD sent en email to LAFO which reminded them of the need to send SA [redacted]'s firearm to DSU as quickly as possible. Instead of doing so, it was returned to SA [redacted] who qualified on it and then sent it to DSU on 09/08/2014. **b6 -1,5 b7C -1,5**

(U//~~FOUO~~) **Recommendation 2:** ADIC, Los Angeles, should ensure immediate coordination with DSU after collection of weapons from an AIS.

(U//~~FOUO~~) **Observation 3:** SA [redacted]'s POW was not in the proper on-duty carrying configuration. **b6 -1 b7C -1**

(U//~~FOUO~~) **Analysis 3:**

(U//~~FOUO~~) MIOG Section 12-2.2,"CARRYING OF WEAPONS," paragraph 6 stated, "*When SAs are armed, handguns must be fully loaded.*" Although not further defined in the MIOG, DSU indicated "fully loaded", based upon common industry language and consistent with entry level and recurring firearms training provided by the FBI, required a round in the chamber and the magazine filled to either the manufacturer's stated capacity or an alternative capacity set forth by DSU for a particular weapon. In the case of a Glock .27, "fully loaded" required a round in the chamber and a full magazine. Although formally superseded by Corporate Policy Directive (CPD) 0634D, MIOG Section 12-2.2 is still incorporated by reference on the Training Division, Firearms Training

Unit (FTU) website and the guidance to always carry a "fully loaded" firearm is still taught by the FTU. (Despite the supersession, CPD 0634D does not address carry configuration).

(U//~~FOUO~~) After the initial confrontation with [redacted] SA [redacted] ran to his POV, retrieved his handgun, and chambered a round by racking the slide. As noted above, FTU guidance was for all handguns to be fully loaded. Accordingly, SA [redacted] should have already had a round chambered. b6 -1,7 b7C -1,7

(U//~~FOUO~~) **Recommendation 3:** ADIC, Los Angeles, should ensure all Agents adhere to the proper firearms carrying configuration.

(U//~~FOUO~~) **Observation 4:** SA [redacted] locked his weapon in an unauthorized container in his vehicle. b6 -1 b7C -1

(U//~~FOUO~~) **Analysis 4:**

(U//~~FOUO~~) CPD 0634D, entitled, "Firearms Security," Section 8.4.2.1, provided, *"Glove boxes/consoles are never considered a secure container whether they are locked or not."*

(U//~~FOUO~~) Prior to exiting his vehicle, SA [redacted] locked his firearm in his vehicle's glove box. This was prohibited by the above policy. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 4:** ADIC, Los Angeles, will remind Agents of policy prohibiting firearms from being left unattended in a vehicle glove compartment, whether locked or unlocked.

3. (U//~~FOUO~~) **Provide recommendations for administrative action if deemed necessary.** The SIRG unanimously determined there would be no referral to the Internal Investigations Section (IIS), INSD for potential administrative action.

(U//~~FOUO~~) Acting Deputy Assistant Director David P. Gelios, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Deputy Chief [redacted] Civil b6 -3 b7C -3

Rights Division, Criminal Section, Department of Justice; Supervisory Special Agent (SSA) [redacted], Investigative Law Unit, Office Of General Counsel; SSA [redacted], Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted], Firearms Training Unit, TD; UC [redacted], Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; UC [redacted], New Agent Training Program Section, Defensive Systems Unit (DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; SSA [redacted], Evidence Response Team, Laboratory Division; and Inspector Trent R. Teyema, Office Of Inspections (OI), INSD; The following non-voting members were also in attendance: Inspectors Vadim D. Thomas and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted], OI, INSD; UC [redacted], INSD; Program Management Analyst [redacted], Inspection Management Unit (IMU), INSD; and Special Assistant [redacted], OI, INSD.

b6 -1
b7C -1

**Procedures for Responding to the Observations**

(U//~~FOUO~~) ADIC, Los Angeles is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) ADIC, Los Angeles is required to provide a written response via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to

Title: (U//~~FOUO~~) Los Angeles Shooting Incident
Re: 297J-HQ-A5319916, 01/05/2015

Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, the Sentinel link should be e-mailed to MPA [redacted]. b6 -1 b7C -1

♦♦

**PATRICIA ANN BALDWIN**
Prosecuting Attorney

**JAMES E. BRYAN**
Chief Deputy

HENDRICKS COUNTY PROSECUTOR
**6 SOUTH JEFFERSON STREET**
**DANVILLE, IN 46122**

Criminal Division 2nd Floor
**Telephone: (317) 745-9283**
Fax: (317) 745-9290

Dena Elaine Choucair
Lead Inspector FBI
935 Pennsylvania Ave NW Room [redacted]
Washington, DC 20535

b6 -1
b7C -1

May 15, 2013
Re: Special Agent [redacted]
Special Agent [redacted]

Dear Ms. Choucair:

As Prosecuting Attorney of the 55th Judicial Circuit, Hendricks County, State of Indiana, I decline to prosecution any criminal activity that may have arisen out of the incident which occurred in Plainfield, Hendricks County Indiana on May 10, 2013 surrounding a robbery at the State Bank of Lizton in Plainfield, and the subsequent fleeing, capturing and shooting of a suspect. I am requesting the Federal Bureau of Investigation to take over any investigation or prosecution of anything arising from this incident.

Sincerely,

Patricia Ann Baldwin
Prosecuting Attorney
Hendricks County
55th Judicial Circuit
State of Indians

Investigator [redacted]

Victim Assistance Coordinator [redacted]

b6 -4
b7C -4

NYT-300

**From:** [redacted] (CRT) b6 -1,3
**To:** Choucair, Dena E. b7C -1,3
**Cc:** [redacted] Shields, Robert J. (CG)(FBI); [redacted] (CRT)
**Subject:** Indianapolis FBI shooting declination
**Date:** Tuesday, October 29, 2013 11:14:50 AM

Inspector Choucair
Inspections Division, FBI

Based upon a review of materials from your shooting inquiry, we have determined, there is insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by two FBI agents near Indianapolis, Indiana, on May 10, 2013, that resulted in the death of William McKnight, an escaping armed bank robber who pointed a handgun at one of the agents and refused commands to drop the gun. The evidence establishes that the agents both shot McKnight based upon a reasonable expectation that the use of deadly force was necessary because of the threat posed. The local District Attorney has also declined prosecution. The USAO is prosecuting the accomplices for the bank robbery.

The evidence indicates that the FBI agents were part of a task force conducting surveillance on McKnight and his accomplices, another man and a woman driver, suspected of bank robberies in the Indianapolis area. Pursuant to a warrant [redacted] b7E -6
[redacted]
During surveillance of the vehicle's travels, two masked men were observed leaving the State Bank of Lizton, Plainfield, Indiana. Later, video confirmed that they had just robbed the bank at gunpoint.

Two FBI agents led the pursuit of the escaping gang of three bank robbers, who fled in the tracked vehicle. After a chase, the vehicle stopped in a residential area. The first FBI agent took cover behind his car with his weapon drawn, after he saw McKnight bail out of the vehicle with a handgun. The second agent stopped his car behind the first; and, when he saw McKnight armed with a handgun pointed at the first agent, he also drew his weapon to provide cover. McKnight ignored commands to drop the gun and instead continued to point it at the first agent. Both agents fired their weapons. McKnight died from gunshot wounds. The other two bank robbers ran in a different direction and were arrested nearby without incident. The agents' accounts corroborate each other and radio traffic confirms their knowledge that McKnight was armed. There is no evidence to contradict the accounts.

McKnight was attempting to escape from an armed bank robbery and refused to drop a gun pointed at an armed agent. There is insufficient evidence to support a conclusion that either agent willfully violated the 4th Amendment's requirement of reasonable seizure and thus 18 USC 242, the applicable federal criminal civil rights statute. Both agents had a reasonable expectation that deadly force was necessary to eliminate the risk posed by McKnight's refusal to drop his gun and potential intent to fire it.

A federal criminal civil rights investigation of the agent's action is unwarranted. We appreciate the agents' voluntary statements that permitted a fully informed resolution of this matter. Please continue your administrative review and action.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

b6 -3
b7C -3

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ | FBIHQ | 05/07/2013 | 11/15/2012 – 11/24/2012 |

| TITLE OF CASE | REPORT MADE BY | TYPED BY |
|---|---|---|
| SHOOTING INQUIRY;<br>REPORT OF SHOOTING INCIDENT;<br>BALTIMORE FIELD OFFICE;<br>11/15/2012 | IIC Thomas Ravenelle | ram |
| | **CHARACTER OF CASE**<br>SHOOTING INCIDENT REVIEW | |

REFERENCES:

Telephone call on 11/15/2012 from Baltimore SAC Stephen E. Vogt to Chief Inspector Eric S. Birnbaum.

APPROVED _____ ASSISTANT DIRECTOR 5/8/13

COPIES MADE:
14 – Inspection (Attn: SIRG)
1 – TD (Attn: FTU)
1 – Baltimore (297-HQ-A1270951-D)
1 – 297-HQ-A1270951-D

DO NOT WRITE IN SPACES BELOW

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

Notations

**A**
**Cover Page**

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 05/07/2013

Report of: IIC Thomas P. Ravenelle Office: FBIHQ – INSD

Case ID#: 297-HQ-A1270951-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
BALTIMORE FIELD OFFICE
11/15/2012

Investigative Period: 11/15/2012 – 11/24/2011

Reference: (U) Telephone call on 11/15/2011 from Baltimore SAC Stephen E. Vogt to Chief Inspector Eric S. Birnbaum.

---

**Synopsis**

(U//~~FOUO~~) On 11/15/2012, at approximately 6:05 am, SA [redacted] was participating in a Baltimore SWAT operation in support of Operation [redacted], a Washington Field Office SSTF investigation. The operation included Baltimore SWAT securing two residences located across the street from each other: [redacted] Maryland. After SWAT conducted a knock and announce at [redacted] the front door was breached and [redacted] was deployed. SA [redacted] entered the house prior to [redacted] He mistook [redacted] as a shotgun blast and fired his M-4 carbine five times at [redacted] who was standing in an archway on the other side of the house approximately 20 feet opposite to SA [redacted] was treated on the scene for minor injuries, transported to the Prince George's Hospital, and released. The Laboratory Shooting Reconstruction Team as well as Baltimore and Washington Field Office ERT processed the scene. No weapons were located.

b6 -1,2,7
b7C -1,2,7
b7E -1

**Details**

(U//~~FOUO~~) On 11/15/2012, at approximately 6:05 A.M., the Baltimore SWAT team executed two search warrants in support of Operation [redacted] a Washington Field Office SSTF investigation. The case was predicated on information that [redacted] were operating significant drug networks throughout the D.C. Metro area. These individuals were indicted by a Federal Grand Jury in the District of Columbia and search warrants were obtained for nine locations utilized by members of the criminal organization throughout the metro Washington D.C. area. Two of these search warrants were for single family residences in Maryland and would be executed by Baltimore SWAT, NOC, and TOC

b6 -7
b7C -7
b7E -1



NYT-304

teams. The addresses for these homes were [redacted] b6 -7 b7C -7
Maryland (hereinafter referred to [redacted].

On 11/13/2012, at approximately 1:00 P.M., Baltimore SWAT Senior Team Leader (STL) [redacted] conducted an operations brief. The approved operations order called for Baltimore SWAT to divide into two eight-man entry teams with each team assigned to a residence. The teams were designated Blue and Gold; Gold team was designated to enter and secure [redacted] Blue team was designated to enter and secure [redacted] Intelligence from a WFO CHS indicated the primary subject at [redacted] had received prior military training and was armed with an AK-47 and several handguns. Due to the close proximity to [redacted] Baltimore SWAT believed there was a probability weapons may be located at [redacted] as well. b6 -1,7 b7C -1,7

The front door and windows of [redacted] provided a clear view of the front door of [redacted] where Blue Team would make entry. Due to this threat, Baltimore EM approved a plan for Blue Team to make entry at [redacted] before Gold Team entered [redacted] allowing Blue Team operators to avoid exposing themselves to any danger posed by [redacted] [redacted] was authorized for use by both Blue and Gold teams. Blue Team planned to deploy a [redacted] if the knock and announce was not answered and a breach of the door was necessary. If the occupants of [redacted] opened the door when commanded, [redacted] would be deployed in the front yard of [redacted] signaling Gold Team to enter [redacted] b6 -7 b7C -7 b7E -1

On 11/15/2012, at approximately 5:00 A.M., Baltimore SWAT, along with the Tactical Operations Center (TOC) and Negotiation Operations Center (NOC) personnel met at the designated staging area and conducted an operations and safety brief. Upon completion, all members moved to their assigned stations. TOC and NOC were located in the TOC vehicle, while the On-Scene Commander, ASAC [redacted] and SWAT Supervisor, SSA [redacted] positioned themselves in ASAC [redacted]' vehicle. Both Blue and Gold teams proceeded to the residences utilizing one vehicle arriving at approximately 6:00 A.M. Once there, both teams proceeded to their assignments. Blue Team, assigned to 6709, was comprised of the following members in entry order and assignment: b6 -1 b7C -1

1. SA [redacted] – Entry
2. SA [redacted] – Entry [redacted]
3. SA [redacted] – Entry/STL
4. SA [redacted] – Entry/Assistant Breacher
5. SA [redacted] – Entry
6. SA [redacted] – Entry
7. SA [redacted] – Entry/Breacher
8. SA [redacted] Entry/Rear Security

b6 -1 b7C -1 b7E -1

At approximately 6:05 A.M., Blue Team was positioned at the front door to [redacted] where STL [redacted] initiated the operation. SA [redacted] conducted a knock and announce by yelling, "FBI, search warrant. Come to the door!" SA [redacted] repeated this sequence, after which STL [redacted] counted aloud to 20. No indications of movement were observed in the house at the b6 -1 b7C -1 b7E -1

completion of STL [redacted]'s count. SA [redacted] was directed by STL [redacted] to forcibly breach the door. After SA [redacted] breached the door, SA [redacted] inside the house. Almost immediately after [redacted], SA [redacted] prematurely entered the residence before [redacted] and stood in the living room, approximately five feet from the threshold. He faced east and scanned left to right. SA [redacted] saw a female, later identified as [redacted] crouched approximately 20 feet away in an archway inside an alcove which separated the living room from the bedrooms located in the rear of the residence. As SA [redacted] made eye contact with [redacted] he saw a flash of light, heard a loud bang, and felt a strong movement of air on his right side which he perceived to be from a shotgun blast fired at him by [redacted]

b6 -1,2
b7C -1,2
b7E -1

SA [redacted] initially fired two shots toward [redacted] from his M-4 and both shots missed her. One embedded in the wall of an unoccupied bedroom in the southeast corner of the home. The other hit the corner of the living room wall, immediately adjacent to the arch. SA [redacted] adjusted his point of aim from right to left, as [redacted] ran back into her bedroom in the northeast corner of the residence. SA [redacted] perceived that [redacted] moved into a stairwell rising to the second floor. The stairwell was between the living room where SA [redacted] was standing, and [redacted]'s bedroom, and actually descended into the basement. According to SA [redacted], he believed [redacted] would use the stairwell as a position of cover and fire at him and his fellow team members again. SA [redacted] fired three additional shots at the wall separating the living room from the stairwell. SA [redacted] adjusted his aim from right to left as he fired these three shots. The third through fifth shots impacted the living room wall and passed through the stairwell, hitting the opposing wall. One of the rounds also impacted a closet door in the hall area, adjacent to [redacted]'s bedroom door.

b6 -1,2
b7C -1,2

SA [redacted] was the second Agent to enter the residence, clearing to the south toward the kitchen area. SA [redacted] overhead SA [redacted] shouting, "shots fired" and, "come out." SA [redacted] then moved to cover a second stairwell on the north side of the house, which ascended to the second floor. While in this position, SA [redacted] was aware of individuals being called out and taken outside by other SWAT members. Five individuals were cleared from the house. They were:

b6 -1
b7C -1

- [redacted] was located downstairs at the time of entry. He was the primary target at [redacted] He had a prior criminal history for drug related offenses, but he had no history of weapons possession.

b6 -9
b7C -9

- [redacted] was located in the bedroom in the northeast corner of the main floor. [redacted] is the [redacted] She had no criminal history.

b6 -1,2,7
b7C -1,2,7

- [redacted] was located in the bedroom in the northeast corner with [redacted] was [redacted]. She had no criminal history.

- [redacted] was located in the bedroom in the northeast corner with [redacted] She had no criminal history.

b6 -2,7,9
b7C -2,7,9

- [redacted] was located upstairs. [redacted] He had a criminal record for felony burglary in Prince George's County, but no history of weapons possession.

[redacted] sustained three superficial injuries. All were approximately 2-4mm in size. One was located on her left arm, one was located on her left cheek, and one was located on the back, left side, of her head above the neck. [redacted] was treated at the scene by Baltimore SWAT medic SA [redacted] She initially declined to go to the hospital, but agreed and was transported to Prince George's hospital. She was admitted at approximately 7:08 A.M and discharged at approximately 7:18 A.M. Her wounds were cleaned and adhesive bandages were applied to her face and arm. While being transported back to the scene from the hospital by Baltimore Agents, [redacted] removed a small piece of metal from the back of her head, which had remained in her hair near the abrasion. She voluntarily provided it to the Agents and it was maintained as evidence.

b6 -1,2
b7C -1,2

The scene was secured and processed by ERT from the Baltimore and Washington Field Offices. SA [redacted]'s issued M-4 was rendered safe and entered into evidence. Five Winchester .223 casings, [redacted] was deployed upstairs during clearing) were recovered from the residence. No weapons were recovered.

b6 -1
b7C -1
b7E -1

Baltimore EM and all Blue and Gold SWAT team members were interviewed. On 11/16/2012, SA [redacted] completed a Signed Sworn Statement (SSS). During his interview, SA [redacted] stated he "could not initially recall whether or not [redacted] prior to entry" and, upon further reflection, he "...realized [redacted] was used and began to suspect I entered the residence before [redacted] went off." SA [redacted] further stated "...he now believes it is possible what he perceived to be the muzzle flash of the shotgun...may have been a reflection from [redacted]" However, at the time of the shooting, SA [redacted] believed [redacted] posed an imminent threat and she had fired at him stating "When I fired my M-4 rifle at the female subject, however, I believed she had fired a shotgun at me and was moving to a position of cover." No operational personnel observed SA [redacted] fire his weapon.

b6 -1,2
b7C -1,2
b7E -1

**Substantive Case Files**

The following substantive matter was under investigation at the time of the shooting on 11/15/2012:

OPERATION [redacted]

[redacted]

b7E -1
b7A -1



NYT-307

After the shooting incident, the following substantive case was opened:

ASSAULT ON A FEDERAL OFFICER;
[redacted] MARYLAND; b6 -7 b7C -7
NOVEMBER 15, 2012; b7A -1
[redacted]

**Enclosures**

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Thomas P. Ravenelle b6 -1
Assistant Inspector/Team Leader (AI/TL) [redacted] b7C -1
AI/TL [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP

B. **Shooting Incident Review Protocol**

All members of the SIRT reviewed the FBI produced videotape entitled, "The Rain After the Storm - Shooting Incident Investigations," and the INSD Shooting Review Protocol.

On 11/15/2012, IIC Ravenelle communicated with Baltimore ASAC [redacted] to b6 -1
arrange logistics for the SIRT. SSRA [redacted] Rockville Resident Agency, and SSA b7C -1
[redacted] served as the points of contact for the SIRT. IIC Ravenelle, AI/TLs [redacted] and AIs [redacted] traveled directly to the scene, where they were briefed by Baltimore ASAC [redacted] All viewed the undisturbed scene before it was processed. Local authorities, Prince George's County and District Heights Police Departments provided security but did not participate in any aspects of the investigation. IIC Ravenelle met with Baltimore SAC Stephen E. Vogt to discuss INSD SIRT protocol. Also on 11/15/2012, IIC Ravenelle met with all SIRT personnel, and separately with members of the Baltimore SWAT team, to discuss SIRT procedures. There was an opportunity for dialogue between the SIRT and the involved personnel to address concerns, provide clarification, and answer questions prior to the SIRT commencing.

During the SIRT, one Signed Sworn Statement (SSS) was taken from the FBI Agent directly involved in the shooting, SA [redacted] who was represented by [redacted] Esq. Other interviews, events and observations were documented via FD-302s. All FBI personnel were allowed to read the FD-302 summarizing their interview to confirm the accuracy of the information provided. The SSS and interviews of witnesses were conducted voluntarily. A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all those interviewed. b6 -1,2 b7C -1,2

On 11/16/2012, IIC Ravenelle conducted an exit brief to SAC Vogt and met separately with SA [redacted] to reiterate the SIRT process. b6 -1 b7C -1

C. **Personnel Involved in the Shooting**

1. FBI SA [redacted]

**Other Participants in the Operation**

1. SAC Stephen E. Vogt
2. ASAC [redacted] b6 -1
3. CDC [redacted] b7C -1
4. SA [redacted]
5. SA
6. SA
7. SA
8. SA
9. SA
10. SA
11. SA
12. SA
13. SA
14. SA
15. SA
16. SA
17. SA
18. SA
19. SA
20. SA
21. IA [redacted]

D. **Firearms Training**

A review of field office training records for SA [redacted] who discharged his weapon, revealed he was in compliance with firearms qualifications requirements. During CY 2012, SA [redacted] attended firearms training on seven separate occasions and qualified using his FBI SWAT issued weapon, a Colt model M4A1, serial number [redacted] SA [redacted] last qualified on 10/23/2012 with a score of 100%. b6 -1 b7C -1



NYT-309

E. **Deadly Force Training**

Chief Division Counsel [redacted] provided instruction on the FBI Deadly Force Policy to Baltimore employees during the first quarter firearms training on 10/15/2012 and 10/26/2012. SA [redacted] attended firearms training on 10/15/2012 and 10/26/2012. On 11/13/2012, the deadly force policy was briefed and discussed by participants during the operation's brief. The policy was not briefed on the day of the incident. b6 -1 b7C -1

F. **Use of Body Armor and Law Enforcement Identifiers**

SA [redacted] wore FBI SWAT issued tactical clothing including body armor with law enforcement identifiers clearly visible on the outside of his clothing. b6 -1 b7C -1

G. **FBI Indices and National Crime Information Center (NCIC)**

A search of FBI Indices revealed one reference for the name [redacted] with no other listed identifiers. One reference was also determined for [redacted] with no other listed identifiers. There were no references for [redacted] b6 -2,7,9 b7C -2,7,9

NCIC revealed no outstanding warrants for any of the five individuals. [redacted] has a prior criminal history for multiple theft and drug violations dating back to 1977. His last reported arrest was on [redacted] by the Metropolitan Washington D.C. Police Department for distribution of heroin. [redacted] had a prior criminal history of felony burglary and was arrested on [redacted] by the Prince George's County Police Department. There was no report of a criminal history for [redacted]

H. **ERT Report**

A comprehensive ERT Casebook report was completed and is attached.

I. **FBI Lab Report**

On 01/08/2013, the M-4 SA [redacted] used was examined. All modifications were determined to be authorized and conducted by FBI gunsmiths. Twenty rounds were test fired and the weapon functioned as designed. A Shooting Incident Reconstruction examination dated 02/25/2013 is attached. b6 -1 b7C -1

J. **Medical Reports**

[redacted] was treated on the scene by SA [redacted] SWAT medic, for minor abrasions and lacerations. SA [redacted] provided a copy of the FD-898 Emergency Medical Incident Report. [redacted] was also treated for minor abrasions and lacerations at Prince George's hospital. b6 -1,2 b7C -1,2

K. **Declination by the Civil Rights Division**

Upon completion of the on-site inquiry, IIC Ravenelle coordinated SIRT investigative findings with [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division. On 12/06/2012, he was provided an incident summary and copies of all interviews. On 04/10/2013, Mr. [redacted] advised the circumstances of the Agent-involved shooting did not, "warrant a federal criminal investigation of this matter." b6 -3 b7C -3

L. **Local Prosecutive Opinion**

Upon completion of the on-site inquiry, IIC Ravenelle coordinated SIRT investigative findings with Ms. [redacted] State's Attorney for Prince George's County, Maryland. On 12/06/2012, she was provided an incident summary and copies of all interviews. On 02/27/2013, Ms. [redacted] provided a letter declining to prosecute SA [redacted] for his actions during the execution of the search warrant on 11/15/2012. b6 -1,4 b7C -1,4

M. **Inspector's Observations**

**Observation 1:** Baltimore SWAT operators should receive training on the safe and effective [redacted]

**Analysis:** Special Weapons and Tactics Policy Implementation Guide (02/29/2012) [redacted] Senior Team Leaders (STLs) or their designees must conduct annual training for each SWAT team member in the use of [redacted] The STL must document the annual training and certification in the office SWAT file, using the [redacted] SWAT checklist. The STL must also report to SOU via TRMS that each team's operators have been annually certified. Prior to any training event in which [redacted] will be used, the team leader, or his/her designee, should cover the delivery sequence "dos and don'ts" for the [redacted] b7E -1,5

SIRT investigation determined SWAT operator SA [redacted] entered the room before a [redacted] causing him to take offensive actions due to his belief he was being fired upon. b6 -1 b7C -1 b7E -1

**Recommendation 1:** SAC, Baltimore ensure SWAT members are trained on the use of [redacted] and develop protocols to prevent early entry before a [redacted] b7E -1

**Recommendation 1a:** AD, CIRG ensure SWAT teams are conducting annual training on the use [redacted]



NYT-311

**From:** [redacted] (CRT) [redacted]@usdoj.gov> b6 -3 b7C -3
**To:** Choucair, Dena E.
**Cc:** [redacted] (CRT)
**Sent:** Fri Jul 19 16:45:37 2013
**Subject:** Dayton Shooting

Inspector Dena Choucair
FBI Inspection Division

Based upon the information provided in your Shooting Incident Report, we have determined that an FBI agent shooting during the execution of an arrest in Dayton, Ohio on 4/04/13, resulting in the death of Jermaine Coleman and wounding of another subject, does not warrant federal criminal investigation. There is insufficient evidence to support an investigation to determine whether the federal criminal civil rights statutes were violated.

Four FBI agents were attempting to locate two [redacted] wanted on local warrants for vehicular assault and possession of heroin in the vicinity of a Dayton, Ohio mall believed to be where their drug transactions occurred. The two subjects were located conducting drug deals out of an automobile, which was being driven by a third unidentified male. The agents followed the subjects' vehicle to a drive-thru beverage store window with only one entrance and one exit. Based on the observed felony drug transactions and the arrest warrants, they decided to affect an arrest on the occupants of the vehicle. b6 -7 b7C -7 b7A -1

On prior occasions, law enforcement agents had attempted to stop vehicles with these two subjects of the warrants. They refused to stop and escaped. There is a "no chase" law enforcement policy in the state of Ohio, which is commonly known by criminals and has heightened their attempts to escape, knowing law enforcement will not follow.

The agents drove two cars with two agents in each car into the beverage drive-thru, locking the subject vehicle in the enclosed area by blocking both the entrance and exit. As the passenger agents of each FBI car exited to effect the arrest in the enclosed area, the driver of the suspects' car made an attempt to escape by violently crashing that vehicle into both FBI vehicles. The car first struck the rear FBI vehicle, which forced the passenger door to strike that agent as he exited, then violently crashed into the front FBI vehicle almost striking the other passenger agent who also exited the car.

That agent in front car fired four times from outside his car at the driver to stop another deliberate collision. The driver, Coleman, was wounded twice and died en-route to the hospital. It was later determined that Coleman was wanted on a local warrant for improperly discharging a firearm. One of the surviving subjects, who was shot once and suffered non-life threatening wounds, admitted that they all had been selling narcotics. The other passenger was uninjured. No weapons were found in the vehicle or on the subjects.

The shooter agent saw the subjects' car smash into the FBI car to its rear impacting it so as to cause him to fear that those agents had been injured. His car was then struck and he was

almost struck himself. When he fired, he saw the driver looking to his rear as if he intended to re-collide with the FBI car to his rear. The shooter agent claims he fired to stop the car from injuring other agents. The other agents provide generally consistent accounts. The forensic evidence is consistent with the agents' accounts. The shooter agent and two medically trained other agents attempted to render aid to the mortally wounded driver.

The two surviving subjects were federally charged by the Southern District of Ohio for narcotics distribution and assault on a federal officer. Based upon the information provided, the local DA's office declined to conduct a criminal review of the shooting.

Under the totality of the circumstances, there is insufficient evidence to contradict the agent's expressed claim of why he fired his weapon. Accordingly, there is insufficient evidence to establish that the agent used more force than was reasonably necessary and that he believed was reasonably necessary to prevent death or grievous bodily harm to himself and others.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

[redacted]
cell - [redacted]

601 D Street, N.W.
Room [redacted]
Washington D.C. 20004

b6 -3
b7C -3

**EXECUTIVE SUMMARY**
**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 12/20/2013

Report of: IIC Shawn W. Stroud Office: FBIHQ – INSD

Case ID#: 297J-HQ-A3094975

Title: SHOOTING INCIDENT REVIEW;
REPORT OF SHOOTING INCIDENT;
NEW YORK FIELD OFFICE – WHITE PLAINS RESIDENT AGENCY;
08/28/2013

Investigative Period: 08/28/2013 – 12/20/2013

## I. Executive Summary

On 08/28/2013, at approximately 11:45 a.m., SA [redacted] from the New York Field Office (NYFO) was involved in a shooting incident at [redacted] Mount Vernon, New York (NY). NYFO, Squad C-26, White Plains RA (WPRA) and the Westchester County District Attorney's Office (WCDAO) were conducting a joint investigation into narcotics trafficking and gang activity in Mount Vernon, NY. [redacted] was wanted on a local narcotics warrant. The WCDAO along with the Mount Vernon Police Department (MVPD) planned on arresting [redacted] on August 28, 2013. b6 -1,7 b7C -1,7

At approximately 11:00 a.m., on 08/28/2013, SA [redacted] received a telephone call from a WCDAO investigator, who indicated WCDAO investigators established surveillance on [redacted]'s vehicle on the [redacted] Mount Vernon, NY, and planned to arrest [redacted] when he was observed. SAs [redacted] drove to the vicinity of the [redacted] to participate in the surveillance and to conduct the post-arrest interview. While driving past [redacted] a known address for [redacted] SAs [redacted] observed [redacted] standing in front of the house. SA [redacted] observed [redacted] stare at him and SA [redacted] Having not observed any WCDAO investigators near [redacted] and knowing the WCDAO surveillance team was near [redacted]'s vehicle, parked a few blocks north, SAs [redacted] exited their Bucar, in order to prevent [redacted] from eluding arrest. SAs [redacted] lost sight of [redacted] They approached the house and walked down an adjacent driveway to the rear of the house. WCDAO Investigator [redacted] approached the front of the house from the opposite direction. In the rear of the house, SA [redacted] approached the passenger's door of a [redacted] associated with [redacted] and SA [redacted] approached the driver's door. SA [redacted] heard the [redacted]'s engine start. SA [redacted] gave commands to the driver of the [redacted] who he believed to be [redacted] to turn off the car and get his hands up. SA [redacted] determined the driver was [redacted] and instructed him to turn off the vehicle. [redacted] ignored SA [redacted]'s commands, put the [redacted] in reverse, and began to back down the driveway. WCDAO Investigator [redacted] took a standing position behind the [redacted] He was struck twice by the vehicle as it moved in reverse. SA [redacted] feared for Investigator [redacted]'s life and aimed his weapon at [redacted] however, SA [redacted] was in his sight picture. SA [redacted] fired one round from his Glock .40 caliber pistol into the rear passenger tire of [redacted]'s vehicle. When the vehicle did not stop, SA [redacted] immediately fired a second round from his pistol into the front passenger tire of [redacted]'s vehicle, which stopped the vehicle. WCDAO Investigator [redacted] moved from the rear of the b6 -1,7 b7C -1,7 b6 -1,4,7 b7C -1,4,7

[redacted] to the driver's side and smashed the driver's window. He and SA [redacted] extracted [redacted] who was resisting, from the vehicle, and arrested him. b6 -1,7 b7C -1,7

There were two Agents and one Task Force Officer (TFO) in close proximity to the shooting incident and four other law enforcement officers within a few block radius. Only one Agent and the TFO actually witnessed the shooting incident. Statements regarding the shooting incident from both the Agent and TFO were consistent with SA [redacted]'s account of the incident. The MVPD did not participate in the enforcement action. There were no injuries as a result of this incident. No other law enforcement officers fired their weapons. The shooting scene was processed by NYFO ERT. b6 -1 b7C -1

## II. Incident Details

### a. Substantive Case Files and Background Information

Prior to the shooting incident, the following substantive Organized Crime Drug Enforcement Task Force - Gangs case was opened:

Title: [redacted] b7A -1

File number:

Case Agents: SA [redacted] b6 -1 b7C -1
SA
SA

The NYFO opened an Assault on a Federal Officer investigation on [redacted] as a result of the shooting incident. b6 -7 b7C -7

Title: ASSAULT ON A FEDERAL OFFICER (AFO);
[redacted] SUBJECT;
[redacted] MOUNT VERNON, NEW YORK;
08/28/2013

File number: [redacted] b7A -1

Case Agent: [redacted]

### b. Listing of Personnel Involved in the Incident

b6 -1 b7C -1

1. SA [redacted] (discharged weapon)
2. SA [redacted]
3. TFO [redacted]

### c. Case Review and Operational Briefings

On [redacted] Squad C-26 of the NYFO – WPRA opened and assigned [redacted] to address gang-related crime in Mount Vernon, New York. The opening EC was predicated on a previous meeting between the FBI and the MVPD Commissioner, whereby the MVPD made a formal request for the FBI's assistance in regards to an escalating violent gang problem in Mount Vernon, NY. b7E -2

The investigation determined [redacted]

b7A -1
b7E -3

In [redacted] a CHS provided information which indicated [redacted]

b6 -7,8
b7C -7,8
b7D -1
b7A -1

### d. Events Leading Up to the Shooting

On 08/23/2013, the WCDAO, the MVPD and the FBI met to discuss the arrest of [redacted] The WCDAO and MVPD agreed to jointly arrest [redacted] on 08/28/2013, on a local warrant. On 08/28/2013, the MVPD was not available for the arrest operation. The WCDAO decided to execute the arrest of [redacted] on 08/28/2013, without the assistance of the MVPD. Deputy Chief [redacted] WCDAO, discussed a general tactical plan over the telephone with his investigators. The operational plan called for the WCDAO investigators to arrest [redacted] and the FBI would debrief [redacted] after the arrest. Based on this interview, the FBI would determine [redacted]

b6 -4,7
b7C -4,7
b7E -1,3

At approximately 9:40 a.m. on 08/28/2013, DC [redacted] dispatched WCDAO investigators to the vicinity of [redacted] in Mount Vernon, NY, to locate [redacted] s vehicles. The WCDAO investigators found [redacted] s vehicle parked on the [redacted] DC [redacted] assigned WCDAO Investigators [redacted] and New York State Police Investigator [redacted] to conduct surveillance on the vehicle.

b6 -4,7
b7C -4,7

At approximately 11:00 a.m., on 08/28/2013, SA [redacted] received a telephone call from a WCDAO investigator, who told SA [redacted] the WCDAO had established surveillance on [redacted] 's vehicle on the [redacted] Mount Vernon, NY, and planned to arrest [redacted] when he was observed. SAs [redacted] drove to the vicinity of the [redacted] to participate in the surveillance and conduct the post-arrest interview. While driving past [redacted] a known address for [redacted] SAs [redacted] observed [redacted] standing in front of the house. SA [redacted] observed [redacted] stare at him and SA [redacted] Having not observed any

b6 -1,7
b7C -1,7

WCDAO investigators near [redacted] and knowing the WCDAO surveillance team was near [redacted]'s vehicle, parked a few blocks north, SAs [redacted] exited their Bucar, in order to prevent [redacted] from eluding arrest.

b6 -1,7
b7C -1,7

**e. Shooting Incident Details**

SAs [redacted] lost sight of [redacted] They approached the house and walked down an adjacent driveway to the rear of the house. WCDAO Investigator [redacted] approached the front of the house from the opposite direction. In the rear of the house, SA [redacted] approached the passenger's door of a [redacted] associated with [redacted] and SA [redacted] approached the driver's door. SA [redacted] heard the [redacted]'s engine start. SA [redacted] gave commands to the driver of the [redacted], who he believed to be [redacted] to turn off the car and get his hands up. SA [redacted] determined the driver was [redacted] and instructed him to turn off the vehicle. [redacted] ignored SA [redacted]'s commands, put the [redacted] in reverse, and began to back down the driveway. WCDAO Investigator [redacted] took a standing position behind the [redacted] He was struck twice by the vehicle as it moved in reverse. SA [redacted] feared for Investigator [redacted]'s life and aimed his weapon at [redacted]; however, SA [redacted] was in his sight picture. SA [redacted] fired one round from his Glock .40 caliber pistol into the rear passenger tire of [redacted]'s vehicle. When the vehicle did not stop, SA [redacted] immediately fired a second round from his pistol into the front passenger tire of [redacted]'s vehicle, which stopped the vehicle. WCDAO Investigator [redacted] moved from the rear of the [redacted] to the driver's side and smashed the driver's window. He and SA [redacted] extracted [redacted] who was resisting, from the vehicle, and arrested him.

b6 -1,4,7
b7C -1,4,7

**f. Post Shooting Details**

There were two Agents and one Task Force Officer (TFO) in close proximity to the shooting incident and four other law enforcement officers within a few block radius. Only one Agent and the TFO actually witnessed the shooting incident. Statements regarding the shooting incident from both the Agent and TFO were consistent with SA [redacted]'s account of the incident. There were no injuries as a result of this incident. The MVPD did not participate in the enforcement action. No other law enforcement officers fired their weapons. The WCDAO and the FBI responded to the scene. The MVPD did not respond. The shooting scene was processed by NYFO ERT.

b6 -1
b7C -1

**g. Accounting of Shots Fired**

SA [redacted] fired two rounds and was the only shooter. Two .40 caliber shell casings were recovered at the scene. The front and rear passenger side tires were shot, ERT did not recover any bullets or bullet fragments from the scene or the tires. Witnesses reported hearing two shots fired. SA [redacted] advised during his SIRT interview he regularly loaded only 13 or 14 rounds into his 15 capacity magazine due to arthritis in his thumbs.

b6 -1
b7C -1

**h. Subject Information**

Name: [redacted]
Position: Driver
Sex: [redacted]
Race: [redacted]
Height: [redacted]
Weight: [redacted]

b6 -7
b7C -7

Hair:
Eyes:
DOB:
SSAN
FBI #:

b6 -7
b7C -7

A National Crime Information Center (NCIC) criminal history check included multiple entries for to include six arrests for offenses including narcotics and robbery with the appearance of a firearm. At the time of the NCIC query, an active arrest warrant was identified for The warrant was issued on 07/31/2013, by the MVPD for Criminal Possession of Narcotic Drug-Fourth Degree.

**i. Use of Body Armor and Law Enforcement Identifiers**

Both SA wore their FBI-issued body armor. Neither Agent displayed a law enforcement identifier because of the pre-arrest surveillance to locate When they exited their Bureau vehicle, to confront both Agents displayed their FBI shield from a chain around their necks.

b6 -1,7
b7C -1,7

**j. Forensic Summary**

On 08/28/2013, SSA took custody of SA 's weapon. SSA returned to the WPRA with SA s weapon, and secured it in the squad safe. On 08/29/2013, SSA entered the following items into evidence; SA s weapon, one 15-round capacity magazine and 11 .40 caliber cartridges.

b6 -1
b7C -1

On 08/28/2013, the NYFO ERT deployed to Mount Vernon, New York. At 4:27 p.m., ERT began processing the scene. Items recovered included two .40 caliber handgun shell casings from the discharged weapon. At 8:45 p.m., processing of the scene was concluded. The used by the subject was towed to the ERT offsite.

b6 -7
b7C -7

On 08/29/2013, ERT began processing the at 10:20 a.m. The items recovered from the vehicle were one Mount Vernon Police Association Card, one document from and the front and rear passenger side tires. Search and processing of the vehicle concluded at 2:45 p.m.

Spherical photography was taken by ERT. ERT submitted a lead to the Operational Projects Unit to process the survey data and provide an interactive digital exhibit linking evidence and photographs.

The following items were entered into evidence in the AFO case on

b6 -7
b7C -7
b7A -1

| | |
|---|---|
| 1B4 | One document from |
| 1B5 | One Mount Vernon Police Association Card. |
| 1B8 | Two .40 caliber handgun shell casings. |
| 1B9 | The front and rear passenger side tires. |

**k. Medical Summary**

FBI Agents involved in the shooting:

No injuries.

Subjects involved in the shooting:

No injuries.

## III. Shooting Incident Review Team Details

### a. The Delegated Shooting Team (DST) was comprised of the following personnel:

Inspector-in-Charge (IIC) Shawn W. Stroud
Inspector-in-Place / Team Leader (TL) Patrick J. Carroll
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]

b6 -1
b7C -1

### b. The NYFO ERT Personnel:

Search of [redacted] Mount Vernon, NY

SA [redacted] NYFO Evidence Response Team, Team Leader
SA [redacted] NYFO ERT, Total Station
SA [redacted] NYFO ERT, Total Station
SA [redacted] NYFO ERT, Total Station
SA [redacted] NYFO ERT, Evidence Custodian
SA [redacted] NYFO ERT, Evidence Log
SA [redacted] NYFO ERT, Sketch
SA [redacted] NYFO ERT, Photographer
SA [redacted] NYFO ERT, Photograph Log
SA [redacted] NYFO ERT, Search
SA [redacted] NYFO ERT, Search
SA [redacted] NYFO ERT, Search

b6 -1,7
b7C -1,7

Search of the [redacted] NY Registration [redacted]

ASAC [redacted] NYFO, Special Operations Branch
SSA [redacted] NYFO, Squad SO-14
SA [redacted] NYFO, ERT Coordinator
SA [redacted] NYFO ERT, Team Leader
SA [redacted] NYFO ERT, Evidence Log
SA [redacted] NYFO ERT, Photographs
SA [redacted] NYFO ERT, Photograph Log
SA [redacted] NYFO ERT, Search
SA [redacted] NYFO ERT, Search
SA [redacted] NYFO ERT, Search
SA [redacted] NYFO ERT, Search
SA [redacted] NYFO, Squad C-18, AFO Case Agent

b6 -1,7
b7C -1,7

[redacted] NYFO, Automotive Worker b6 -1 b7C -1

## IV. Shooting Incident Review Protocol

On 08/28/2013, at approximately 12:30 p.m., SAC Brooks was notified by A/SAC [redacted] and A/ASAC [redacted] of a shooting incident involving FBI Agents in Westchester County New York. SA [redacted] and SA [redacted] Squad C-26, were deployed with the Westchester County Safe Streets Task Force when SA [redacted] discharged his weapon. There were no injuries. SAC Brooks directed A/SAC [redacted] and A/ASAC [redacted] to advise SSA [redacted] to take possession of SA [redacted] s weapon. b6 -1 b7C -1

Immediately thereafter, SAC Brooks notified the NYFO ADIC, and SIOC. SSA [redacted] NYFO Operations Center, distributed the FD-1015 to SIOC via E-mail. SAC Brooks then contacted AD Nancy McNamara, INSD, by telephone to report the incident. AD McNamara delegated the inspection to the NYFO due to the fact there were no injuries and only one Agent discharged a weapon.

While en route to the scene, SAC Brooks directed SSA [redacted] to take SA [redacted] to the hospital for a post-traumatic physical examination. At approximately 2:45 p.m., SAC Brooks arrived at the incident scene. A/ASAC [redacted] On-Scene Commander, provided SAC Brooks a short brief on the circumstances of the incident and described the scene. NYFO personnel from the ERT, Squad C-19 and OPA were on scene as were personnel from the WCDAO. SAC Brooks spoke with WCDAO Chief Investigator [redacted] and WCDAO Deputy Chief Investigator [redacted] SAC Brooks checked on the condition of SA [redacted] offered support, and directed him to leave the scene and return to the WPRA. SAC Brooks was advised the FBI was in possession of SA [redacted] s firearm. b6 -1,4 b7C -1,4

At approximately 3:25 p.m., SAC Brooks contacted First Deputy District Attorney (FDDA) [redacted] WCDAO who put SAC Brooks in contact with FDDA [redacted] FDDA [redacted] would serve as the WCDAO point of contact on the Assault on a Federal Officer (AFO) investigation. The WCDAO would not open an investigation into the shooting, and did not request participation in the shooting incident interview process. The MVPD never responded to the scene and did not open an investigation into the shooting. b6 -4 b7C -4

At approximately 4:20 p.m., SAC Brooks contacted Acting Chief Inspector Howard Marshall, INSD, to determine who from INSD was overseeing the matter. Inspector Shawn W. Stroud was assigned as the Inspector in Charge. ASAC [redacted] NYFO, was assigned the Delegated Shooting. b6 -1 b7C -1

In total, two Signed Sworn Statements (SSS) were taken from the FBI Agents directly involved in the shooting. Other interviews, events, and observations were documented via FD-302s. The SSSs and interviews of witnesses were conducted voluntarily. A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was signed by the Agents interviewed via SSS.

On 10/21/2013, SAC Brooks, and ASAC [redacted] met with WCDAO FDDA [redacted] and Second Deputy District Attorney (SDDA) [redacted] in the WPRA to brief them on the findings of the Delegated Shooting Team (DST). FDDA [redacted] confirmed she would like a copy of the DST report to assist her office in making a prosecutorial decision. On 12/3/2013, ASAC [redacted] met with SDDA [redacted] at the WCDAO Office and provided the DST report to him. On 12/20/2013, SDDA [redacted] telephonically advise ASAC [redacted] the WCDAO had declined to prosecute the case. b6 -1,4 b7C -1,4

## V. Administrative

### a. Firearms Training

Firearms qualifications records for SA [redacted] were provided to the SIRT by PFI [redacted] A review of the training records reflected SA [redacted] s most recent qualification with his FBI-issued Glock Model 22, Serial Number [redacted] was on 08/01/2013, and he was in compliance with the firearms qualifications requirements. b6 -1 b7C -1

### b. Deadly Force Training

CDC [redacted] advised the NYFO provided instruction on the FBI's Deadly Force Policy during its Uniform Course of Legal Instruction, in the last quarter of FY 2012. Attendance at the training was maintained by a sign-in sheet. The sign-in sheet reflected the attendance of SA [redacted] on 01/09/2013. The Legal Unit provided training on the FBI's Deadly Force Policy during the last quarter each FY. CDC [redacted] provided the schedule and sign-in sheets for the aforementioned training event. b6 -1 b7C -1

### c. DOJ Civil Rights Division Prosecutorial Decision

On 09/23/2013, [redacted] Special Legal Counsel, Civil Rights Division, U.S. Department of Justice declined prosecution of this case. b6 -3 b7C -3

### d. Local Prosecutorial Decision

On 12/20/2013, SDDA [redacted] telephonically advised ASAC [redacted] the WCDAO had declined to prosecute the case. b6 -1,4 b7C -1,4

## VI. Inspector's Observations

**Observation 1:** A thorough arrest plan was not produced prior to an arrest operation.

**Analysis 1:** DIOG Section 19.2.3 provided policy regarding arrest plans:

"The SAC is responsible for ensuring that arrests are carefully and thoroughly planned....Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications."

In addition, DIOG Section 19.2.4 provided policy guidance regarding joint arrests:

"An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan."

SAs [redacted] participated in the surveillance to locate and arrest [redacted] An arrest plan was not prepared nor did either Agent participate in an arrest briefing before they were involved in the surveillance and arrest of [redacted] b6 -1,7 b7C -1,7

**Instruction 1:** ADIC, New York will ensure joint arrest plans in support of other law enforcement agencies are well-considered in accordance with DIOG Section 19.2.3 and DIOG Section 19.2.4.

**Observation 2:** Agents did not participate in an arrest operations briefing prior to participating in the arrest of a violent subject.

**Analysis 2:** DIOG Section 19.2.3 provided policy regarding arrest plans

"When briefing the arrest plan, the briefing Agent should stress to the participants of the operation that any arrest has the potential to become dangerous. Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees."

SAs [redacted] participated in the surveillance to locate and arrest [redacted] An arrest plan was not prepared nor did either Agent participate in an arrest briefing before they were involved in the surveillance and arrest of [redacted] b6 -1,7 b7C -1,7

**Instruction 2:** ADIC, New York will ensure Agents participate in an operations briefing prior to participating in the arrest of a subject in accordance with DIOG Section 19.2.3.

**Observation 3:** SA [redacted] NYFO, did not have his handgun immediately accessible during the arrest of [redacted] b6 -1,7 b7C -1,7

**Analysis 3:** The MIOG, Section 12-2.2 provided policy regarding a handgun being secured:

"SAs must be armed at all times when on official duty. Handguns must be secured to the Agent's person in a holster, handbag or waist (fanny/butt) pack. Immediate access to the handgun and its security are paramount. SAs should consult with the PFI concerning the use of holsters other than their Bureau-issued holster."

SA [redacted] had his Glock 27 handgun holstered on his ankle during the arrest of [redacted] An ankle holster did not afford the Agent immediate access to his handgun should a quick-reaction draw been necessary. b6 -1,7 b7C -1,7

**Recommendation 3:** ADIC, New York should ensure all personnel wear their pistol in a holster readily accessible during planned activity which can be reasonably expected to culminate in an arrest or when entering a potentially hostile environment where a quick-reaction weapon draw might be necessary.

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 03/20/2013

Report of: IIC Thomas P. Ravenelle Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271699-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
LAS VEGAS FIELD OFFICE
02/19/2013

Investigative Period: 02/20/2013 – 02/25/2013

Reference: (U//~~FOUO~~) Telephone call on 02/19/2013, from Las Vegas A/SAC [redacted] to Chief Inspector Robert J. Shields Jr., and Las Vegas FD-1015, Executive Situation Report to the Director dated 02/19/2013. b6 -1 b7C -1

---

**Synopsis**

(U//~~FOUO~~) Report of a shooting incident which occurred on 02/19/2013, involving a fugitive subject Javier Reyes, and the FBI Las Vegas Criminal Apprehension Team (CAT) composed of FBI and Las Vegas Metropolitan Police Department (LVMPD) personnel.

**Details**

(U//~~FOUO~~) On 02/04/2013, the LVMPD requested the assistance of FBI Las Vegas to assist in locating and apprehending fugitive Javier Salomon Reyes, wanted out of Las Vegas for Robbery Enhancement Deadly Weapon, Assault with a Deadly Weapon, and other misdemeanor charges. Reyes had a lengthy criminal history and was known to be armed and dangerous. Based on the request received from LVMPD, FBI Las Vegas opened a 343G investigation to assist with locating Reyes.

(U//~~FOUO~~) On 02/07/2013, a joint FBI and LVMPD CAT received information from a CHS regarding a potential location for Reyes. After the CAT received the information, plans were made to arrest Reyes. Reyes utilized an associate as a decoy to draw Law Enforcement (LE) surveillance away from a house where he was located. Reyes then exited the house and fled in the opposite direction of LE. A CAT TFO conducting surveillance observed Reyes leaving and pursued him. The TFO saw Reyes turn a corner as he fled. The TFO used the quick peak technique to check around the corner before proceeding and Reyes was waiting in ambush, holding a handgun just 15 feet from the corner. Reyes successfully eluded LE by entering a home of an elderly couple, confronting them, and then stealing their car.



NYT-323

(U//~~FOUO~~) On 02/19/2013, the Las Vegas CAT, comprised of FBI SAs, LVMPD TFOs, and a Henderson PD officer, identified a house where Reyes was believed to be staying. The CAT established surveillance and requested a tactical team, K-9 units and air support. However, before assistance could arrive, Reyes exited the rear of the house and began walking away on a utility easement. As Reyes neared two Agents and a TFO, he began running. The SAs and TFO became separated as they pursued Reyes into a neighborhood. As the search for Reyes continued, FBI SA [redacted] pursued Reyes into a section of backyards through the neighborhood.

b6 -1
b7C -1

(U//~~FOUO~~) SA [redacted] located Reyes in the backyard of [redacted] Las Vegas, NV, standing near a tree and breathing heavily. SA [redacted] proceeded to give Reyes verbal commands to stop; however upon hearing SA [redacted] Reyes started to run again. SA [redacted] believed Reyes ran toward [redacted] and attempted to parallel Reyes' movements from the neighboring yard located at [redacted] While SA [redacted] was in the yard of [redacted] Reyes fired a .40 caliber shot at SA [redacted] from the adjoining backyard of [redacted] At this time, SA [redacted] was unaware the gunshot was directed at him and believed the gunshot resulted from Reyes' interaction with fellow CAT members. Shortly thereafter, Reyes repositioned himself in the backyard of [redacted] and fired four additional shots at SA [redacted] SA [redacted] did not know exactly from where the shots were coming. After SA [redacted] recalled hearing the first shot, a second shot passed by his head and showered debris upon his face from its impact with a nearby house. SA [redacted] turned to face the threat and was immediately shot center mass in his ballistic vest, approximately 4-5 inches below his throat. SA [redacted] turned and retreated from the threat and was hit again in the lower back portion of his ballistic vest, approximately one-quarter inch above the bottom of his vest. This shot removed a section of flesh from his back.

b6 -1,2
b7C -1,2

(U//~~FOUO~~) The shots towards SA [redacted] stopped for a "reasonable" period of time, so SA [redacted] began to search again for Reyes. As SA [redacted] slowly moved through the backyard of [redacted] he observed Reyes standing on the roof of [redacted] moving back and forth behind an air-conditioning unit. Reyes appeared to be crouched over with his elbows bent along the waist straining his neck to look over the side of the roof, down toward [redacted] SA [redacted] believed Reyes was scanning the area for law enforcement officers to engage, which [redacted] believed posed a threat to the CAT below due to Reyes' tactical advantage from the roof. Knowing Reyes already used deadly force, and Reyes disregarded officers' commands to stop, SA [redacted] fired his weapon at Reyes striking him three times, with Reyes falling down on the third shot. SA [redacted] ceased firing, but provided cover until he saw Reyes was under the control of fellow LE officers. SA [redacted] then sought medical attention. He was treated for his injuries at a local hospital and released.

b6 -1,2
b7C -1,2

(U//~~FOUO~~) While on the roof, Reyes was restrained by approaching LE personnel. During a search of Reyes, a Smith and Wesson .40 caliber pistol hand gun and an empty magazine in the gun was found in his possession.

(U//~~FOUO~~) During the pursuit, CAT members located a black pistol lying on the ground in one of the areas Reyes previously ran through. Also, found was a baseball cap, believed to be worn by Reyes during the pursuit. The pistol found on the ground was later determined to be a replica toy pistol. This replica toy gun was consistent with information gathered during the investigation which indicated Reyes was known to sometimes carry two guns.

(U//~~FOUO~~) Personnel assisting in the surveillance operation included:

**FBI**

SA [redacted] (fired weapon)
SA [redacted]
SA [redacted]

b6 -1
b7C -1

**TFOs – LVMPD**

[redacted]

b6 -4
b7C -4

(U//~~FOUO~~) Reyes was transported to a local hospital where he was operated on, but succumbed to his wounds.

Reyes is described as:

| | |
|---|---|
| Name: | Javier Salomon Reyes |
| Sex: | Male |
| Race: | Hispanic |
| Date of Birth: | 10/21/1980 |
| Place of Birth: | Nicaragua |
| Height: | 5'08" |
| Weight: | 190 |
| Eyes: | Brown |
| Hair: | Black |
| SSAN: | 609-07-5510 |
| FBI No.: | 174 018 KB3 |

**Substantive Case Files**

Case ID: 343-LV-2722050
Title: JAVIER REYES
ROBBERY WITH A DEADLY WEAPON
02/04/2013

Case ID: [redacted] b6 -1 b7C -1
Title: JAVIER SALOMON REYES;
[redacted] - VICTIM, b7A -1
ASSAULTING A FEDERAL OFFICER
LAS VEGAS, NEVADA
02/19/2013

**ENCLOSURES**:

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

**ADMINISTRATIVE**:

The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Thomas P. Ravenelle
Inspector-in-Place (IIP) Manuel Alvarez Jr.
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1 b7C -1
AI/TL [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP

FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:

SSA [redacted] – Evidence Response Team Unit – Team Leader b6 -1 b7C -1
[redacted] - Firearms and Toolmarks Unit – Physical Scientist
[redacted] – Firearms and Toolmarks Unit
[redacted] - Operational Projects Unit
[redacted] - Operational Projects Unit – Photographer

**SHOOTING INCIDENT REVIEW PROTOCOL:**

(U) All members of the SIRT reviewed the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 02/19/2013, IIC Ravenelle spoke with Las Vegas A/SAC [redacted] to arrange logistics prior to arriving in Las Vegas. On 02/20/2013, the SIRT traveled to Las Vegas. Upon arriving, IIC Ravenelle and the SIRT members met with Las Vegas EM and SSA personnel before traveling to the shooting scene which occurred in the [redacted] block between [redacted] Las Vegas, Nevada. b6 -1,2 b7C -1,2

(U//~~FOUO~~) On 02/20/2013, IIC Ravenelle met with the involved FBI SA, TFO, and management personnel to explain the review process and protocols.

(U//~~FOUO~~) One Signed Sworn Statement (SSS) was taken from the FBI Agent directly involved in the shooting, SA [redacted] Other interviews, events and observations were documented via FD-302s. All FBI and TFO personnel were allowed to read their FD-302 to confirm the accuracy of the information provided. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSS and interviews of witnesses were conducted voluntarily. The LVMPD read the following prepared statement before being interviewed: b6 -1 b7C -1

> " My supervisor has ordered me to submit this statement. I give this statement at his order, as a condition of my employment because I have no alternative but to give this statement or face discipline or termination. I am giving this information based on the understanding that this statement, and any information derived from this statement, cannot be used against me in a criminal proceeding. I hereby reserve my right to remain silent under the U.S. Constitution and any other rights prescribed by law. I rely specifically upon the protection afforded me under the doctrine set forth in Garrity v. New Jersey, 385 U.S. 493 (1967) should this statement be used for any other purpose."

(U) An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all FBI personnel interviewed.

(U) On 02/23/2013, IIC Ravenelle conducted an out brief with SA [redacted] and explained the ensuing steps of the SIRT process. b6 -1,4 b7C -1,4

(U) On 02/25/2013, IIC Ravenelle met with Clark County District Attorney (DA) Steven Wolfson and Clark County Assistant DA [redacted] to brief them on the details of the shooting incident.

(U) On 02/25/2013, an exit brief was provided by IIC Ravenelle to A/SAC [redacted] IIC Ravenelle also conducted an out brief with SA [redacted] and explained the ensuing steps of the SIRT process.



NYT-327

**LAS VEGAS FIELD OFFICE INVOLVED PERSONNEL:**

FBI

SA [redacted] (fired weapon) b6 -1 b7C -1
SA [redacted]
SA [redacted]

TFOs – LVMPD

[redacted] b6 -4 b7C -4

**FIREARMS TRAINING:**

(U//~~FOUO~~) FBI Las Vegas provided qualifications records for SA [redacted] A review of the records reflected the following: b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] most recent qualification with his FBI-issued Springfield 1911A, Serial Number [redacted] was on 02/01/2013.

**DEADLY FORCE TRAINING:**

(U//~~FOUO~~) The last deadly force policy training, which was required for all Las Vegas FBI SAs, was conducted by CDC [redacted] in June 2012. CDC [redacted] personally met with the FBI Las Vegas Special Weapons and Tactics (SWAT) Team and the CAT together on 08/03/2012, to discuss the FBI Deadly Force Policy, shooting review processes, SSSs, and compelled statements. TFOs assigned to the CAT were also present at the 08/03/2012 training, and to the best of CDC [redacted] s recollection, SA [redacted] SA [redacted] and SA [redacted] attended. b6 -1 b7C -1

(U//~~FOUO~~) INSD determined SA [redacted] prepared a written Operational Plan (Ops Plan) on 02/19/2013, which was approved by SSA [redacted] and A/ASAC [redacted] then briefed to all personnel involved in the operation. The DOJ/FBI Deadly Force Policy was written into the Ops Plan. b6 -1 b7C -1



NYT-328

**USE OF BODY ARMOR AND LAW ENFORCEMENT IDENTIFIERS:**

(U//~~FOUO~~) All SA and TFO personnel involved in the operation wore ballistic body armor. FBI or law enforcement identifiers were worn, and personnel verbally identified themselves to the subject prior to engaging subject in the shooting.

**CRIMINAL HISTORY:**

(U//~~FOUO~~) FBI SA [redacted] conducted an immigration records check for Reyes which determined he was a Nicaraguan national previously removed from the U.S. by Immigration and Customs Enforcement on 10/25/2007, for an Aggravated Felony charge. Additionally, a National Crime Information Center (NCIC) warrant and arrest record check was run on Javier Reyes, born 10/21/1980, which indicated the following active arrest warrants as the time of the incident: b6 -1 b7C -1

Robbery with a Deadly Weapon
Felony Assault with a Deadly Weapon
Felony Domestic Battery by Strangulation
Misdemeanor Battery Domestic Violence 2nd
Misdemeanor Battery
Misdemeanor Battery 1st
Misdemeanor Domestic Battery 1st

(U//~~FOUO~~) On 02/23/2013, an additional NCIC arrest warrant and records check for Javier Reyes, born 10/21/1980, was conducted, and determined the arrest warrants for Reyes had been administratively cleared when Reyes was taken in to custody and transported to the hospital on 02/19/2013.

**LABORATORY DIVISION REPORTS:**

(U//~~FOUO~~) The scene of the shooting was secured and processed by LV ERT, LA ERT, and the Laboratory Shooting Reconstruction Team to include use of total station.

(U//~~FOUO~~) Recovered evidence items requiring laboratory testing were as follows:

**Firearms/Toolmarks Testing**

1B4 - Smith & Wesson .40 caliber hand gun S/N: PBR0543
1B5 - Magazine from a Smith & Wesson .40 caliber hand gun
1B8 - Three expended .40 caliber shell casings
1B9 - Two expended .45 caliber shell casings
1B10 - One expended .45 caliber shell casing
1B11 - Springfield 1911A1 pistol S/N: [redacted] b6 -1 b7C -1
1B12 - Projectile bullet fragments
1B13 - One expended .40 caliber shell casing
1B14 - One expended .40 caliber shell casing
1B15 - Bullet fragment
1B16 - Ballistic vest green in color

**Latent Fingerprint Testing**

1B6 - Replica toy pistol black in color

**DNA Testing**

1B7 - Royal blue baseball cap with a white size 7 ¼

(U//~~FOUO~~) Additionally, the Laboratory Division, Firearms-Toolmarks Unit was requested to generate a shooting incident reconstruction report. The Operational Projects Unit was requested to prepare supporting demonstrative imagery and graphics of the scene.

**MEDICAL REPORT:**

***FBI Agent Involved in the Shooting: SA*** [redacted] b6 -1 b7C -1

(U//~~FOUO~~) On 02/19/2013, SA [redacted] arrived at the [redacted] Medical Center [redacted] to receive treatment from an injury he sustained in an Agent-involved shooting incident. SA [redacted] was examined after being shot in the upper chest, and lower back area of the ballistic vest he was wearing while pursuing Javier Reyes. Examination determined SA [redacted] sustained a small shallow soft tissue injury to his chest, and a "thoracolumbar" deep muscle abrasive wound with apparent burns to the left side of his lower back. SA [redacted] was treated and released from the hospital the same day.

***Subject : Javier Reyes***

(U//~~FOUO~~) FBI SA [redacted] responded to the UMC Trauma Center/Intensive Care Unit (ICU) at 1800 West Charleston Boulevard, Las Vegas, Nevada, to transfer custody of the body of Javier Reyes, born 10/21/1980, to the Clark County Coroner's Office. Reyes died of injuries sustained during an Agent-involved shooting incident on 02/19/2013. b6 -1,4 b7C -1,4

(U//~~FOUO~~) On 02/19/2013, at approximately 11:45 p.m., SA [redacted] was notified by SSA [redacted] that Reyes had been pronounced dead at the hospital. At approximately 1:05 a.m., on 02/20/2013, SA [redacted] spoke to Coroner Investigator [redacted] and arranged to meet her at the hospital.

(U//~~FOUO~~) SA [redacted] arrived at the hospital at approximately 1:27 a.m., and found Reyes' body in Room #810 in the UMC Trauma ICU. Reyes' body was being guarded by a LVMPD Corrections Officer at that time. Indicators of medical/surgical intervention were evident in the room and on the hospital bed. b6 -1,4 b7C -1,4

(U//~~FOUO~~) Investigator [redacted] and LVMPD Crime Scene Analyst Supervisor (CSA) [redacted] arrived at Room 810 at approximately 1:45 a.m. Investigator [redacted] began her external examination of Reyes' body. This process was photographed by CSA [redacted] At approximately 2:10 a.m., personnel from Valley Mortuary arrived to transport Reyes' body from the hospital to the Clark County Coroner's Office. Reyes' body was wrapped in a new sheet and placed in a new body bag which was sealed with Coroner's seal number 049476.

(U//~~FOUO~~) Investigator [redacted] noted that the hospital's medical records revealed Reyes was pronounced dead at 10:27 p.m., on 02/19/2013, by Doctor [redacted]. Per UMC medical record #0030002274, he suffered a liver laceration, T11 fracture, right arm fracture and was status post exploratory laparotomy, ligation right hepatic artery, right thoracotomy and resection of his right lower lobe. Medical history prior to this event was unknown. Investigator [redacted] indicated the associated Coroner's Office case number was 13-1808. b6 -2,4 b7C -2,4

**CIVIL RIGHTS DIVISION:**

(U//~~FOUO~~) On 02/24/2013, IIC Ravenelle contacted [redacted] Special Legal Counsel, DOJ and briefed him on the shooting incident. On 02/25/2013, Mr. [redacted] E-mailed IIC Ravenelle to document the receipt of the E-mail and inquire as to the name of the local AUSA with whom he needed to coordinate. b6 -3 b7C -3

(U//~~FOUO~~) On 04/22/2014, Mr. [redacted] was provided a copy of the Clark County DA's final shooting report.

(U//~~FOUO~~) On 05/06/2014, Inspector Shawn W. Stroud received an E-mail from Mr. [redacted] to document the prosecutorial opinion for the Department of Justice, Civil Rights Division. In this E-mail, Mr. [redacted] noted "A federal criminal civil rights investigation of the shooting and its aftermath is not warranted."

**LOCAL PROSECUTIVE OPINION:**

(U//~~FOUO~~) On 02/25/2013, IIC Ravenelle met with Clark County DA Steven Wolfson and Clark County Assistant DA (ADA) [redacted] to brief them on the details of the shooting incident. b6 -1,4 b7C -1,4

(U//~~FOUO~~) On 04/22/2014, ADA [redacted] provided the DA's final shooting report to INSD. The DA's report concluded the actions of SA [redacted] were reasonable and legally justified.

**INSPECTOR'S OBSERVATIONS:**

(U//~~FOUO~~) The SIRT did not identify any issues or observations.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Report of Shooting Incident Las Vegas Field Office 02/19/2013 **Date:** 06/11/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297-HQ-A1271699-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 05/21/2014.

**Package Copy:** (U//~~FOUO~~) INSD Shooting Incident Report dated 02/28/2013

**Details:**

(U//~~FOUO~~) On 05/21/2014, the SIRG convened to review a shooting incident which occurred on 02/19/2013, involving Las Vegas Field Office (LV) Special Agent (SA) [redacted] b6 -1 b7C -1

(U//~~FOUO~~) On 02/04/2013, the Las Vegas Metropolitan Police Department (LVMPD), requested the assistance from FBI Las Vegas to aid in locating and apprehending Javier Reyes. Reyes was wanted out of Las Vegas for Robbery Enhancement Deadly Weapon, Assault with a Deadly

Title: (U//~~FOUO~~) Report of Shooting Incident Las Vegas Field Office 02/19/2013
Re: 297-HQ-A1271699-D, 06/11/2014

Weapon. Reyes had a lengthy criminal history and was known to be armed and dangerous.

(U//~~FOUO~~) On 02/19/2013, the Las Vegas Criminal Apprehension Team (CAT), comprised of FBI SAs, LVMPD TFOs, and a Henderson PD officer, identified a house where Reyes was believed to be staying. The CAT established surveillance and requested K-9 units and air support. However, before assistance could arrive, Reyes exited the rear of the house and began walking away on a utility easement. As Reyes neared two Agents and a TFO, he began running. The SAs and TFO became separated as they pursued Reyes into a neighborhood. As the search for Reyes continued, FBI SA [redacted] pursued Reyes into a section of backyards through the neighborhood. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] followed Reyes through various backyards and over cinder block walls that defined each property line. After crossing through six backyards, SA [redacted] observed Reyes standing near a tree, breathing heavily. He gave verbal commands to initiate an arrest, but Reyes immediately ran south between two houses and toward the street. SA [redacted] attempted to parallel Reyes' movements from the neighboring yard, but before SA [redacted] could exit the backyard, Reyes apparently turned and fired a .40 caliber bullet at SA [redacted] from the adjoining yard. The bullet struck the top most cinder block of the wall separating the two yards. SA [redacted] believed the gunshot resulted from Reyes' interaction with fellow CAT members and did not realize he had been targeted. b6 -1 b7C -1

(U//~~FOUO~~) Reyes quickly moved to another yard, behind the yard where SA [redacted] was standing, and fired four shots at SA [redacted] Reyes' first shot passed by SA [redacted] head, impacted a house, and showered debris from the house onto [redacted] face. SA [redacted] quickly realized the shot came from behind and turned to address the threat. SA [redacted] was immediately shot in the center of his ballistic vest, approximately 4" below the top of the vest. The bullet lodged in his vest. SA [redacted] turned and retreated from the threat, but was hit near the bottom center of his ballistic vest, approximately b6 -1 b7C -1

one-quarter inch from the bottom of the vest. This bullet lodged in the vest; however, the bullet's impact with the vest caused a section of flesh to be removed from SA [redacted] back. An additional .40 caliber shell casing was recovered, but the bullet could not be located, despite extensive searching. SA [redacted] never saw Reyes shoot at him, so he did not return fire. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] stated when the shooting stopped for a "reasonable" period of time, he began to search again for Reyes. SA [redacted] observed Reyes standing on the roof of a house which was two properties away from his location. Reyes was behind a roof air-conditioning unit and was straining his neck to look over the side of the roof. SA [redacted] believed Reyes was scanning the area for law enforcement officers to engage. SA [redacted] believed Reyes posed a threat to CAT members below due to Reyes' position of tactical advantage, so SA [redacted] fired three shots at Reyes and struck him in the right shoulder, forearm, and chest. b6 -1 b7C -1

(U//~~FOUO~~) Subsequently, SA [redacted] provided cover from his location until Reyes was under the control of law enforcement. An empty Smith and Wesson .40 caliber pistol was found in Reyes' possession. Reyes was transported by emergency medical services to a local hospital where he later succumbed to his wounds.

**SIRG Observations**

(U//~~FOUO~~) On 05/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 02/19/2013 was in compliance with the Department of Justice's Deadly Force Policy. b6 -1 b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint.** The SIRG made no recommendations or

Title: (U//~~FOUO~~) Report of Shooting Incident Las Vegas Field Office 02/19/2013
Re: 297-HQ-A1271699-D, 06/11/2014

observations concerning the operational techniques, training, procedural, and/or safety issues regarding its post-incident response to the shooting incident.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1,3 b7C -1,3

(U//~~FOUO~~) Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), (INSD); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ;Section Chief (SC) Robert E. Hughes, Violent Criminal Threats Section, Criminal Investigative Division; SC Roger A. Coe, East Asia Section, Counterintelligence Division; Unit Chief (UC) [redacted] FTU, TD; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG). In addition to the voting members in attendance, DOJ SIRG member [redacted] was unable to attend but reviewed the Shooting Incident Review Team report and provided his vote in writing prior to the SIRG. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors Trent R. Teyema, Shawn W. Stroud, Paul D. Delacourt, and R. Justin Tolomeo, OI, INSD; Team Leaders [redacted] OI, INSD; UC [redacted] FTU, TD; [redacted], Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

# REPORT ON USE OF FORCE

## Legal Analysis Surrounding the Death of Javier Reyes on February 19, 2013

### Introduction

On February 19, 2013, the Las Vegas Criminal Apprehension Team (CAT), comprised of FBI Special Agents (SAs), Las Vegas Metropolitan Police Department Task Force Officers (TFOs), and a Henderson Police Department officer, identified a house where Javier Reyes (Decedent), a felon known to be in possession of firearms, could be living.

After surveillance was in place, officers requested a tactical team, K-9 Units, and air support. Before that assistance was in place, Decedent exited the residence and began running from officers.

CAT team officers followed Decedent on foot. SA I[1] pursued Decedent through a series of residential backyards. When SA I got within 15 feet of Decedent, he instructed Decedent to stop and show SA I his hands. Instead of complying, Decedent fled. SA I attempted to parallel the route of Decedent. Before SA I could exit a neighboring yard, Decedent shot at SA I from an adjoining yard. Decedent fired at least three shots at SA I—one bullet passing by his head, two hitting him in the chest and back.

Initially, SA I could not tell the location from which Decedent was shooting. SA I took cover and observed Decedent on a roof of a residence. Decedent was looking down from over the roof. Believing that Decedent was looking for other officers to harm, SA I

[1] At the request of the FBI, the names of all Special Agents and Task Force Officers have been removed from this Report.

fired at Decedent, striking him three times. After the third shot, Decedent fell. SA I ceased firing and was transported for medical treatment.

The District Attorney's Office has completed its review of the February 19, 2013, death of Decedent. It was determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of the Special Agent were not criminal in nature. This review was based on all of the evidence currently available.

This report explains why criminal charges will not be forthcoming against the Special Agent involved. It is not intended to recount every detail, answer every question or resolve every factual conflict regarding this law enforcement encounter. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of the Special Agent was not criminal.

This decision, premised upon criminal-law standards, is not meant to limit any administrative action or to suggest the existence or non-existence of civil actions by any person where less stringent laws and burdens of proof apply.

A Police Fatality Public Fact-finding Review was not conducted in this case. Clark County Code 2.14 mandates such a review when a police-involved death occurs, and the prosecutor preliminarily determines that no criminal prosecution of the officer is appropriate. The definition of "officer" is limited by NRS Chapter 289 to state and local law enforcement personnel. In the instant case, SA I was acting in his capacity as a federal law enforcement agent; therefore, he was not an "officer" for purposes of Clark County Code 2.14.

## The Events at Alpaca Circle and Starridge Lane, Las Vegas, Nevada, on February 19, 2013

### Task Force Officer A

TFO A has been a Metro police officer since 2003. In November or December of 2012, a LVMPD Public Information Official asked TFO A if he could post her contact information for any tips regarding the whereabouts of Decedent. TFO A agreed, but ultimately no usable information came from that effort.

TFO A investigated Decedent's background. She learned that Decedent was involved in a home invasion at the residence of his ex-girlfriend. He got into a fight with two males present in the residence at the time. During the fight, Decedent retrieved a knife and cut the shirt off a female in the residence. He also pointed a gun at the sister of his ex-girlfriend. TFO A interviewed the ex-girlfriend's sister. The sister related another

incident where Decedent got into a fight with her father, pulled out a handgun and discharged a round into the ground. This was not reported to police.

On February 7, 2013, TFO A received a call from a confidential source reporting that Decedent was inside an apartment in the Las Vegas area and would be departing shortly. TFO A contacted Repeat Offender Program teams, K9 units, and an air unit and asked them to respond to the apartment until she and her team could arrive. Approximately 15 minutes after her arrival, a subject in dark clothing ran from the apartment and toward a vehicle.

TFO F observed a person believed to be Decedent moving away from police. TFO A determined a subject in dark clothing who ran toward a vehicle was not the target, Decedent, and directed officers to the area of TFO F. TFO F got into a foot chase with Decedent, but lost sight of him. TFO A later learned Decedent scaled a second floor balcony, entered an apartment and held the elderly occupants hostage, while holding a pistol in each hand. He took their keys and drove their car out of their garage through the police perimeter undetected. After Decedent departed, the residents called 911.

The air unit observed the stolen vehicle and alerted the ground team. TFO A located the vehicle. TFO A engaged in a vehicle pursuit where Decedent was driving in excess of 100 mph. He escaped.

TFO A conducted additional investigation and learned of a possible location for Decedent at 1272 Pleasant Brooks Street.

On February 19, 2013, the CAT team targeted Decedent. TFO A conducted the in-person briefing for officers. She emphasized his likely possession of firearms. Officers then attempted to locate Decedent.

When TFO A exited her vehicle in a parking lot near the location of the incident, she heard a CAT team member radio that an individual resembling Decedent had gone over a wall and was walking southbound.

TFO A drove to Eastbrook Drive where she saw SA II, SA I, and TFO F. They waived her away, indicating the area was covered, so she proceeded to South Christy Lane. TFO A heard radio traffic advising that Decedent was seen running south. TFO A drove south, trying to parallel the foot chase. She heard, "[h]e's on the roof!" and "[e]astbound" over the radio.

TFO A parked on Starridge Way. She heard a male commanding, "[l]et me see your hands!" and "[g]et on the ground!" Immediately after, she heard one or two gunshots from between the houses and a yell. She and other officers moved toward the sound of the gunshots. As she proceeded, she saw Decedent on a roof while officers shouted commands at him. She saw Decedent roll from one side of the roof to another, where

more commands were issued. She then heard gunshots and saw Decedent drop down to the roof.

TFO F began yelling for information on SA I, who was unaccounted for, and TFO A, TFO D, and SA II began running down Eastwick Circle looking for him. They found him walking out from between two houses. SA I advised them that he had been shot and needed to go to the hospital.

TFO A ran to her vehicle. SA I walked up to the vehicle and TFO A and TFO D loaded him into the vehicle and transported him to the hospital. En route, SA I stated, "I shot him. I hit him."

## Special Agent I

SA I is assigned to the Criminal Apprehension Team (CAT). He became aware of the investigation involving Decedent in mid-January 2013.

It was his understanding that TFO A was looking for Decedent as he was wanted for robbery. On February 7, 2013, TFO A told SA I that she received confidential information regarding a potential location of Decedent. SA I was not part of the operation, but he learned that CAT team members went to that location to apprehend Decedent. During that encounter, Decedent pointed a weapon at TFO F, but no shots were fired by either the CAT team or Decedent.

On February 16, 2013, SA III updated SA I on the search for Decedent. On February 19, 2013, the CAT team had a potential location for Decedent and the officers made plans to attempt to locate him.

SA I arrived at the staging area for the operation at 1:30 p.m. The location was near Sahara and Nellis. TFO A briefed other officers. She discussed Decedent's propensity for violence, history of running from law enforcement, and that he was known to carry two guns. At the time, Decedent had pending charges for robbery, narcotics offenses, domestic violence, home invasion and robbery with a weapon.

As is customary, TFO A reviewed the deadly force policy with officers. SA I reviewed FBI deadly force policy as well.

The objective of the operation was to confirm the location of Decedent. The confirmation would later be used in a search warrant to be executed by a tactical team. TFO A advised that K-9 and air units would be en route. Other Metro officers had established a perimeter.

Supervisors assigned SA I to identify the residence and conduct perimeter support. Due to safety concerns, SA I understood that the surveillance team would pursue Decedent if he fled.

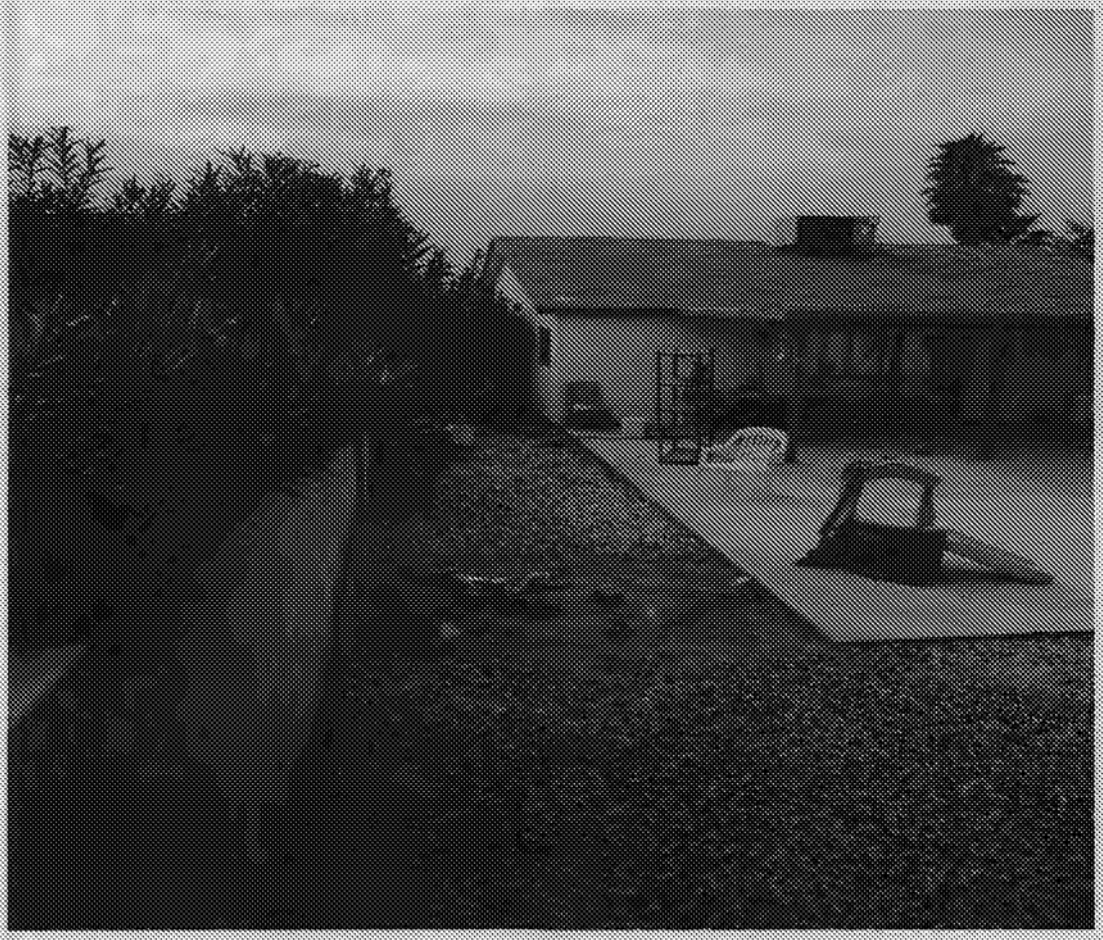
SA I put on a protective vest with word POLICE printed on the front. He carried his SWAT-issued, .45 caliber Springfield 1911 handgun. The magazine held 8 rounds and the weapon had one round in the chamber. SA I wore a maintenance shirt over the top of the vest to conduct covert surveillance.

After leaving the staging area, SA I received a description of Decedent's clothing. SA I was with SA II. Once at his assigned location, SA I saw Decedent. Decedent looked directly at SAs I and II. Decedent immediately fled with his hands going into his waistband. SA I and SA II pursued.

The agents followed Decedent along an easement and into a cul-de-sac. SA I saw SA II draw his weapon. SA I did not have his weapon drawn at that point. SA II issued verbal commands to Decedent, which Decedent ignored.

As the agents pursued Decedent, SA I lost sight of SA II. Eventually, SA I made visual contact with Decedent along the roofline of a house, 5415 Alpaca Circle. SA I was on the east side of the house and Decedent was on the roof. With his weapon drawn, SA I instructed Decedent, "[p]olice! Stop! Show me your hands!" Decedent did not comply. Decedent jumped from a high roof to a lower patio roof and over a wall. SA I lost sight of him. SA I radioed other officers that Decedent was headed east.

SA I continued looking for Decedent. He jumped into the backyard of a house southeast of 5433 Alpaca Circle and approached a cinderblock wall. He saw Decedent near a tree in the backyard of a house. Decedent appeared out of breath.



SA I was 10 to 15 yards from Decedent and issued commands. Decedent again ignored the commands and ran along a wall on the east side of 5438 Eastwick. SA I radioed, "[s]outh." SA I described the ensuing encounter as follows:

> I moved south from this location in an attempt to exit the rear yard. At this point, I heard a gunshot (shot 1), which was extremely loud. When I heard this gunshot, I was approximately midway along the length of the side wall in the rear yard of 5438 Eastwick Circle. I believed officers were engaging Reyes along Eastwick, so I turned my attention south in that yard in an attempt to assist my fellow CAT team members. I then felt a second shot (shot 2) near and past my head and felt particles hitting the left side of my face.

The second shot (shot 2) seemed to come from the north and I turned to engage. As I faced north, I was struck by a gunshot (shot 3) in the front center of my ballistic vest. I immediately turned and moved to the far southeast corner of the rear yard, away from the direction of the gunfire. As I faced south, I was struck by a gunshot (shot 4) in my back.

I could not exit the yard due to a wall and a very large and overgrown oleander tree, blocking the narrow space between the two houses. I assumed a low profile tactical position in the southeast corner of the rear yard and scanned the area in an attempt to relocate Reyes. I reached around and felt blood on my back.

After the gunshots ceased, I slowly and methodically proceeded north, while attempting to maintain cover behind the wall. I spotted Reyes standing on the roof of a home, which I later learned was at the intersection of Alpaca Circle and Starridge Way. Reyes was standing and moving back and forth behind the air conditioning unit with his elbows bent and hands along his waistband. Reyes was craning his neck to look over the side of the roof down to the street.

I believed Reyes was scanning for officers on the ground to shoot. I knew Reyes had shot at me three times and was highly willing to use deadly force against law enforcement officers. I was also aware of Reyes' recent history of violence, his continued disregard of officers' commands, and other CAT members were well within Reyes' shooting range at the time. Reyes posed an imminent threat of death or serious bodily injury to my fellow CAT team members.

I took a stable firing position, utilizing the top of the cinderblock wall to support my hand and stabilize my weapon. I also used the bushes as concealment. Due to my prior tactical training, I knew I could shoot through the bushes and I fired at Reyes. I could tell by Reyes' movements the shot hit him; however, Reyes remained on his feet and still moving. As he continued to pose a threat, I fired two more shots at Reyes. I could tell by Reyes' movements the shots hit him. After the third shot, Reyes went to his knees and then down on his back.

At this point, I concluded that Reyes was no longer an imminent threat. I maintained cover with my weapon on Reyes until I saw [TFO G] take control of Reyes on the roof. At that point, I believed there was no longer a threat from Reyes. I called over the radio I was shot, and sought medical help.

SA I saw TFO D on Eastwick and told him he had been shot. TFO D took SA I's arm and quickly moved from Eastwick to Starridge. SA I removed his vest to check for wounds. TFO D noticed a bullet hole in SA I's back. SA I relinquished his radio and weapon to TFO D.

TFO A drove TFO D and SA I to UMC hospital. UMC released SA I later that evening.

## Special Agent II

On February 19, 2013, SA II and SA I set up for surveillance on Eastbrook Drive.

Over the radio, a TFO announced that he saw a male coming out of the target location and described his clothing. SAs II and I got out of their vehicle. SA I wore a maintenance shirt over his ballistic vest and pretended to work on the vehicle. SA II took a position across the street from SA I.

After Decedent walked past their location, he started running. SAs II and I commanded Decedent to stop. He did not comply and appeared to be reaching for a weapon in his waistband. SA II drew his weapon.

Initially, SA II had a shirt over his ballistic vest, but once the foot pursuit began, SA II took off the shirt to reveal his vest with POLICE written on it.

SA II saw Decedent climb over a wall between houses. SA II holstered his weapon and climbed the wall and drew his weapon again. At this point, SAs II and I were side by side walking on top of concrete walls. Decedent was ahead of them, scaling walls. SA II lost sight of Decedent and re-holstered his weapon.

SA II came upon a shed and thought Decedent may be hiding in it. SA II cleared the shed, but lost sight of Decedent and SA I. He could hear SA I issuing commands to Decedent.

By radio communication, SA II ascertained that Decedent and SA I were traveling eastbound. In order to meet up with them, SA II got inside another agent's vehicle and was driven to Starridge Way. Other agents were present, but he did not see SA I. SA II asked, "[w]here is [SA I]?"

SA II jumped on a residential wall and did not see anyone. He heard one shot and then two to four shots. SA II was concerned a team member had been shot. He could not assess the location of the shots because the area echoed. SA II began yelling for SA I and eventually saw Decedent on the roof of a house. SA II then heard three shots and saw Decedent fall to the ground.

SA II then overheard that a CAT team member had been shot.

## Special Agent III

SA III was at the scene. Once another officer announced over the radio that he had seen Decedent, SA III drove from his surveillance location to Eastbrook Drive and then to Alpaca Circle where he picked up SA II who was running east.

SA III exited his vehicle with SA II. He heard four to six possible gun shots and saw Decedent jump onto the roof of the residence at the corner of Alpaca Circle and Starridge Way. SA III saw Decedent move to south of the roof and heard him yell, "[f]uck you pigs!" and other expletives. SA III heard another three possible gunshots, heard Decedent yell, "[f]uck!" and saw him fall to the ground.

Some team members responded to the roof to apprehend Decedent. SA III and TFO D went to Eastwick Circle where they encountered SA I who explained he had been shot.

SA III remained at the scene after SA I was transported to the hospital.

## Task Force Officer B

TFO B is detective with the Henderson Police Department. TFO B was part of the surveillance team.

He heard the radio call indicating another member had seen Decedent. TFO B got out of his vehicle and attempted to block Decedent into an area. Decedent ran from the area. TFO B saw two law enforcement officers chasing him. TFO B chased as well.

He met up with other team members and saw SA II standing on a wall. TFO B went in that direction and both he and SA II jumped over walls in an effort to follow Decedent. In the path, TFO B saw a blue baseball cap and the receiver of a Glock handgun on the ground. He did not stop to pick up these items.

Eventually, TFO B ended up on Alpaca Circle. He heard multiple gunshots. TFO B took a tactical position behind a pillar. He saw a head on the other side of the wall. TFO B moved locations and the individual came over the wall and was 15 feet from TFO B. TFO B pointed his weapon and commanded, "[g]ive me your hands!" The individual did not respond, but, because he did not see the person's face, TFO B did not shoot as he was concerned the person may be a fellow law enforcement officer. The individual then climbed a wall and TFO B saw a silver object in his hand, but then lost sight of him.

Next, TFO B saw the individual on the roof of 5441 Alpaca. TFO B lost sight of the individual when he moved to the south side of the roof of 5441 Alpaca. TFO B heard SA I call, "[m]edical, medical!" over the radio. TFO B next heard someone call out, "[s]uspect down."

## Task Force Officer C

TFO C was involved with the investigation involving Decedent on February 7, 2013.

On February 19, 2013, TFO C's responsibilities were logistics and placement of CAT members at various locations.

TFO C heard over the radio that another team member had seen Decedent. TFO C then heard a team member say, "[h]e's running southbound." TFO C proceeded southbound. While en route, TFO C heard SA I announce "[e]astbound" over the radio. From SA I's breathing, TFO C believed he was running. TFO C then heard SA I say, "[s]hots fired!" followed by a keying of the radio with no voice and then SA I saying, "I'm hit!" TFO C radioed back to SA I, "[w]here are you?" SA I responded, "[i]n a backyard," but SA I was unclear as to which backyard.

TFO C then proceeded on Eastbrook Drive. Over the radio, he heard, "[h]e's up on a roof." Once it appeared Decedent was confined on a roof, TFO C went looking for SA I. Next, he heard TFO D radio, "[w]e have [SA I] and WF8. Will transport."

## Task Force Officer D

TFO D was involved in contact with Decedent on February 7, 2013. During that incident, TFO D saw Decedent and drew his weapon on him. Decedent looked at TFO D and clutched his waistband area and ran. TFO D lost sight of Decedent.

TFO D was involved on February 19, 2013, as well. He was at the corner of Eastwick and Starridge when he heard, "[l]et me see your hands." About five seconds later, he saw the oleander shrubs moving and he called out, "[p]lants moving." Thereafter, he heard one shot, a short pause, and then two to three more shots, all of which sounded familiar.

At that point, multiple people were using the radio causing interference. TFO D saw Decedent on the roof moving around. He was yelling expletives at law enforcement officers and walking from side to side. TFO D heard a shot and saw Decedent stumble, but stay upright. TFO D heard two more shots and Decedent fell to his back.

TFO D saw SA I emerge from between two houses clutching his chest, saying he had been hit. SA I said he needed to get to a hospital. TFO D removed SA I's vest and saw blood on his back, three or four inches above the beltline to the left of the spine. TFO D did not think the wound looked like a normal bullet wound because the edges were jagged. He thought it was possibly an exit wound. TFO D checked SA I for other injuries.

SA I said he had none, but he took a round to the chest which was stopped by his vest. He said his back burned.

Upon arrival to UMC, TFO D took SA I's duty weapon and magazines which he later gave to the FBI SWAT Team Leader.

## Task Force Officer E

TFO E was aware of the contact with Decedent on February 7, 2013, but did not participate in the operation.

On February 19, 2013, TFO E was in a surveillance position on Charleston Boulevard. He did not hear the shots fired by Decedent, but he did hear "[n]eed medical" and "I'm hit" and believed it to be SA I's voice.

## Task Force Officer F

TFO F was involved in the attempt to apprehend Decedent on February 7, 2013. During that incident, while TFO F pursued Decedent, he lost sight of him. He came upon a corner and, as he cleared it, he observed Decedent pointing a weapon at him. TFO F retreated and lost visual contact.

On February 19, 2013, TFO F heard radio broadcast that a team member had seen Decedent and the direction in which he was moving. He and SAs II and SA I were advised that they had approximately 30 seconds before Decedent would reach them. Once Decedent ran to their area, SA II told Decedent, "[c]ome here." Decedent fled south.

SAs I and II pursued on foot, over a fence. TFO F drove his vehicle south to intercept. TFO F heard yelling, "[l]et me see your hands" and observed people coming out of their homes. He instructed civilians to get inside.

TFO F saw SA I briefly between two houses and SA I said, "[s]till east." TFO F said, "[h]ow far?" and SA I responded, "[g]o east."

TFO F ran down Alpaca Circle to see if he could locate Decedent. He went back to his vehicle and drove with his car door propped open. He heard a gunshot. He retrieved his rifle and heard a second gunshot. He joined the group of officers moving toward the sound of gunfire. TFO F heard numerous gunshots.

TFO F saw officers on the corner of Alpaca Circle and Starridge Way. He heard yelling. He walked around the residence until he had a visual on Decedent. He saw him on a roof, crouched down. TFO F issued commands to Decedent to show his hands. TFOs G and H moved toward Decedent. TFO F believed the scene was contained and focused on finding SA I. He encountered other officers who reported that SA I had been transported.

## Task Force Officer G

Decedent came to the attention of TFO G in November 2012. TFO G received information that Decedent had committed robberies and car jackings and was wanted for domestic violence. LVMPD also received information that Decedent said he would kill a police officer if necessary.

On February 7, 2013, while working the Christopher Dorner-Los Angeles matter, TFO G was informed about a possible location of Decedent. TFO G could not leave Dorner's Las Vegas residence as a search warrant was about to be served. He was later informed of the encounter with Decedent.

On February 19, 2013, TFO G was assigned to start surveillance in a church parking lot. TFO G eventually radioed seeing an individual scaling a wall behind the target residence. TFO soon lost visual contact but he relayed the activity. The target apparently saw officers and ran south. TFO G called out the activity, rammed his truck through the gate of an easement and drove. He saw Decedent jump a wall and head east. TFO G exited his truck and drew his gun on Decedent, giving Decedent commands. Decedent backed up saying, "[d]on't kill me." TFO G heard other officers issuing commands. Decedent continued backing up and suddenly dove onto the other side of the roof, out of view of TFO G.

TFO G holstered his handgun and retrieved his shotgun from his truck. TFO G saw SA I pursuing Decedent. TFO G ran east on Eastwick and encountered other officers yelling that Decedent had started running in the opposite direction. TFO G ran back and saw Decedent in the backyard of a residence. TFO G saw Decedent pull a gun from his waistband. TFO G yelled, "[g]un!" three or four times and ran west. He tried to access a backyard, but got stuck in oleander bushes. While trying to get through, he heard three to four shots, but the location of the shooting was unknown. TFO G looked into backyards, but saw nothing.

TFO G ran back onto Eastwick and to Starridge. At that location, he saw law enforcement officers commanding Decedent. TFO G heard Decedent yell, "[f]uck you cops" from a roof. TFO G continued toward Alpaca when he heard two shots. He heard Decedent say, "[a]w fuck," and saw him drop down.

TFO G climbed the roof to Decedent's location with other officers. When they approached Decedent, he said, "[f]uck you." TFO G grabbed Decedent's right hand to handcuff him. Decedent resisted and another officer struck him in the back until he stopped resisting.

TFO H frisked Decedent and found a gun magazine on Decedent's right side and a handgun in Decedent's front waistband. The handgun was a semi-automatic.

TFO G heard other officers ask, "[w]here's [SA I]?" A few moments later, TFO G saw SA I walking toward Starridge.

Minutes later, paramedics arrived for Decedent. TFO G saw a bullet hole on Decedent's torso on the right side.

## Task Force Officer H

On February 19, after hearing TFO G announce seeing Decedent, TFO H saw him walking south. Hearing radio traffic of a foot pursuit, TFO H drove his vehicle to Alpaca Circle and Starridge Way. He heard six to seven possible gunshots.

Fifteen seconds after hearing possible gunshots, TFO H saw Decedent jump onto a roof of a residence on Alpaca Circle. TFO H and other officers yelled to Decedent to stop moving and get to the ground. Decedent told them to, "[f]uck off," among other expletives. TFO H heard another three possible gunshots, heard Decedent grunt, and saw him fall. TFO H and other officers responded to the roof.

Decedent resisted being handcuffed. TFO H struck Decedent and kneed him to free his left hand. TFO H searched Decedent and pulled a gun with a black receiver and sliver

slide from Decedent's waistband—as well as a wallet, cash, pills, gloves, and a green leafy substance.

Medical personnel arrived to treat Decedent and remove him from the area.

## OTHER OFFICERS AT THE SCENE

### Officer I

LVMPD Officer I was present at scene, heard gunshots and a radio request for medical assistance, but did not see either shooting.

### Officer J

LVMPD Officer J was taking an auto burglary report on East Charleston when he heard over the radio that a fugitive was running through the nearby golf course. Officer J, who was in full uniform, drove to the location. The radio reported "[s]hots fired!" Officer J got out of his vehicle and saw Decedent running on the roof of a residence. Officer J saw TFO G with a shotgun. Officer J drew his weapon and pointed it at the subject on the roof, commanding Decedent to "[g]et down! Get down on your stomach!"

Someone advised that they should not shoot over rooftops and Decedent ran again. Officer J was on the east side of a house when he heard three gunshots. He saw Decedent sit, and then go to his back.

With TFO G, Officer J and other officers climbed the fence, wall, and up onto the roof. Officer J took possession of Decedent's money, marijuana, and a pink substance in a plastic bag. Decedent's gun was not taken by Officer J.

Officer J heard Decedent say he was thirsty, but nothing else. Officer J put Decedent's property into a rubber glove by Decedent's gun. Officer J saw the fire department transport Decedent.

### Officer K

LVMPD Officer K is assigned to the Repeat Offender Program. On February 19, he was assigned to surveillance. When he arrived at the incident location, he heard reports via radio indicating the subject was fleeing the area. Officer K drove to Alpaca based on radio information. He heard two to three gunshots from two different guns. The radio requested medical. When Officer K arrived, he saw a subject face down on the roof and officers with their weapons drawn.

## Officer L

LVMPD Officer L also is assigned to the Repeat Offender Program. When he arrived at the incident location, he heard over the radio that the subject was running toward Alpaca Circle. Officer L proceeded to that location and exited his vehicle. He heard three to four gunshots, possibly from two different guns. Another officer pointed to a house. Officer L proceeded to that location and saw TFO G on the roof with Decedent handcuffed.

## Sergeant M

LVMPD Sgt. M met TFO A on February 19, 2013, to be briefed. Sergeant M heard via radio that the subject had gone over a wall and was heading east. He then heard four to five gunshots. The radio still indicated that the subject was fleeing eastbound. Sergeant M heard five to six gunshots. Sergeant M could see officers on a roof giving commands to a subject. He saw the subject collapse and officers go to the roof to apprehend the subject.

## Officer N

LVMPD Officer N responded to the incident location and was assigned to an apartment complex north of Charleston. Over the radio, he heard TFO G advise that the subject had jumped over a wall and was in a wash area. Officer N moved his car to the corner of Alpaca Circle and Starridge when he saw Decedent on the roof. Officer N got his shotgun from his vehicle and took a cover position since Decedent had a tactical advance. Officer N heard other officers yell, "[l]et me see your hands." He heard Decedent repeatedly say, "[f]uck you" to the officers. He heard three to six gunshots followed by another three or more shots. Someone called out not to shoot over the roof so Officer N maintained his position. When Decedent came into view, Officer N instructed, "[l]et me see your hands, Metro police." Decedent rolled back to the other side of the roof and Officer N heard two more shots. The next person Officer N saw on the roof was TFO G.

## Officer O

LVMPD Officer O was working on February 7, 2013, when officers attempted to arrest Decedent. On February 19, 2013, Officer O was set up on Christy and Starridge. He heard five gunshots in the distance, a break, and then more shots. By the time he moved closer, the subject was in custody.

## Officer P

LVMPD Officer P responded to the incident location as directed. Once at the location, he heard over the radio that the subject was fleeing the area and headed toward Eastbrook Drive. Officer P drove to that area. He saw TFOs F and B and SA II on foot. Officer P could hear officers shouting, "[p]olice! Stop!" and "[g]et on the ground." Officer P proceeded to Alpaca Circle. Once there, he heard two shots. He could see Decedent. He heard officers announce to Decedent to get on the ground or they would shoot. He saw Decedent drop to the ground and roll out of sight.

While he was chasing the subject, Officer P saw a possible gun between the block wall and a small shed. A different officer was assigned to keep an eye on the item.

## Officer Q

LVMPD Officer Q worked on February 7, 2013, in the effort to apprehend Decedent; thus, Officer Q was aware of Decedent's past actions. On February 19, 2013, Officer Q was in his vehicle when he heard over the radio that a subject was fleeing the area. Officer Q stopped his vehicle in front of the residence where the Decedent was on the roof. He heard officers announce they were the police. He went on the roof with TFO G to handcuff Decedent. While on the roof, Decedent called the officers "motherfuckers" and said, "[s]uck my dick" multiple times. He also said, "I want to die."

# FBI AGENTS NOT AT THE SCENE AT THE TIME OF THE INCIDENT

## Supervisory Special Agent IV

SSA IV was the Acting Assistant Special Agent in Charge on February 19, 2013, because the Assistant Special Agent in Charge was on leave at the time. SSA IV reviewed and approved the operation plan.

Before approving the plan, SSA IV spoke to SSA V, who supervises Squad 5 and the Criminal Apprehension Team. SSA IV told SSA V that the plan seemed "kind of skimpy" but, after SSA V explained the usual and customary plans utilized by CAT, SSA IV understood why an abbreviated plan was used.

Later, SSA V informed SSA IV that an agent was involved in a shooting. SSA IV drove to the scene of the incident and notified Acting Special Agent in Charge VI and Acting Special Agent in Charge VII of the situation. SSA IV also called the FBI Las Vegas Chief

Division Counsel. SSA IV asked FBI Las Vegas Division Chief Counsel to ensure the FBI Strategic Information and Operations Center was notified. SSA IV was in contact with LVMPD Captain R who was the on-scene commander for Metro.

SSA IV spoke to SA III who informed him that SA I was the officer who fired his weapon.

Because it was an FBI agent who fired, the FBI took over the scene. Metro crime scene analysts assisted in gathering evidence.

## Supervisory Special Agent V

SSA V approved some of the investigation done on Decedent prior to the incident. SSA V approved the Operational Plan to locate Decedent. She emailed the plan to SSA IV. Once SSA IV approved the plan, SSA V informed SA III of the approval.

During the operation, SA III briefed SSA V electronically. Just before 3:00 pm, SA III informed SSA V that SA I had been shot, that Decedent had been shot, and that both had been transported to the hospital.

SSA V notified SSA IV and others and went to the hospital. SSA V spoke with SA I.

TFO D told SSA V that he had SA I's gun. SSA V designated a room at the hospital for collection of evidence and the gun was placed there.

## PARAMEDICS

The Clark County Fire Department Battalion Three Chief responded to the scene. He went onto the roof with other CCFD members to treat Decedent. He did not recall any conversation.

EMT 1 responded to the scene. He was the first medical responder on the roof. He noted Decedent was awake but refused to answer EMT 1's medical questions. Decedent said, "I hate you people" and "fuck." EMT 1 cut Decedent's sweatshirt and identified two wounds. He loaded Decedent onto a backboard.

EMT 2 responded to the scene and was on the roof as well. During the ride to the hospital, Decedent told EMT 2 to "[f]uck off" several times.

Fire Fighter responded to the roof as well. He did not recall Decedent saying anything.

Firefighter/Paramedic responded to the roof. He noted Decedent was conscious and trying to talk, but he was unsure what he was trying to say.

## CIVILIANS

Witnesses 1, 2, and 3 were all in the same residence. Witness 1 is the boyfriend of Witness 3. Witness 2 is the father of Witness 3.

### Witness 1

Witness 1 was talking to his mother on the phone when he heard what he thought were firecrackers outside his house. His girlfriend called him to the front door and told him that police officers were in the street. As he approached the door, he heard two to three gunshots. He activated his phone recorder and recorded a man on a roof of a house. He could hear police officers shouting at the man, but could not hear what they said or if the man was shouting back. He then saw officers get on the roof and take the man into custody.

Witness 1 took the video from his phone and downloaded it to a computer, removing the audio of him making comments about the actions of police. He did not want that broadcast online. His opinion was that the use of force by police was excessive. He uploaded the video to YouTube. He also gave a copy of the video to investigators. The video does not depict either shooting.

### Witness 2

Witness 2, a male in his sixties, was home when he heard eight to ten gunshots. He walked to the front door of his residence with his daughter and looked out. He saw multiple police officers on the street pointing their guns at a roof. He saw a male standing on a roof. He saw a police officer fire two shots, striking the man on the roof. The second shot caused the man to collapse. Other police climbed the roof to handcuff the man. Witness 2 said there was a struggle to handcuff the man and officers used force on the male.

### Witness 3

Witness 3, a woman in her twenties, was at home on her laptop when she heard police sirens.

Witness 2 informed Witness 3 that her brother was trying to call the house. When Witness 3 got on the phone with her brother, the brother told her that there were gunshots and police activity at his nearby house.

Witness 3 went to her front door, opened it and looked outside. She saw two to four officers pointing their guns at the roof. She saw a male standing on the roof. She heard the officers yelling at the man, but could not recall what they said or if the man said anything.

She heard a single gunshot fired from an officer in front of her house, but she was unsure which one. She thought this shot struck the man in the leg. Police officers continued to yell at the man on the roof who was still moving around. She then heard a second shot. She looked away. When she looked back, the man was lying prone on the roof. She saw officers climb the roof and said the officers were hitting the male on the roof.

## Witness 4

Witness 4 is a woman in her thirties. She was home on February 19, 2013, when she heard people shouting, "[f]ire, fire!" She also heard banging on her home. She ran outside and found a law enforcement officer who directed her to get back inside. She complied.

She heard an officer yell, "[s]top, police!" and "[f]reeze, get down!" It was clear to her that the officers were identifying themselves as law enforcement. She heard multiple gunshots. She saw an agent on the side of her house firing shots and then climbing over a wall.

She heard additional gunshots from "all over the place." She said she heard at least 15 gunshots, possibly more. She said she heard three bursts of gunfire. The first on the side of her home, consisting of four or five shots, the second being four to five shots from her backyard, and the third being two to three shots from a rooftop in the back of her home.

## Witness 5

Witness 5, a man in his thirties, was at home on February 19, 2013. His home had been burglarized two months prior. As he was working in this garage that afternoon, his dogs became agitated. He thought someone might be burglarizing his house again. He ran to his backyard and saw a male running. Witness 5 chased after the man until the man identified himself as law enforcement. At that point, Witness 5 could see that the man was chasing someone. Another officer told Witness 5 to go back inside his house. Witness 5 saw another male on top of a roof. Once inside his house, he heard 6-7 gunshots. He looked out a window and saw the man who was running from police on a roof.

## Witness 6

Witness 6, a twenty year old man, was visiting his cousin the afternoon of February 19, 2013. He went to the backyard to smoke a cigarette and saw a person jump out of the neighbor's yard into another yard. Immediately after, he saw "detectives" chasing the man with guns drawn. One of the "detectives" was wearing a vest which said "FBI."

Witness 6 heard the officers yell, "[i]t's the police!" and "[s]tay in the house!" He heard 4-5 gunshots followed by 3-4 gunshots about a minute later. Witness 6 went to the front of his cousin's house and saw officers standing in a ditch.

## Witness 7

Witness 7 is a man in his thirties. He was at home when he noticed several law enforcement officers getting out of their cars. At least one had "FBI" on a jacket. He saw officers focus on a house across the street. He heard officers yell, "[g]et down!" and what he thought was 12 gunshots. Then he saw paramedics take a man down from the roof on a backboard.

## Witness 8

Witness 8 is a nineteen year old woman. She was at home in her parents' residence when she heard a male tell someone to put their dog away. She looked out a window and saw a man with a police radio talking over the fence to her neighbor. Soon this man jumped over the fence of her residence and walk through other yards. A minute later, she heard 4-6 gunshots, but she did not see who fired. She heard a neighbor yell, "[h]e ran that way!"

## Witness 9

Witness 9 is a man in his fifties. He was home when he heard male voices yelling. He looked out a back window and saw a man standing in a neighbor's side yard requesting that Witness 9 put his dog in the house. The dog is a pit bull. Witness 9 complied.

Witness 9 saw another male wearing a green vest standing in a neighbor's yard. He saw this man point his gun and yell, "[d]rop the gun! Drop the gun!"

Witness 9 moved to a different section of his house. He heard two rounds of gunfire and then a male voice saying, "[d]oes anyone hear me?" Witness 9 then heard one more round of gunfire.

After a few minutes, officers arrived in Witness 9's backyard and the officers identified themselves and said they were looking for evidence. One of the men had "FBI" on his jacket.

## Witness 10

Witness 10 is a male in his twenties. He received a call from his friend in the neighborhood telling him that the police were in front of his house. Witness 10 opened his garage and saw officers. Witness 10 saw a man on a roof and told officers what he saw.

Witness 10 heard the officers tell the man on the roof to get down. Witness 10 ran to his aunt's house. He heard gunshots and the man on the roof fell down and was yelling. Witness 10 recorded some of the events on his phone. He gave the recording to investigators.

## Witness 11

Witness 11 is a male in his seventies. He had just returned home with his son when saw law enforcement officers chasing a man. One officer instructed Witness 11 to go inside his house, which he did.

As Witness 11 made his way back inside his house, he saw the man who was running from police on his roof. He heard gunshots, but did not see the shooting.

# OTHER CIVILIAN WITNESSES

Agents interviewed other lay witnesses. None of these witnesses saw either shooting. In addition, agents canvassed 10 other residences in the area and received no answer. Finally, Metro officers collected two voluntary statements from individuals and provided them to the investigating agents. Those witnesses also did not see either shooting.

# EVIDENCE AT THE SCENE

A Smith & Wesson .40 caliber handgun was recovered from the scene. This was the gun in Decedent's possession. The gun was reported stolen from California in 2009.

A total of five .40 caliber casings were recovered from the scene. One casing was recovered from 5438 Eastwick and four were recovered from 5433 Alpaca Circle. FBI ballistics testing indicated that all five casings were fired from the .40 S&W pistol.

Investigators found three .45 Auto caliber cartridge casings. Two were located at 5434 Eastwick and one was found at 5438 Eastwick. Ballistics testing indicated that all three were fired from SA I's .45 Auto caliber Springfield Armory pistol.

## SA I'S WEAPON

TFO D took possession of SA I's loaded Springfield 1911A1 with holster, a magazine pouch containing 2 magazines, and handcuffs.

The weapon was ultimately transported to the FBI and found to have one round in the chamber and five rounds in the magazine. The two additional magazines had 8 rounds each.

## AUTOPSY OF DECEDENT

The Clark County Medical Examiners Office performed the autopsy on Decedent. The pathologist concluded that Decedent died from three gunshot wounds.

A blood sample taken at time of autopsy indicated that Decedent was under the influence of marijuana at the time of this incident.

## SEARCH OF DECEDENT'S RESIDENCE

On February 19, 2013, Metro officers executed a search warrant at Decedent's residence. This occurred after the shootings. Decedent had been renting a room from an individual. The warrant was for only Decedent's room.

The following was recovered:

1. black jacket
2. black beanie
3. 100 baggies, scale, crystal substance
4. photos of two female juveniles
5. additional plastic baggies
6. 16 9mm cartridges
7. 10 .40 caliber Smith & Wesson cartridges
8. 6 .44 caliber cartridges retrieved from a .44 Magnum revolver
9. .44 Magnum revolver, Smith & Wesson
10. Smith & Wesson 32 Magnum revolver
11. camouflage back pack
12. 3 9mm cartridges

13. 4 .22 cartridges
14. baggie of white crystal substance, small
15. large baggie of white crystal substance
16. 2 .44 caliber cartridges

### DECEDENT'S CRIMINAL HISTORY

Decedent had been removed from the United States for an aggravated felony. There is no record of a legal re-entry.

On February 12, 2013, Decedent had active warrants for Robbery with Use of a Deadly Weapon, Felony Assault with Use of a Deadly Weapon, Felony Domestic Violence, Misdemeanor Domestic Violence 2d, Misdemeanor Battery (2), and Misdemeanor Domestic Violence.

## Legal Analysis

The District Attorney's Office is tasked with assessing the conduct of officers involved in any killing which occurred during the course of their duties. That assessment includes determining whether any criminality on the part of the officers existed at the time of the killing. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State's jurisprudence pertaining to homicides.

In Nevada, there are a variety of statutes that define the various types of justifiable homicide (NRS §200.120 – Justifiable homicide defined; NRS §200.140 – Justifiable homicide by a public officer; NRS §200.160 – Additional cases of justifiable homicide). The shooting of Decedent was justifiable under two theories: (1) The killing of a human being in self-defense/defense of others; and (2) justifiable homicide by a public officer. Both of these theories will be discussed below.

### A. The Use of Deadly Force in Defense of Another

The authority to kill another in defense of others is contained in NRS §§200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony ..." against the other person. NRS §200.120(1). Homicide is also lawful when committed:

[i]n the lawful defense of the slayer, ... or of any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished ....

NRS §200.160(1).

The Nevada Supreme Court has refined the analysis of self-defense and, by implication, defense of others, in *Runion v. State*, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in *Runion* and modified for defense of others are as follows:

The killing of [a] person in [defense of another] is justified and not unlawful when the person who does the killing actually and reasonably believes:

1. That there is imminent danger that the assailant will either kill [the other person] or cause [the other person] great bodily injury; and

2. That it is absolutely necessary under the circumstances for him to use in [defense of another] force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to [the person being defended].

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

....

Actual danger is not necessary to justify a killing in [defense of another]. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that [the other person] is about to be killed or suffer great bodily injury; and

2. He acts solely upon these appearances and his fear and actual beliefs; and

3. A reasonable person in a similar situation would believe [the other person] to be in like danger.

The killing is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

If evidence [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that the defendant did not act in [defense of another].

*Id.* at 1051-52.

In this case, Decedent posed an objectively reasonable imminent danger to SA I and other CAT Team officers as well as citizens in the area. Decedent had refused commands by officers multiple times and shot at SA I, striking him twice and nearly hitting him in the head. At the time he fired, SA I had an objectively reasonable belief that Decedent posed an imminent danger, which created an honest belief that either he or another team member were about to be killed or suffer serious bodily injury. Accordingly, SA I was justified in acting upon those appearances, fears and actual beliefs.

## B. Justifiable Homicide by a Public Officer

"Homicide is justifiable when committed by a public officer ... [w]hen necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty." NRS §200.140(2). This statutory provision has been interpreted as limiting a police officer's use of deadly force to situations when the officer has probable cause to believe that the suspect poses a threat of serious physical harm to either the officer or another. *See* 1985 Nev. Op. Att'y Gen. 47 (1985).

In this case, SA I had probable cause to believe that Decedent posed a threat of serious physical harm either to himself or other persons. Decedent had failed to comply with CAT team members' directives and engaged in a foot chase. At one point, Decedent shot at SA I at least three times, striking him in the upper chest and back. Decedent's failure to comply with CAT team members' directives and attempts to kill SA I, were all circumstances which created probable cause in SA I's mind that Decedent posed a threat of serious physical harm either to himself or others.

In light of all the evidence reviewed to date, the State would be unable to prove that the actions of SA I were in fact unjustified "in the discharge of a legal duty." Decedent's actions leading up to the shooting led SA I to reasonably believe that Decedent was in possession of a weapon and would use it again.

## C. FBI Deadly Force Policy

Law enforcement officers may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or another person.

A. Deadly force may not be used to prevent the escape of a fleeing subject (must be able to articulate a threat outlined in the bolded core principle above).

B. Firearms may not be fired solely to disable moving vehicles (must be able to articulate a threat outlined in the bolded core principle above).

C. If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to authority of the officer shall be given prior to the use of deadly force.

D. Warning shots are not permitted outside the prison context.

SA I's actions complied with this policy as well.

## Conclusion

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, it has been determined that the actions of SA I were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS §200.190). A homicide which is determined to be justifiable shall be "fully acquitted and discharged." (NRS §200.190).

As there is no factual or legal basis upon which to charge the agent, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.

Submitted March 13, 2014

STEVEN B. WOLFSON
District Attorney

By

PAMELA WECKERLY
Chief Deputy District Attorney

[redacted] b6 -1,3,4 b7C -1,3,4

**From:** Stroud, Shawn W.
**Sent:** Tuesday, May 06, 2014 11:33 AM
**To:** [redacted]
**Subject:** Fw: Las Vegas Feb 2013 shooting

Here is the DOJ declination. Thanks.

----- Original Message -----
From: [redacted] (CRT) [redacted]@usdoj.gov>
To: Stroud, Shawn W.
Cc: [redacted] (USANV); [redacted] (CRT)
Sent: Tue May 06 10:34:24 2014
Subject: Las Vegas Feb 2013 shooting

Inspector Shawn Stroud
Inspection Division
FBI

On the afternoon of February 19, 2013, an FBI agent shot and fatally wounded Javier Reyes, the subject of a law enforcement task force arrest warrant, after a foot chase through an occupied residential area and after the subject, who was believed to be, and in fact was, armed and dangerous, shot and wounded the agent. Based upon a review of the Inspection Division Shooting Incident Report and a Clark County, Las Vegas District Attorney Report on Use of Force, we have concluded that the facts do not warrant a federal criminal civil rights investigation. The USAO concurs with our decision. The Clark County District Attorney declined prosecution.

The agent was part of a federal/local task force assembled to attempt to capture and arrest a reportedly armed subject for whom an arrest warrant had been issued and who had a history of violent armed activity about which the task force members, including the shooter agent, were briefed. During surveillance on a residence where the subject was believed to be, he left the residence. When confronted outside, the subject refused to obey repeated commands by several law enforcement officers to stop and to show his hands. Instead, he ran, attempting to elude arrest. There was a foot chase through a residential area in which some civilians were also outside their homes.

Two FBI agents confronted the subject and he continued to flee with his hands at his waistband. One of the agents re-encountered the subject. The subject again refused to obey commands and ran. The agent was continuing his search for the subject when he was shot from an unknown position. The agent was hit in the front of his vest and, after he turned, he was struck in the back by a bullet that penetrated the vest. The agent crawled into bushes for concealment and then visibly located the subject on a nearby rooftop. The agent stated that the subject had his hands at his waistband and appeared to be looking for other law enforcement officers to shoot. The agent fired one shot and; after the subject did not initial fall, he fired two more shots. The subject was struck by bullets in the arm, shoulder and chest. The agent did not continue to shoot after the subject fell down on the roof.

The three wounds to the subject were fired by the agent's handgun. A handgun was found in the subject's waistband and a magazine nearby on the rooftop. The subject's weapon had fired five rounds, including the one that struck the agent.
Other law enforcement officers climbed to the rooftop and handcuffed the subject. He was evacuated and treated by EMTs but succumb to his wounds, dying at the hospital.

There are several law enforcement and civilian eyewitnesses to parts of the chase and the shooting. Accounts vary, but both law enforcement and civilian observations consistently indicated that the subject was running, law enforcement officers were pursuing him, and he



NYT-364

was not obeying police commands. Some law enforcement officers saw the subject with a gun in his hand before he was shot.

Two civilian witnesses observed the handcuffing. One witness claimed that law enforcement officers hit the subject and another civilian witness opined that the force was "excessive." The latter witness provided a video recording from his cell phone of agents handcuffing the subject on the roof. The recording does not depict use force that appears excessive. However, the task force officers who handcuffed the wounded subject stated that he was resisting the handcuffing. And, one task force officer admitted that he struck the subject in the back to gain compliance during handcuffing.

The evidence supports a conclusion that the agent who shot the subject reasonably believed the subject had just shot him and was preparing to shoot other law enforcement personnel as they were closing on his rooftop vantage point. The ballistics evidence confirmed that the subject shot the agent. Law enforcement officers were searching for the subject and civilians were in potential jeopardy outside their homes in the residential area when the agent fired. The evidence does not support a conclusion that the agent willfully used force that he knew to be unreasonable or unnecessary, the intent element required for a violation of the applicable federal criminal civil rights statute.

Further, the task force officer admits striking the resisting subject in the back while handcuffing him. The video does not appear to depict an excessive use of force under circumstances of handcuffing of a subject who was armed and involved in a shooting. Again, the evidence could not support a conclusion that the task force officer willfully used force that he knew to be unreasonable or unnecessary.

A federal criminal civil rights investigation of the shooting and its aftermath is not warranted. We appreciate the agent's voluntary statement, facilitating a fully informed decision. Please complete your administrative review.



NYT-365

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 15-cv-09133

Total Deleted Page(s) = 4
Page 11 ~ b5 - -1,2; b6 - -1; b7C - -1;
Page 13 ~ b5 - -1,2; b6 - -1; b7C - -1; b7E - -5;
Page 14 ~ b5 - -1,2; b7E - -5;
Page 15 ~ b5 - -1,2;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

**EXECUTIVE SUMMARY**
**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 08/05/2013

Report of: IIC Christoper W. Davis Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271699-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
LAS VEGAS FIELD OFFICE
08/02/2012

Investigative Period: 08/03/2012 – 08/09/2012

Reference: (U//~~FOUO~~) Telephone call on 08/02/2012, from Acting Chief Inspector Eric S. Birnbaum and Inspector Christopher W. Davis. Las Vegas Urgent Report to Director, dated 08/02/2012.

**Synopsis**

(U//~~FOUO~~) On August 02, 2012, Special Agents (SA) [redacted] and [redacted] of the Las Vegas Field Office (LV) shot Joshua Burchell while attempting to effect his arrest. Burchell brandished a handgun and failed to yield to agent commands to stop and drop the weapon. The arrest of Burchell was a coordinated effort with the Las Vegas Safe Streets Violent Crimes Task Force (LVSSTF) also known as the Criminal Apprehension Team (CAT) and LV SWAT. b6 -1 b7C -1

**Details**

(U//~~FOUO~~) On August 02, 2012, at approximately 2:51 pm, SAs [redacted] and [redacted] were involved in a shooting in Las Vegas, Nevada. The shooting occurred when the LV SWAT and LVSSTF members attempted to arrest Joshua Burchell at Arizona Charlie's Hotel and Casino pursuant to a request from the Las Vegas Metropolitan Police Department (LVMPD) and Henderson Police Department (HPD)[1]. Burchell was a convicted felon with an extensive criminal history dating back to 1996. Burchell was wanted by the LVMPD on two separate arrest warrants for Robbery with a Deadly Weapon and Burglary with a Deadly Weapon. b6 -1 b7C -1

[1] Both LVMPD and HPD are members of the LVSSTF. SA [redacted] was a member of LV SWAT and SA [redacted] was a member of LV SWAT and the LVSSTF. b6 -1 b7C -1



NYT-366

(U//~~FOUO~~) On July 26, 2012, pursuant to the request from the LVMPD, an Unlawful Flight To Avoid Prosecution (UFAP) [redacted] was opened on Burchell by the LVSSTF (Squad LV-5). Extensive efforts to locate Burchell by LVMPD were unsuccessful and it was believed Burchell had left the state of Nevada for California. However, baseline checks were done on Burchell which revealed a California driver's license bearing a Glendora, California address. LVSSTF intended to obtain a UFAP warrant for the arrest of Burchell; however the shooting incident occurred before this warrant was issued. b7A -1

(U//~~FOUO~~) On July 30, 2012, the LVSSTF obtained [redacted] through the District Court of Clark County, Nevada. The investigation identified an associate of Burchell, whom law enforcement could leverage for cooperation. b7E -1

(U//~~FOUO~~) On August 1, 2012, the associate was interviewed by LV agents and ultimately agreed to be a Cooperating Witness (CW). The CW advised [redacted] b6 -8 b7C -8 b7D -1

(U//~~FOUO~~) TFO members of the LVSSTF requested the use of the LV SWAT to arrest Burchell due to the fluidity of the operation.[2] At approximately 10:15 pm, SA [redacted] called SWAT Team Leader (STL) [redacted] to request SWAT to conduct the arrest on 08/02/2012. SA [redacted] briefed STL [redacted] on the investigation to locate Burchell. b6 -1 b7C -1

(U//~~FOUO~~) The plan called for [redacted] b6 -8 b7C -8 b7D -1 b7E -1

(U//~~FOUO~~) The plan was verbally presented to SSA [redacted] SSA [redacted] Las Vegas SWAT Coordinator and ASAC [redacted] The plan was verbally approved on 08/02/2012 by ASAC [redacted] and SSA [redacted] was designated as the On-Scene Commander (OSC). SSA [redacted] coordinated with SWAT STL [redacted] to finalize the arrest plan. SWAT STL [redacted] was in charge of the SWAT operation and conducted a site survey prior to the arrest plan being finalized. b6 -1 b7C -1

[2] Efforts to utilize the Henderson Police Department SWAT Team met with negative results due to the short notice provided prior to the planned operation.

(U//~~FOUO~~) [redacted] The operational plan was briefed to the SWAT and PST team members by SWAT STL [redacted]. The briefing included a discussion of the arrest plan and contingencies. The Arrest Team also conducted a walk-through of the second room, where the arrest was to take place.

b6 -1,8
b7C -1,8
b7D -1

(U//~~FOUO~~) After the briefing, the SWAT and PST Team performed rehearsals, supervised by SWAT STL [redacted]. The Deadly Force Policy (DFP) was reviewed during the briefing. The SWAT STL began writing an Operations Order at 8:00 am on 08/02/2012, prior to leaving the office for the site survey, but it was never completed or approved by LV management.

b6 -1
b7C -1

(U//~~FOUO~~) [redacted] This information was conveyed to each member of the Arrest Team. [redacted]

b6 -1,8
b7C -1,8
b7D -1
b7E -1

(U//~~FOUO~~) [redacted] This information was relayed on the radio to arrest personnel. At approximately 2:50 pm, Burchell exited the room, at which time SWAT STL [redacted] issued the command to execute the arrest.

(U//~~FOUO~~) The SWAT Team exited the hotel room to arrest Burchell. Burchell ignored repeated commands and ran towards agents positioned outside the hotel room with his pistol drawn. SA [redacted] fired three rounds from a Bureau issued Colt M16A1; SA [redacted] fired four rounds from a Bureau issued .45 caliber Springfield 1911 handgun at which time Burchell fell to the ground. SWAT Team personnel approached Burchell behind the cover of a shield and handcuffed him. SA [redacted] SA [redacted] Paramedic, MedicWest Ambulance then approached the subject to provide emergency medical treatment. Burchell was transported to Sunrise Hospital and Medical Center by MedicWest Ambulance, where he underwent emergency surgery.

b6 -1,2
b7C -1,2

(U//~~FOUO~~) At approximately 3:00 pm, ASAC [redacted] received a call at his desk from SSA [redacted] who advised him of the shooting incident. ASAC [redacted] was told Burchell was hit and all personnel on scene were safe. ASAC [redacted] immediately informed SAC Kevin Favreau of the incident and proceeded to the scene. While en route to the scene, at approximately 3:20 pm, ASAC [redacted] sent a text message to the U.S. Attorney and the First Assistant to advise them of the incident. Within minutes, ASAC [redacted] was copied on an E-mail message sent by SAC Favreau to DD Sean Joyce and AD Keith Bennett, INSD, to report the shooting incident.

b6 -1
b7C -1

(U//~~FOUO~~) Upon arriving at the scene, ASAC [redacted] was met by SSA [redacted] and SWAT STL [redacted] LVMPD had already taped off the area and offered to provide assistance to the FBI, noting this was an "FBI scene." ASAC [redacted] and LVMPD Deputy Chief [redacted] had a conversation and the crime scene was released to LVMPD for processing. ASAC [redacted] met with SA [redacted] and SA [redacted] and determined they were not injured. ASAC [redacted] offered them the services of the Employee Assistance Program although they declined the offer.

b6 -1,4
b7C -1,4



NYT-368

(U//~~FOUO~~) Burchell was pronounced dead at 7:24 pm.

(U//~~FOUO~~) The Subject was Joshua Oscar Burchell, also known as Joshua Austin Burchell:

| | |
|---|---|
| Name | Joshua Oscar Burchell |
| Sex | Male |
| Race | Caucasian |
| Height | 6' |
| Weight | 200 |
| Hair | Brown |
| Eyes | Hazel |
| DOB | 03/19/1977 |
| SSAN | 623-34-1987 |
| FBI # | 629358CB9 |

**Substantive Case Files**

(U//~~FOUO~~) Prior to the shooting incident, the following substantive case was opened on 07/26/2012:

**Title:** JOSHUA BURCHELL
ROBBERY WITH A DEADLY WEAPON
[redacted] b7A -1

**Enclosures:**

(U//~~FOUO~~) All enclosures have been made part of this report and are identified in the enclosed table of contents.

**A. Administrative**

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was comprised of the following personnel:
Inspector-in-Charge (IIC) Christopher W. Davis
Assistant Inspector (AI)/Team Leader (TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP [redacted]



NYT-369

AIIP [redacted] b6 -1
AIIP b7C -1
AIIP
AIIP
AIIP

(U//~~FOUO~~) FBI LA Shooting Reconstruction Team - Total Station Operators:

[redacted] b6 -1 b7C -1

**B. Shooting Incident Review Protocol**

(U//~~FOUO~~) On 08/02/2012, IIC Davis spoke with Las Vegas Field Office SAC Kevin Favreau, to arrange logistics prior to arriving in Las Vegas. SAC Favreau assigned SSA [redacted] to serve as the point of contact for the SIRT during the investigation period. Members of the SIRT traveled to Las Vegas on 08/03/2012. On 08/03/2012, IIC Davis and members of the SIRT viewed the shooting scene, 4575 South Boulder Highway, Las Vegas, Nevada. The location was the parking lot of Arizona Charlie's Hotel and Casino. b6 -1 b7C -1

(U//~~FOUO~~) On 08/03/2012, IIC Davis briefed [redacted] Special Legal Counsel DOJ Civil Rights Section on the shooting. b6 -3 b7C -3

(U//~~FOUO~~) On 08/04/2012, the SIRT met with all involved managers and agents to explain the shooting review protocols.

(U//~~FOUO~~) Two Signed Sworn Statements (SSS) were taken from the two FBI Agents who fired their weapons. SA [redacted] who was represented by [redacted] (FBIAA) and [redacted] (FLEOA), Esq. and SA [redacted] who was represented by [redacted] (FLEOA). Six other SSS were taken from agents who witnessed the shooting. Other interviews, events, and observations were documented via FD-302s. All FBI personnel were allowed to read the FD-302 summarizing their interview to confirm the accuracy of the information provided. The SSS and interviews of witnesses were conducted voluntarily. A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all those interviewed. b6 -1,2 b7C -1,2

(U//~~FOUO~~) On 08/07/2012, IIC Davis met with the Clark County District Attorney (DA), Steven Wolfson who advised he would review the FBI's Shooting Incident Review Report upon its completion, at which point Mr. Wolfson would then issue a prosecutive opinion.

(U//~~FOUO~~) On 08/09/2012, an Exit Brief was provided by IIC Davis to SAC Favreau.

C. **Personnel Directly Involved in the Shooting:**

| | | |
|---|---|---|
| SA [redacted] | Agent Involved in Shooting Incident | b6 -1 |
| SA [redacted] | Agent Involved in Shooting Incident | b7C -1 |

**Personnel Who Witnessed the Shooting:**

| | | |
|---|---|---|
| SA [redacted] | SWAT Team Member (Shield) | b6 -1 |
| SA [redacted] | Case Agent | b7C -1 |
| SA [redacted] | SWAT Team Member (Breacher) | |
| SA [redacted] | PST Member | |
| SA [redacted] | PST Member | |
| SA [redacted] | SWAT Team Member (Entry) | |

**Personnel Involved in the Arrest Operation:**

| | | |
|---|---|---|
| SSA [redacted] | (OSC) | b6 -1,4 |
| SA [redacted] | (SWAT STL) | b7C -1,4 |
| SA [redacted] | (SWAT-Medic) | |
| SA [redacted] | | |
| SA [redacted] | (LVSSTF) | |
| TFO [redacted] | (LVSSTF) | |
| TFO [redacted] | (LVSSTF) | |
| TFO [redacted] | (LVSSTF) | |
| TFO [redacted] | (LVSSTF) | |
| TFO [redacted] | (LVSSTF) | |
| TFO [redacted] | (LVSSTF) | |

| | | |
|---|---|---|
| SA [redacted] | (Tactical Operations Center/Emergency Medical Technician) | b6 -1,2 |
| SA [redacted] | | b7C -1,2 |
| [redacted] | (Paramedic, MedicWest Ambulance) | b7E -1 |

D. **Firearms Training**

(U//~~FOUO~~) Review of LV training records for all Agents who discharged weapons revealed all were in compliance with firearms qualifications requirements.

E. **Deadly Force Training**

(U//~~FOUO~~) The Deadly Force Policy was reviewed during the verbal arrest plan briefing on 08/02/2012.

F. **Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) All personnel on scene were wearing body armor. Several members of the Arrest Team were charged with a physical surveillance of the subject and were not wearing law enforcement identifiers, all other personnel was wearing law enforcement identifying clothing.

## G. FBI Indices and National Crime Information Center (NCIC)

(U//~~FOUO~~) NCIC was queried on 08/03/2012 and contained multiple arrests and convictions for Burchell. NCIC records also contained two outstanding warrants, one from the Glendora California Police Department and Las Vegas Nevada Metropolitan Police Department. The Glendora warrant, dated 06/02/2011 was for Burglary. The Las Vegas warrant, dated 04/18/2012 was for Robbery with a Deadly Weapon.

(U//~~FOUO~~) The NCIC results for Burchell were as follows:

| | |
|---|---|
| Charge 1: | Robbery with a Deadly Weapon |
| Charge 2: | Burglary with use of with a Deadly Weapon |
| Conviction Status: | Felony |
| Arrest Date: | 06/02/2011 |
| Arresting Agency: | MPD |
| Disposition: | Dismissed 05/16/2012 |
| | |
| Charge: | Possession of Drug Paraphernalia |
| Conviction Status: | Misdemeanor |
| Arrest Date: | 05/25/2011 |
| Arresting Agency: | MPD |
| Disposition: | Not Specified |

(U//~~FOUO~~) Records also revealed local charges in California and Nevada. The California charges were:

| | |
|---|---|
| Charge: | PC-Possess/Mfg/Sell Dangerous WPN/ETC |
| Date: | 04/14/1996 |
| Arresting Agency: | Glendora California Police Department |
| Conviction Status: | Misdemeanor |
| Disposition: | Convicted 04/15/1996 |
| Charge: | PC-Vandalism: Damage Property |
| Date: | 12/30/1996 |
| Arresting Agency: | Glendora California Police Department |
| Conviction Status: | Misdemeanor |
| Disposition: | Convicted 02/13/1997 |
| | |
| Charge: | PC-Vandalism: Damage Property |
| Date: | 05/31/1997 |
| Arresting Agency: | Glendora California Police Department |
| Conviction Status: | Misdemeanor |
| Disposition: | Not Specified |
| | |
| Charge 1: | HS-Use / Under Influence of Controlled Substance |
| Charge 2: | PC-False Identification to specific Peace Officers |
| Date: | 09/26/1997 |
| Arresting Agency: | Glendora California Police Department |

| | |
|---|---|
| Conviction Status: | Misdemeanors |
| Disposition: | Charge 1 - Convicted 06/29/1998<br>Charge 2 - Convicted 12/30/1997 |
| Charge 1: | PC-Burglary |
| Charge 2: | PC-Receive/Etc known Stolen Property |
| Charge 3: | PC-False Checks/Records/ Certs/ Etc |
| Charge 4: | Attempted Grand Theft |
| Date: | 02/06/2004 |
| Arresting Agency: | Monrovia California Police Department |
| Conviction Status: | Misdemeanor |
| Disposition: | Charge 1 - Convicted 02/06/2004<br>Charge 2 - Not Specified<br>Charge 3 – Dismissed 02/06/2004<br>Charge 4 – Not Specified |
| Charge: | HS-Possession of a Controlled Substance |
| Date: | 08/06/2004 |
| Arresting Agency: | Azusa California Police Department |
| Conviction Status: | Probation |
| Disposition: | Drug Treatment Placement 08/17/2004 |
| Charge: | HS- Use / Under Influence of a Controlled Substance |
| Date: | 03/06/2007 |
| Arresting Agency: | Glendora California Police Department |
| Conviction Status: | Controlled Substance - Misd.<br>Burglary - Felony |
| Disposition: | Charge - Use / Under Influence of Controlled Substance Dismissed 01/14/2008<br>Charge - PC - Burglary 03/28/2007 |
| Charge: | PC-Burglary:First Degree |
| Date: | 04/13/2007 |
| Arresting Agency: | Delano, CA Correctional Facility |
| Conviction Status: | Not Specified |
| Disposition: | Not Specified |
| Charge: | VC- DUI Alcohol / Drugs |
| Date: | 10/07/2009 |
| Arresting Agency: | Azuza California Police Department |
| Conviction Status: | Misdemeanor |
| Disposition: | Charge - DUI Alcohol / Drugs<br>Convicted 02/26/2010<br>HS - Use/ Under Influence of Controlled Substance<br>Convicted 02/26/2010 |

| | |
|---|---|
| Charge: | HS- Possession of Unlawful Paraphernalia |
| Date: | 12/18/2009 |
| Arresting Agency: | Azusa California Police Department |
| Conviction Status: | Misdemeanor |
| Disposition: | Convicted 02/26/2010 |

(U//~~FOUO~~) The Nevada charges were as follows:

| | |
|---|---|
| Date: | 01/02/2012 |
| Charge: | Possession of a Controlled Substance |
| Agency: | MPD |
| Disposition: | Convicted |

| | |
|---|---|
| Date: | 06/09/2011 |
| Charge: | Robbery |
| Agency: | MPD |
| Disposition: | Dismissed |

| | |
|---|---|
| Date: | 06/02/2011 |
| Charge: | Burglary with a Deadly Weapon |
| Agency: | MPD |
| Disposition: | Dismissed |

| | |
|---|---|
| Date: | 05/25/2011 |
| Charge: | Possession of Narcotics Paraphernalia |
| Agency: | MPD |
| Disposition: | Convicted |

## H. Evidence Recovery and Laboratory Division Reports:

(U//~~FOUO~~) The scene of the shooting was secured and processed by Las Vegas Metropolitan Police Department Crime Scene Investigation Section (LVMPDCSIS), LV ERT, and Los Angeles ERT acting as the Shooting Reconstruction Team to include use of total station.

### Firearms/Toolmarks Testing

(U//~~FOUO~~) Weapons discharged by agents, a Colt M16A1 rifle bearing serial number [redacted] and Springfield Arms 1911 handgun bearing serial number [redacted] were sent to the Laboratory for functionality testing. The Firearms/Toolmark Unit provided INSD with a final report regarding the Agent's weapons on 10/21/2013. There were no abnormalities noted regarding the weapons.

b6 -1
b7C -1

## I. Medical Report

**FBI Agents Involved in the Shooting:**

(U//~~FOUO~~) No injuries.

**Subject:**

(U//~~FOUO~~) Burchell was shot at Arizona Charlie's Hotel and Casino and transported to Sunrise Hospital and Medical Center via ambulance. All life saving measures were met with negative results. Burchell was pronounced dead at 7:24 p.m.

(U//~~FOUO~~) The Preliminary Autopsy Report, Case Number: 12-07009, dated 08/03/12, stated the cause of Burchell's death as multiple gunshot wounds. A total of six rounds were accounted for from the autopsy results. One gunshot wound was not accounted for at the autopsy because the projectile was removed during surgery and the entry wound was most likely obscured during the surgery. Of the five remaining gunshot wounds one was penetrating and four were perforating. In addition, there was a graze wound on the left forearm and fragment on the left buttock.

## J. Declination by the Civil Rights Division

(U//~~FOUO~~) The Civil Rights Section, DOJ, was notified of the shooting by INSD. [redacted] Special Legal Counsel, DOJ was briefed on 08/03/2012. On 10/25/2013, [redacted] declined a criminal civil rights investigation against the Agents involved in this shooting incident.

b6 -3
b7C -3

## K. Local Prosecution Opinion

(U//~~FOUO~~) On 08/12/2013, Clark County District Attorney Steven Wolfson declined prosecution against the Agents in regards to the use of force surrounding the death of Mr. Burchell.

(U//~~FOUO~~) **Observation 2**: Las Vegas failed to assign an appropriate On-Scene Commander for the SWAT Operation.

(U//~~FOUO~~) **Analysis 2**: The Special Weapons and Tactics Policy Implementation Guide, Section 2.2.2 stated:

(U//~~FOUO~~) [redacted] b7E -5

[redacted]

(U//~~FOUO~~) [redacted]

[redacted]

b7E -5

(U//~~FOUO~~) [redacted]

[redacted]

(U//~~FOUO~~) The SIRT determined the SAC was never briefed on the details regarding the operation leading up to the shooting incident. Also, the SIRT found ASAC [redacted] delegated the OSC role to SSA [redacted] however SSA [redacted] is not the LV SWAT coordinator. While no Operations Order was prepared, it is clearly evident this was a SWAT operation. As such, an appropriate OSC should have been designated. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 2**: SAC, Las Vegas will ensure an appropriate OSC is assigned for all SWAT operations.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) SHOOTING INCIDENT LAS VEGAS FIELD OFFICE 08/02/2012 **Date:** 05/30/2014

**CC:** [redacted]

b6 -1
b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271699-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 08/05/2013, prepared by Inspection Team Leaders [redacted] and [redacted]

b6 -1
b7C -1

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Las Vegas Shooting Incident Review Team Report

**Details:**

(U//~~FOUO~~) On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 08/02/2012, involving Las Vegas Field Office (LV) Special Agent (SA) [redacted] and SA [redacted].

b6 -1
b7C -1

Title: (U//~~FOUO~~) SHOOTING INCIDENT LAS VEGAS FIELD OFFICE 08/02/2012
Re: 297-HQ-A1271699-D, 05/30/2014

The Agents shot Joshua Burchell while attempting to effect his arrest. Burchell brandished a handgun and failed to yield to Agents' commands to stop and drop the weapon. The arrest of Burchell was a coordinated effort with the Las Vegas Safe Streets Violent Crimes Task Force (LVSSTF) also known as the Criminal Apprehension Team (CAT) and LV SWAT.

**SIRG Observations**

(U//~~FOUO~~) On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SAs [redacted] and [redacted] on 08/02/2012 was in compliance with the Department of Justice's Deadly Force Policy. b6 -1 b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint.** The SIRG board reviewed the four observations for this shooting incident. After review, the board removed three of the found observations. The board found the efforts to effect the arrest of Joshua Burchell on 08/02/2012 by the FBI LV SWAT team required the designation of an On-Scene Commander (OSC) in accordance with SWAT Policy. The OSC for the SWAT operation was SSA [redacted], the SSA over LV-5. The SIRG made the following observation regarding the assignment of an OSC on 08/02/2012: b6 -1 b7C -1

**Observation 1**: LV failed to assign an appropriate On-Scene Commander for the SWAT Operation.

**Analysis 1**: The Special Weapons and Tactics Policy Implementation Guide, Section 2.2.2 stated:

[redacted] b7E -5

Title: (U//~~FOUO~~) SHOOTING INCIDENT LAS VEGAS FIELD OFFICE 08/02/2012
Re: 297-HQ-A1271699-D, 05/30/2014

[redacted] b7E -5

The Shooting Incident Review Team (SIRT) determined the SAC was never briefed on the details regarding the operation leading up to the shooting incident. Also, the SIRT found ASAC [redacted] delegated the OSC role to SSA [redacted]; however, SSA [redacted] is not the LV SWAT coordinator. While the formal Operations Order was not finished, it was verbally briefed by SWAT Senior Team Leader, which made it evident the arrest was a SWAT operation. As such, an appropriate OSC should have been designated. b6 -1 b7C -1

**Instruction 1:** SAC, LV will ensure an appropriate On-Scene Commander is assigned for all SWAT operations.

3. **Provide recommendations concerning training and or/safety issues.** The SIRG made no recommendations or observations requesting additional training for the Agents involved in this shooting incident.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SAs [redacted] as a result of their involvement in this shooting incident. b6 -1 b7C -1

Title: (U//~~FOUO~~) SHOOTING INCIDENT LAS VEGAS FIELD OFFICE 08/02/2012
Re: 297-HQ-A1271699-D, 05/30/2014

(U//~~FOUO~~) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors David Paul Gelios, R. Justin Tolomeo, Howard Marshall, Paul Delacourt, Trent R. Teyema and Shawn W. Stroud, OI,INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem, OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

b6 -1,3
b7C -1,3

**Procedures for Responding to the Observation**

(U//~~FOUO~~) SAC, LV is responsible for ensuring the Inspection Instruction is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's

Title: (U//~~FOUO~~) SHOOTING INCIDENT LAS VEGAS FIELD OFFICE 08/02/2012
Re: 297-HQ-A1271699-D, 05/30/2014

response to determine if the Instruction has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//FOUO) SAC, LV is required to provide a written response, via EC, detailing the actions taken by the field office to resolve the Instruction. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MAPA [redacted].

b6 -1
b7C -1

♦♦

# REPORT ON USE OF FORCE

## Legal Analysis Surrounding the Death of Joshua Oscar Burchell on August 2, 2012

## INTRODUCTION

On August 2, 2012, the FBI task force, known as the Criminal Apprehension Team (CAT), located a murder suspect by the name of Joshua Oscar Burchell. The members of the CAT task force included FBI agents, as well as officers from the Las Vegas Metropolitan Police Department and the Henderson Police Department. The CAT task force requested the assistance of SWAT in arresting and taking into custody the murder suspect.

A plan was created to take the murder suspect into custody who was staying at the Arizona Charlie's Hotel/Casino located at 4575 Boulder Highway in Las Vegas. Three adjacent rooms at the hotel were utilized by SWAT and the CAT task force to set up and effectuate the arrest. Surveillance equipment was placed in the room the suspect was in to allow the police to verify that the suspect was in fact armed, which he was. In fact, the murder suspect was armed with a firearm that had previously been stolen from a corrections officer.

The plan was to arrest the murder suspect in his room. However, the murder suspect left his room and an order was then given to the team to effectuate the arrest. The members of the SWAT and CAT task force exited the adjoining room, announced their presence as FBI agents, and issued commands to the murder suspect to not move. The murder suspect did not comply and ran away from the SWAT and CAT task force to the parking lot of the hotel/casino. Once in the parking lot, the murder suspect pulled a

firearm from his waist area and pointed it at police. Special Agents fired at the murder suspect and he fell to the ground as he was hit by the gunshots. Medical aid was administered quickly at the scene and the murder suspect was taken to the hospital where he was later pronounced dead.

The Decedent was a suspect in a murder that occurred in late July of 2012. The Decedent shot a man he knew in the head and stole a painting from the murder victim. The Decedent later made admissions about killing the victim. Decedent also had an outstanding warrant from Clark County for Robbery with Use of a Deadly Weapon and another warrant out of California for Burglary.

The District Attorney's Office has completed its review of the August 2, 2012, death of Joshua Oscar Burchell, (Decedent). It was determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of the Special Agents were not criminal in nature. This review was based on all the evidence currently available.

This letter explains why criminal charges will not be forthcoming against the Special Agents involved. It is not intended to recount every detail, answer every question or resolve every factual conflict regarding this police encounter. This letter is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of the Special Agents was not criminal.

This decision, premised upon criminal-law standards, is not meant to limit any administrative action by the FBI, LVMPD, or HPD or to suggest the existence or non-existence of civil actions by any person where less stringent laws and burdens of proof apply.

A Police Fatality Public Fact-finding Review was not conducted in this case. Clark County Code 2.14 mandates such a review when a police-involved death occurs, and the prosecutor preliminarily determines that no criminal prosecution of the officer is appropriate. The definition of "officer" is limited by NRS Chapter 289 to state and local law enforcement personnel. In the instant case, the Special Agents involved were acting in their capacity as federal law enforcement agents; therefore, they were not "officers" for purposes of Clark County Code 2.14.

# THE EVENTS AT ARIZONA CHARLIE'S

## LAY WITNESSES

## Housekeeper

On August 2, 2012, Housekeeper was working at the Arizona Charlie's Hotel/Casino when she was moving from one room to another between cleanings. Housekeeper saw a tall man run past her towards the parking lot. The man was being chased by other men who had guns drawn and who Housekeeper perceived were police officers. As the man in front was running, Housekeeper saw him stop, turn around, and pull a black object from his right side but she could not tell what the object was. Immediately after seeing this motion, Housekeeper heard 2 to 3 shots and she dropped to the ground and got behind her cleaning cart.

## Patron # 1

On August 2, 2012, Patron # 1, who lives out of state, was in Las Vegas with her husband of 50 years, as well as their grandson. They were staying at Arizona Charlie's as they were bringing their grandson to Las Vegas so he could catch a flight at McCarran International Airport. Patron # 1, her husband, and her grandson had checked into the hotel and were in the process of going to their room. In fact, Patron # 1 was in the parking lot waiting for her husband and grandson to bring the car around. As she was waiting, a man with a badge ran directly towards her telling her he was with the FBI and that she needed to leave the area. Patron # 1 next saw a man she described as a white male with grey hair wearing shorts come out of a room and run towards her direction. The man was followed by several men who were wearing jackets with the letters FBI on them who were yelling repeatedly at the man with the grey hair telling him to stop. The man with the grey hair, however, did not stop and kept running in her direction. Patron # 1 said she then heard a single shot but she could not tell who had shot. She immediately got on the ground but she could see the FBI men were trying to render aid to the man with the grey hair who was down on the ground.

## Patron # 2

On August 2, 2012, Patron # 2, who lives out of state, was in Las Vegas with his wife, Patron # 1, as well as their grandson. Patron # 2 and his grandson were in the process of driving their car around to the back of the hotel/casino when they were met by an officer in plain clothes with a badge who told them they would have to go around a different way. As Patron # 2 drove around the parking lot, he saw a male running and heard someone shouting but he could not tell what they were saying. Patron # 2 then heard more than one gun shot and saw someone on the ground but he did not see who

did the shooting. Patron # 2 then backed his car out of the area and checked on his wife.

## Patron # 3

On August 2, 2012, Patron # 3, who lives out of state, was in Las Vegas with his Grandmother (Patron # 1) and Grandfather (Patron # 2) so he could catch a flight back to his home state. Patron # 3 was with his Grandfather as they drove from the front of the hotel to the back after checking in. As they were driving towards the back, a law enforcement officer told them they needed to turn around. Grandfather then drove in a different direction. As they were driving, Patron # 3 saw a man running in the parking lot followed by 4 to 5 men who were following behind dressed in clothes with FBI insignia. The 4 to 5 men chasing the one man were yelling to the man to get down and to put his hands up. Patron # 3 then heard what he thought was 1 or 2 gunshots. Later Patron # 3 saw the man that had been running lying on the ground and the police personnel attempting to render aid.

# POLICE WITNESSES

## Special Agent # 1[1]

On August 2, 2012, Special Agent (SA) # 1 was working as a part of the SWAT team tasked with taking the Decedent into custody. Specifically, SA # 1 was to be the first officer in the stack of SWAT officers that would enter the Decedent's room and take him into custody. The SWAT team rehearsed the plan and subsequently took position in the accompanying room to where the Decedent was located. The SWAT team prepared to take the Decedent into custody in his room. However, the Decedent exited the room before the SWAT team could make entry to the room. As such, the order to effectuate the arrest was given and the SWAT team exited their room and SA # 1 shouted, "FBI, don't move." The Decedent immediately ran away from SA # 1 and his team through the parking lot. SA # 1, however, did not pursue, which was consistent with the standard operating procedures and instructions he had been given previously.

As the Decedent ran away from SA # 1 and the members of the SWAT team, SA # 1 observed the Decedent pull a gun from his waist. SA # 1 yelled out, "Gun" and saw the Decedent then turn slightly to his left. Next, SA # 1 heard gunshots from his left and he saw the Decedent fall to the ground. The Decedent was handcuffed and medics came and rendered aid. SA # 1 also noted an unfamiliar older female on the ground in the area of the shooting, which was Patron # 1.

[1] At the request of the FBI, the names of the FBI Agents have been removed.

## Special Agent # 2

On August 2, 2012, SA # 2 was working as a part of the SWAT team tasked with taking the Decedent into custody. Specifically, SA # 2 was to be the second officer in the stack of SWAT officers that would enter the Decedent's room and his responsibility was to cover SA # 1 as they took the Decedent into custody. As they observed the surveillance inside the Decedent's room before he exited, SA # 2 saw that the Decedent had a gun in his hand. As the SWAT team exited their room they encountered the Decedent. SA # 2 and SA # 1 both announced who they were and ordered the Decedent not to move and to put his hands up.

The Decedent, however, took off running through the parking lot. SA # 2, per prior instructions, did not pursue the Decedent. SA # 2 saw the Decedent pull a gun out as he ran through the parking lot. SA # 2 observed the Decedent aim the gun in SA # 2's direction. Based on being confronted with lethal force by the Decedent, SA # 2 fired his handgun one time at the Decedent. The Decedent did not react to the shot so SA # 2 fired another round, but the Decedent continued to run. Consequently, SA # 2 fired a third time, after which the Decedent fell to the ground.

## Special Agent # 3

On August 2, 2012, SA # 3 was working as a part of the SWAT team tasked with taking the Decedent into custody. SA # 3's responsibility, along with SA # 6, was to set up to the east of the parking lot against a wall opposite the hotel in the event of a "runner" scenario. SA # 3 received information from his investigation that the Decedent was armed with a gun, which SA # 3 relayed to the other police personnel. SA # 3 then saw the Decedent running in the parking lot towards him and SA # 6. SA # 3 ran towards the Decedent and saw the Decedent pull a gun from his waistband and point it directly at him. At the same time, SA # 3 heard other agents yelling to the Decedent to drop the gun. SA # 3 then retrieved his weapon and pointed it at the Decedent but realized that there were crossfire concerns based on the position of the other agents and officers who were behind the Decedent.

Because of concerns crossfire shots could hurt one of the other officers, and due to concerns for his own safety, SA # 3 found cover in the parking lot behind a car. As he did so, SA # 3 heard gunshots and looked to see the Decedent fall to the ground. After the Decedent fell, SA # 3 observed SWAT team personnel handcuff the Decedent. Medical aid was then rendered to the Decedent.

## Special Agent # 4

On August 2, 2012, SA # 4 was working as a part of the SWAT team tasked with taking the Decedent into custody. SA # 4 was the third in the stack and as such his

responsibility was to breach the room with a room key and handcuff the Decedent. When the command to go was given, SA # 4 saw the Decedent just outside his room. Commands were given to the Decedent, but he ran away from the police towards the parking lot. As the Decedent was running, SA # 4 heard two or three shots, which had different sounds. After the shots, SA # 4 saw a dark object fly out from the Decedent's body as the Decedent stumbled and fell to the ground. SA # 4 then approached the Decedent and put him in handcuffs. The medical team then took over and rendered aid. SA # 4 remained with the Decedent as he was transported to the hospital and while he was in the hospital.

## Special Agent # 5

On August 2, 2012, SA # 5 was working as a part of the Las Vegas Field Office's Perimeter Support Team (PST) tasked with taking the Decedent into custody. Specifically, SA # 5 monitored the video surveillance. Additionally, SA # 5 was to exit the adjoining room upon implementation of the plan and post there with a shield. When the command to effectuate the arrest was given, SA # 5 exited his room and observed the Decedent running away from the building in the parking lot. SA # 5 yelled that he was with the FBI and told the Decedent not to move. The Decedent, however, did not relent and continued to run. SA # 5 heard someone yell, "Gun, gun, gun" and saw the Decedent drop some sunglasses. Next, SA # 5 heard 4 to 5 gunshots and saw the Decedent fall to the ground. Someone pointed to the Decedent's gun on the ground so SA # 5 stood next to the gun until he was later called away. SA # 5 also observed medical personnel administer aid to the Decedent.

## Special Agent # 6

On August 2, 2012, SA # 6 was working as a member of CAT tasked with taking the Decedent into custody. SA # 6 was positioned with SA # 3 in the parking lot. SA # 6 saw an elderly woman in the parking lot as well. SA # 6 went to the woman and identified himself and told her to get back. As he was doing this, SA # 6 heard SWAT members repeatedly yell, "FBI, get down." As SA # 6 turned back he saw the Decedent running towards him and saw the Decedent pull out a handgun and point it at him. SA # 6 yelled "gun" and took cover behind an electric box.

From the vantage point behind the electric box, SA # 6 saw the Decedent turn back towards the SWAT members running behind him and point his gun. Because the Decedent posed a threat to SA # 6, SA # 3, the SWAT team members, and the elderly woman in the parking lot, SA # 6 fired his weapon at the Decedent. The Decedent did not stop running towards SA # 6, SA # 3, and the elderly woman, and his gun was pointed at them again. As such, SA # 6 aimed his weapon again and, as he did, he heard a gunshot. SA # 6 then fired three times at the Decedent who then fell. The Decedent appeared to push himself up with his hands so SA # 6 aimed at him again. However, the

Decedent no longer appeared to be armed so SA # 6 did not fire again. SWAT then handcuffed the Decedent and medical personnel worked on him.

## Special Agent # 7

On August 2, 2012, SA # 7 was working as a part of the Las Vegas Field Office's Perimeter Support Team tasked with taking the Decedent into custody. SA # 7 was positioned together with SA # 5 in the room next to where the Decedent was staying the hotel. SA # 7 and SA # 5 were to use their shield and block the Decedent opposite the SWAT team in a pincer movement.

When the order to effectuate the arrest was given, SA # 5 opened the door to their room and SA # 7 observed the members of the SWAT team in the stack running towards the parking lot. SA # 5 then followed after the SWAT team and SA # 7 followed SA # 5. When SA # 7 got to the parking lot he was able to see that the Decedent had a gun. SA # 7 heard people yelling, "Gun, gun, gun" as well as, "Stop running. FBI, stop moving." SA # 7 then heard shots and saw the Decedent drop to the ground. Medical staff attended to the Decedent and the area was searched for the Decedent's gun. When the Decedent's gun was found, agents took turns guarding it until it was collected as evidence.

## Special Agent # 8

On August 2, 2012, SA # 8 was working as a part of the SWAT team tasked with taking the Decedent into custody. SA # 8 was the fourth person in the stack behind SA # 4 who had the key to the room and was tasked with opening the door. Information was obtained that the Decedent was exiting the room so the order to go was given. Upon getting out of the room, SA # 8 saw the Decedent and yelled to him, "FBI, get your hands up. Don't move." The Decedent did not listen and instead ran away to the parking lot. SA # 8 observed that the Decedent had a gun in his hand as he ran off. SA # 8 heard someone yell, "gun, gun, gun" and then heard three shots fired from the direction to his left. SA # 8 then saw the Decedent fall to the ground. SA # 8 and SA # 1 then approached the Decedent and put him in handcuffs. Medical staff then rendered aid.

## THE REVIEW OF THE WEAPONS

SA # 2 carried a Colt M16A1. The magazine removed from the Colt M16A1 contained 28 rounds. A review of SA # 2's weapon indicated that it was fired 3 times during the incident. SA # 6 carried a Springfield 1911. The magazine removed from the Springfield 1911 contained 5 rounds. There were two additional magazines for the Springfield that contained 8 rounds. A review of SA # 6's weapon indicated that it was fired 4 times during the incident. The stolen weapon the Decedent was in possession of was a Glock

model 19, 9mm, which had a 15 round magazine with 14 rounds in the magazine and there was one round in the firing chamber at the time the weapon was recovered. The Glock was operational.

# THE AUTOPSY OF DECEDENT

On August 3, 2012, an autopsy was performed by Deputy Medical Examiner Doctor Gary Telgenhoff on the body of the Decedent at the Clark County Coroner's Office. It was determined Decedent died as a result of multiple gunshot wounds. A total of 6 gunshot wounds were found on the Decedent's body. One of the gunshot wounds was not as visible due to surgical intervention. The five remaining gunshots wounds consisted of one penetrating and four perforating. A graze wound was also noted to the Decedent's left forearm. Additionally, toxicology tests were performed from liver samples which revealed that the Decedent had the presence of Amphetamine, a metabolite of methamphetamine, in his system at a rate of 810 nanograms per gram. He also had Methamphetamine in his system at a rate of 3900 nanograms per gram. Violent and irrational behavior has been associated with high levels of methamphetamine.

# LEGAL ANALYSIS

The District Attorney's Office is tasked with assessing the conduct of officers involved in any killing which occurred during the course of their duties. That assessment includes determining whether any criminality on the part of the officers existed at the time of the killing. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State's jurisprudence pertaining to homicides.

In Nevada, there are a variety of statutes that define the various types of justifiable homicide (NRS §200.120 – Justifiable homicide defined; NRS §200.140 – Justifiable homicide by a public officer; NRS §200.160 – Additional cases of justifiable homicide). The shooting of Decedent was justifiable under two theories: (1) The killing of a human being in self defense/defense of others; and (2) justifiable homicide by a public officer. Both of these theories will be discussed below.

## A. The Use of Deadly Force in Defense of Another

The authority to kill another in defense of others is contained in NRS §§200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony ..." against the other person. NRS §200.120(1). Homicide is also lawful when committed:

> [i]n the lawful defense of the slayer, ... or of any other person in his or her presence or company, when there is

> reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished ....

NRS §200.160(1).

The Nevada Supreme Court has refined the analysis of self defense and, by implication, defense of others, in *Runion v. State*, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in *Runion* and modified for defense of others are as follows:

> The killing of [a] person in [defense of another] is justified and not unlawful when the person who does the killing actually and reasonably believes:
>
> 1. That there is imminent danger that the assailant will either kill [the other person] or cause [the other person] great bodily injury; and
>
> 2. That it is absolutely necessary under the circumstances for him to use in [defense of another] force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to [the person being defended].
>
> A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.
>
> ....
>
> Actual danger is not necessary to justify a killing in [defense of another]. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:
>
> 1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that [the other person] is about to be killed or suffer great bodily injury; and

2. He acts solely upon these appearances and his fear and actual beliefs; and

3. A reasonable person in a similar situation would believe [the other person] to be in like danger.

The killing is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

If evidence [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that the defendant did not act in [defense of another].

*Id.* at 1051-52.

In this case, the Decedent posed an imminent danger to the SWAT and CAT police personnel involved in the efforts to take the Decedent into custody, as well as the patrons of the Arizona Charlie's Hotel/Casino. The Decedent, while armed with a 9mm handgun, ran from police into the parking lot area of the hotel. The police repeatedly announced themselves and ordered the Decedent to stop. As this happened, the Decedent ignored the police orders and instead pulled out his 9mm handgun and pointed it at the police. In fact, as he ran away from the police following him, he ran directly at other police who had set up a perimeter. The Decedent's actions posed an imminent danger to the officers and others, including Patron # 1. Thus, the police personnel were confronted by the appearance of imminent danger which created in their minds an honest belief and fear that they, or others, were about to be killed or suffer great bodily injury. Accordingly, the officers were justified in acting upon those appearances, fears and actual beliefs.

## B. Justifiable Homicide by a Public Officer

"Homicide is justifiable when committed by a public officer ... [w]hen necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty." NRS §200.140(2). This statutory provision has been interpreted as limiting a police officer's use of deadly force to situations when the officer has probable cause to believe that the suspect poses a threat of serious physical harm to either the officer or another. *See* 1985 Nev. Op. Att'y Gen. 47 (1985).

In this case, the Special Agents who fired at Decedent had probable cause to believe that Decedent posed a threat of serious physical harm either to the themselves or other persons. Decedent, while ignoring commands to stop, pointed his handgun toward police personnel as they tried to take him into custody. These circumstances created

probable cause in the officers' minds that the Decedent posed a threat of serious physical harm either to the officers or others. In light of all the evidence reviewed to date, the State would be unable to prove that the actions of the officers were in fact *unjustified* "in the discharge of a legal duty."

## CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, it has been determined that the actions of law enforcement involved in the efforts to take the Decedent into custody were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS §200.190). A homicide which is determined to be justifiable *shall* be "fully acquitted and discharged." (NRS §200.190).

As there is no factual or legal basis upon which to charge the officers, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.

DATED August 9, 2013

STEVEN B. WOLFSON
District Attorney

By

GIANCARLO PESCI
Chief Deputy District Attonrey

**From:** [redacted] (CRT) [mailto[redacted]@usdoj.gov]
**Sent:** Friday, October 25, 2013 4:18 PM
**To:** [redacted]
**Cc:** [redacted](CRT); [redacted](USANV)'; Shields, Robert J. (CG)(FBI)
**Subject:** Las Vegas Aug 2 FBI shooting

b6 -1,3,4
b7C -1,3,4

Assistant Inspector[redacted]
Inspection Division, FBI

Based upon a review of materials from the Inspection Division shooting inquiry, as well as information from the Clark County, Nevada District Attorney, we have determine that the facts do not warrant a federal criminal civil rights investigation into a shooting by two FBI SWAT agents that resulted in the death of Joshua Burchell in Las Vegas on August 2, 2012. Rather, the facts reveal that, as he ran from an FBI SWAT arrest team, Burchell posed an imminent threat by pointing a loaded handgun at agents and civilian bystanders. Thus, both agents who fired their weapons had legitimate reason to believe that deadly force was necessary to prevent the death or serious bodily harm. The Clark County District Attorney also declined prosecution.

FBI SWAT deployed to arrest Burchell at a hotel where he was lodging. Burchell was suspected in a recent murder, had outstanding arrest warrants for crimes of violence, and was known to be armed at the time with a handgun. Alerted to the presence of the arrest team, Burchell ran from his hotel room into the hotel parking lot. The arrest SWAT team, dressed in jackets displaying "FBI," pursued him as he ran toward a SWAT blocking perimeter.

The FBI shooter agents' accounts are consistent with the accounts of other FBI agent witnesses and civilian patrons of the hotel who were in the parking lot, as well as the forensic evidence. As he ran, Burchell ignored commands to "stop" yelled by several agents who identified themselves as "FBI." Instead, Burchell pulled a handgun. Several agents repeatedly yelled "gun." Burchell pointed the gun in the direction of the FBI agents and civilians. Burchell's gun was loaded with a round in the chamber.

The first shooter agent, who was in pursuit, saw the gun aimed in his direction and fired twice as Burchell continued to run. Then he fired a third time after which Burchell fell. The other shooter agent saw Burchell running toward him in the blocking perimeter, ignoring commands. He saw Burchell point the gun at pursuing agents and then in his own direction. An elderly woman was near the second shooter agent. He too fired three shots.

SWAT medical personnel attempted unsuccessfully to revive Burchell after he was down. He was struck six times and died from multiple gunshot wounds. The autopsy results also revealed methamphetamine in his blood, at a high level associated with violent and irrational behavior.

There is no evidence that FBI agents willfully violated the 4th Amendment's requirement of reasonable seizure when they fired at an armed and dangerous man who was pointing a loaded weapon at agents and civilians. A federal criminal civil rights investigation is unwarranted. We appreciate the agents' voluntary statements that helped us make a fully informed prosecution decision. Please continue your administrative review and action.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

b6 -1
b7C -1

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 10/31/2015

Report of: IIC Kathryn Peterson Office: FBIHQ – INSD

Case ID#: 297I-HQ-A5789301

Title: SHOOTING INCIDENT REVIEW;
REPORT OF SHOOTING INCIDENT;
ST. LOUIS FIELD OFFICE;
11/26/2014

Investigative Period: 11/27/2014 – 10/31/2015

## I. Executive Summary

(U//~~FOUO~~) On 11/26/2014, the St. Louis Field Office SWAT team was involved in an Agent-involved shooting while attempting to apprehend Major Earl Washington in St. Louis, Missouri. Washington was a suspect in the 11/24/2014 homicide of his mother, as well as the non-fatal shooting of a responding University City Police Department (UCPD) officer. After firing from concealment during a SWAT clearing operation, striking a SWAT operator in the shoulder, Washington was shot multiple times by FBI SWAT operators, and died from a self-inflicted gunshot wound to the head. In the exchange of gunfire, a second FBI SWAT operator sustained a gunshot wound to the leg from what was later assessed to be friendly fire. The Shooting Incident Review Team (SIRT) arrived in St. Louis on 11/27/2014.

(U//~~FOUO~~) The St. Louis FBI SWAT team was deployed in response to a request by the St. Louis County Police Department (SLCPD), which had been contacted by UCPD for assistance in apprehending Washington after receiving information regarding his whereabouts. SLCPD's tactical team was occupied with the ongoing violent protests in Ferguson, Missouri. At the request of SLCPD, and after consulting with the St. Louis CDC and OGC, SAC William P. Woods directed SWAT and other tactical assets to assist UCPD.

(U//~~FOUO~~) At approximately 9:00 p.m. on 11/25/2014, FBI tactical elements arrived at a staging area near [redacted] a single-family residence in St. Louis where UCPD had determined Washington was located. FBI ASAC [redacted] was the On-Scene Commander (OSC). SAC Woods monitored the operation from the CP at the field office. b6 -1,2 b7C -1,2

(U//~~FOUO~~) Over the next several hours, St. Louis SWAT and Crisis Negotiators (CNs) made numerous attempts to establish contact with Washington utilizing a loudspeaker, a throw phone, and a third-party intermediary. [redacted] b7E -1

(U//~~FOUO~~) At approximately 12:30 a.m. on 11/26/2014, a St. Louis County and City (SLCC) Bomb and Arson Unit [redacted] was utilized to clear most of the interior first floor of the house and visually inspect a portion of the basement through two ground-level windows. [redacted] SAC Woods decided against [redacted] because the DEA SWAT team providing perimeter security was not equipped with [redacted] b7E -1

(U//~~FOUO~~) After all attempts to confirm Washington's presence in the residence were unsuccessful, SAC Woods authorized an FBI SWAT tactical entry of the residence, to include [redacted] At approximately 2:53 a.m. on 11/26/2014, the SWAT team made entry into the residence, cleared the ground floor, and visually inspected the attic. At approximately 3:02 a.m., a UCPD K-9 was released into the basement in an attempt to determine Washington's location. The K-9 returned to the handler without alerting to the presence of an individual in the basement. b7E -1

(U//~~FOUO~~) At approximately 3:07 a.m., the SWAT team, consisting of the Senior Team Leader (STL) and 10 operators, descended the stairs from the first floor and began clearing the basement. At approximately 3:10 a.m., SA [redacted] and SA [redacted] approached a large, portable wardrobe in the northwest quadrant of the basement. As SA [redacted] pulled the zipper to open the wardrobe, Washington fired a Glock 22 .40 caliber pistol from a seated position of concealment inside, striking SA [redacted] in the left shoulder. SA [redacted] fell to the floor and returned fire with his M4 carbine from a seated position. b6 -1 b7C -1

(U//~~FOUO~~) Responding to the threat from a standing position beside the wardrobe, SA [redacted] also fired his M4 carbine at Washington. The remaining nine operators heard gunshots but inititally struggled to pinpoint the source of the hostile gunfire. Three operators [redacted] while attempting to identify Washington's location. Ultimately, eight of the 11 operators in the basement, including SA [redacted] and SA [redacted] fired their M4 carbines to eliminate the threat from Washington. The exchange of gunfire consisted of multiple volleys as operators worked to identify, locate, and neutralize the threat. In the course of the gunfire exchange, SA [redacted] received a gunshot wound to the left leg, which shattered his tibia. Through forensic examination, a bullet jacket fragment recovered from SA [redacted] s leg was determined to have characteristics similar to the .223 caliber ammunition used in the SWAT operators' M4 carbines. It could not be conclusively determined whether the bullet was fired from one of the SWAT operators' carbines; however, Washington was not equipped with a .223 caliber firearm. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) At approximately 3:12 a.m., SA [redacted] was assisted to evacuate from the basement under his own power. As the remaining operators continued to address the threat from Washington and render aid to SA [redacted] they observed a fire had started in the northwest quadrant of the basement. Observing Washington appeared to be deceased from multiple gunshot wounds, SA [redacted] removed a black, .40 caliber Glock 22 pistol which was lying on top of Washington's body and placed it on a nearby clothes dryer. The rapidly intensifying fire forced the SWAT team to evacuate the basement with haste and prevented them from removing Washington's body. Operators dragged and carried SA [redacted] up the stairs as the basement filled with smoke. By 3:17 a.m., all operators had escaped the burning residence, with b6 -1 b7C -1

[redacted] The two wounded Agents were transported to Barnes-Jewish Hospital for treatment. SAC Woods responded to the scene upon notification of shots fired and assumed on-scene command. b7E -1

(U//~~FOUO~~) The 11/27/2014 autopsy report of the St. Louis County Medical Examiner concluded Washington's manner of death was suicide, and the immediate cause of death was a self-inflicted gunshot wound to the head. The entry wound, on the right side of Washington's head, exhibited characteristics of a contact wound, to include a muzzle abrasion and stippling. FBI LD Firearms/Toolmarks Unit (FTU) concluded a bullet fragment removed from Washington's brain was fired from a polygonally rifled barrel, indicative of a firearm manufactured by Glock.

(U//~~FOUO~~) In addition to the self-inflicted gunshot wound, the autopsy identified 16 additional gunshot wounds sustained during the exchange of gunfire with the SWAT team, as well as post-mortem thermal injuries from the fire. Several bullets and fragments associated with prior injuries of unknown origin were also recovered during the autopsy.

(U//~~FOUO~~) Ten of the 11 SWAT operators who were present in the basement provided voluntary Signed Sworn Statements (SSS) during the SIRT on-site. SA [redacted]'s SSS was delayed until 2/05/2015 due to his medical status and his request to provide a compelled SSS. No outside law enforcement agency representative discharged a weapon or sustained an injury during the incident. A Laboratory Shooting Reconstruction Team (LSRT) collected and submitted evidence retrieved from the crime scene, which was extensively contaminated from fire and water damage. b6 -1 b7C -1

(U//~~FOUO~~) The SLCC Bomb and Arson Unit conducted an investigation into the cause of the fire within the house, and concluded the cause of the fire was undetermined. The SLCC investigation noted the presence of combustible materials in the northwest corner of the basement, where the fire began, and concluded [redacted] could not be eliminated as a cause of the fire. b7E -1

(U//~~FOUO~~) On 08/06/2015, Richard G. Callahan, the United States Attorney for the Eastern District of Missouri, declined to issue charges against the Agents involved in the shooting incident. On 10/28/2015, Robert C. McCulloch, St. Louis County Prosecuting Attorney, issued a written declination of prosecution in the death of Major Washington.

## II. Incident Details

### a. Substantive Case Files and Background Information

(U//~~FOUO~~) Because the St. Louis SWAT team was providing immediate assistance to a local enforcement agency, there was no pending FBI investigative file at the time of the shooting incident. As a result of the Agent-Involved Shooting, the St. Louis Field Office opened an Assault on a Federal Officer investigation:

Title: MAJOR EARL WASHINGTON (DECEASED); ASSAULT ON A FEDERAL OFFICER; 11/26/2014

File number: [redacted] b7A -1

Case Agent: SA [redacted] b6 -1 b7C -1

**b. Personnel Involved in the Incident**

1. SA [redacted] (discharged weapon)
2. SA [redacted]
3. SA [redacted]
4. SA [redacted] (discharged weapon) b6 -1
5. SA [redacted] SWAT Senior Team Leader (STL) (discharged weapon) b7C -1
6. SA [redacted] (discharged weapon)
7. SA [redacted] (discharged weapon)
8. SA [redacted] (discharged weapon)
9. SA [redacted]
10. SA [redacted] (discharged weapon)
11. SA [redacted] (discharged weapon)

**c. Case Review and Operational Briefings**

(U//~~FOUO~~) After receiving a request for assistance from SLCPD at approximately 7:00 p.m. on 11/25/2014, St. Louis SWAT and tactical elements deployed to a staging area near [redacted] St. Louis, Missouri. At approximately 9:00 p.m., an operational briefing was delivered by STL [redacted] to all assembled FBI and DEA personnel; to include SWAT, TOC, SABTs, and CNs. STL [redacted] utilized an FBI SWAT Operations Unit (SOU)-issued Situation, Mission, Execution, Action, Control (SMEAC) card as a template. The card contained the FBI Deadly Force Policy, which STL [redacted] read verbatim. STL [redacted] explained the overall strategy, the delivery plan for movement into a danger area, the areas of responsibility for FBI and DEA personnel, the order of movement, and individual responsibilities. Assembled FBI and DEA personnel were informed Washington was a suspect in the 11/24/2014 homicide of his mother and the shooting of a responding UCPD officer, and was considered armed and dangerous. Additionally, personnel were informed the legal resident of [redacted] an associate of Washington named [redacted] also known as "[redacted]" said Washington was inside the house with a gun and had expressed his intent to commit suicide by cop. SWAT operators were briefed the objective was to determine whether Washington was in the house, establish communications with him, and negotiate his surrender. b6 -1,2 b7C -1,2

(U//~~FOUO~~) At approximately 1:00 a.m. on 11/26/2015, STL [redacted] briefed an additional operations assault plan, which included [redacted] STL [redacted] reiterated the FBI SWAT team had responsibility for [redacted] with DEA having responsibility for [redacted] The FBI SWAT team b6 -1 b7C -1 b7E -1

[redacted] b7E -1

**d. Events Leading Up to the Shooting**

(U//~~FOUO~~) On 11/25/2014, UCPD requested the assistance of SLCPD to apprehend Washington after receiving information he was located inside a residence at [redacted] b6 -2 b7C -2 Due to the ongoing violent protests in nearby Ferguson, Missouri, the SLCPD tactical team, which ordinarily would have provided support to UCPD, was unavailable.

(U//~~FOUO~~) At approximately 7:00 p.m. on 11/25/2014, SLCPD Chief Jon M. Belmar contacted SAC Woods and requested the FBI to assist the UCPD. After consulting with his CDC and OGC, SAC Woods determined FBI SWAT assistance was appropriate and agreed to deploy SWAT assets to assist UCPD. In addition, SAC Woods requested DEA tactical resources to augment the effort. SAC Woods had previously arranged for Title 18 deputation for the St. Louis DEA SWAT team in anticipation of joint operations.

(U//~~FOUO~~) At approximately 9:00 p.m. on 11/25/2014, FBI tactical elements, including SWAT, TOC, SABTs, and CNs, arrived at a staging area near [redacted] FBI assets included a [redacted] FBI, DEA, UCPD, and SLCPD assets were present at the scene, with ASAC [redacted] as the On-Scene Commander (OSC). SAC Woods monitored the operation from the CP at the field office. UCPD maintained a perimeter around the residence until FBI SWAT arrived. b6 -1,2 b7C -1,2 b7E -1

(U//~~FOUO~~) The OSC approved an oral OPORDER to determine whether Washington was in the house, establish communications with him, and negotiate his surrender, with a SWAT tactical entry as the last resort. [redacted] provided consent to law enforcement to search the residence. b6 -2 b7C -2

(U//~~FOUO~~) Over the next several hours, St. Louis SWAT and CNs made numerous attempts to establish contact with Washington inside the house, utilizing a loudspeaker, a throw phone, and, as a third-party intermediary, [redacted]

(U//~~FOUO~~) At approximately 12:30 a.m. on 11/26/2014 and at the request of the FBI, an [redacted] in an unsuccessful effort to determine Washington's location. b6 -2 b7C -2 b7E -1

(U//~~FOUO~~) Following extensive, unsuccessful efforts to elicit a response from Washington or determine his location, SAC Woods authorized a SWAT tactical entry of the residence, to include authority for [redacted] DEA was assigned to provide perimeter security. A verbal briefing of the operations plan, to include a verbatim recitation of the FBI's Deadly Force Policy, was provided to all FBI and DEA Agents. SAC Woods re- b7E -1

directed [redacted] assets from the Ferguson, Missouri protests to provide [redacted] at the field office CP and the TOC. b7E -1

**e. Shooting Incident Details**

(U//~~FOUO~~) At approximately 2:53 a.m. on 11/26/2014, SWAT made entry into the residence, [redacted] SWAT cleared the ground floor of the residence [redacted] According to the approved plan, at approximately 3:02 a.m. [redacted] b7E -1

(U//~~FOUO~~) At approximately 3:07 a.m., the SWAT STL [redacted] down the basement stairs, [redacted] at the base of the stairs, in the southwest corner of the basement. The STL and 10 SWAT operators then descended the stairs, announced their presence, and began to clear the basement. The basement was extremely cluttered with furniture, storage units, and large volumes of clothing which was piled on the floor and stored in hanging and upright wardrobe bags. Operators were forced to navigate through narrow pathways carved through the clutter in the basement, slowing the pace of the clearing operation. Operators split into teams to clear sectors of the basement. At approximately 3:10 a.m., SA [redacted] working his way north along the western wall of the basement, approached a large, portable wardrobe closet standing upright near the washer and dryer on the northwest side of the basement. At the same time, SA [redacted] approached the upright wardrobe from the north. With SA [redacted] providing cover, SA [redacted] began to open the zipper on the front of the wardrobe. Observing motion inside, SA [redacted] recoiled, and was struck in the left clavicle by a round fired from inside the wardrobe. He fell to the floor, crawled to a position of cover, and returned fire with his M4 from a seated position. The round which struck SA [redacted] fractured his clavicle and lodged in his shoulder strap armor insert. b7E -1 b6 -1 b7C -1

(U//~~FOUO~~) In response to the threat, SA [redacted] fired his M4 into the wardrobe from a standing position beside it. Other operators initially had difficulty pinpointing the source of the hostile gunfire; however, upon identifying the wardrobe as the source of the hostile gunfire, SA [redacted] SA [redacted] STL [redacted] SA [redacted] SA [redacted] and SA [redacted] discharged their weapons to eliminate the threat. In all, eight of the 11 operators fired M4 carbines during the course of the exchange of gunfire. Additionally, SA [redacted] SA [redacted] and SA [redacted] [redacted] The exchange of gunfire consisted of multiple volleys as operators worked to identify, locate, and neutralized the threat. In the course of the exchange of gunfire, SA [redacted] received a gunshot wound to his left leg, which shattered his tibia. It was later determined through forensic and visual examinations performed by LD, FTU, and TD, Ballistics Research Facility (BRF), the bullet which struck SA [redacted] had characteristics similar to ammunition fired from .223 caliber carbines, such as those carried by FBI SWAT operators. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) At approximately 3:12 a.m., SA [redacted] evacuated the residence with the assistance of SA [redacted] and Deputy U.S. Marshal (DUSM) [redacted] who was assigned to the DEA TF. As operators remaining in the basement continued to address the threat from Washington and render aid to SA [redacted] they observed a fire had started in the northwest area b6 -1,3 b7C -1,3

of the basement. By approximately 3:15 a.m., [redacted] which was beginning to spread throughout the structure. SWAT operators determined Washington appeared to be deceased from multiple gunshot wounds. SA [redacted] removed a black, Glock 22 .40 caliber pistol from Washington's chest and placed it atop a nearby clothes dryer. Operators evacuated the residence at approximately 3:15 a.m. as the basement filled with smoke. Several operators reported they were at the point of losing consciousness from smoke inhalation while ascending the basement stairs; however, operators did not seek medical treatment for smoke inhalation and did not report lingering effects from exposure to smoke. All operators evacuated the residence by 3:17 a.m, at which time smoke was clearly visible [redacted] emanating from the chimney as well as ground floor windows. The urgency of the evacuation from the basement precluded the removal of Washington's body. Agents [redacted] were transported to Barnes-Jewish Hospital for treatment of gunshot wounds to the left clavicle and left leg, respectively.

b6 -1
b7C -1
b7E -1

(U//~~FOUO~~) At approximately 3:14 a.m., East Central Dispatch Center received notification of shots fired at [redacted] At approximately 3:24 a.m., a second call was received requesting fire and rescue.

b6 -2
b7C -2

**f. Post Shooting Details**

(U//~~FOUO~~) Upon the notification of shots fired, SAC Woods immediately responded to the scene and coordinated the response with UCPD and SLCPD. SAC Woods made notification of the shooting to the Deputy Director and CID AD Joseph S. Campbell.

(U//~~FOUO~~) Washington's body was recovered after the fire was extinguished and the scene was secured. Washington was pronounced dead at 10:32 a.m. on 11/26/2014 by St. Louis County Medicolegal Examiner [redacted] Washington's body was later transported to the St. Louis County Medical Examiner's facility for an autopsy. The autopsy was conducted on 11/27/2014.

b6 -4
b7C -4

(U//~~FOUO~~) Signed Sworn Statements of 11 SWAT operators and interviews of over 40 FBI Agents, DEA Agents, DEA TFOs, and local police officers were documented. The statements corroborated the accounting of the shooting made by the SWAT operators, and were consistent with the physical evidence. No other law enforcement officers outside of the FBI fired their weapons or were injured.

**g. Accounting of Shots Fired**

(U//~~FOUO~~) The LD FTU examined 69 .223 cartridge casings from SWAT operator weapons recovered at the scene. Of the 69 cartridge casings, 64 were attributed to specific weapons. The remaining five cartridge casings lacked sufficient microscopic marks of value to be attributed to specific weapons. Although eight SWAT operators stated they fired their weapons, cartridge casings could be attributed to only seven weapons. Because five cartridge casings could not be associated with a specific weapon and because some operators were unable to report exactly how many rounds were loaded in their magazines, complete attribution of rounds fired to SWAT weapons could not be achieved.

| SWAT Operator – Reported Firing | Rifle | Confirmed Shots |
|---|---|---|
| SA [redacted] | Colt M4A1 (.223 caliber) | 4 |
| SA [redacted] | Colt M4A1 (.223 caliber) | 20 |
| SA [redacted] | Colt M4A1 (.223 caliber) | 3 |
| SA [redacted] | Colt M4A1 (.223 caliber) | 5 |
| SA [redacted] | Colt M16A1 (.223 caliber) | 23 |
| SA [redacted] | Colt M16A2 (.223 caliber) | 4 |
| SA [redacted] | Hydra-matic Division General Motors Corporation M16A1 (.223 caliber) | 5 |
| SA [redacted] | Colt M4A1 (.223 caliber) | Unknown – none identified |

b6 -1
b7C -1

**(U//~~FOUO~~) Subject Weapon**

(U//~~FOUO~~) Washington fired at least three rounds from a Glock 22, .40 caliber pistol, Serial # [redacted] based on three recovered shell casings. The Glock 22 was recovered from on top of the dryer where SA [redacted] placed it prior to evacuating the basement. The Glock 22 was recovered in an unloaded condition with the slide open, along with an empty .40 caliber Glock magazine and two unspent .40 caliber cartridges. LD, FTU determined rounds fired from the Glock 22 included the bullet recovered from SA [redacted] s shoulder strap armor insert, the bullet fragments recovered from Washington's brain, and an additional bullet jacket as well as bullet jacket fragments. Due to the high degree of scene contamination from fire and water, as well as the fragmentation of recovered items, it was not possible to conclusively determine the total number of rounds fired from Washington's weapon. The Glock 22 functioned normally when tested with the magazine seized with the pistol. No DNA or latent prints of value were recovered from the weapon.

b6 -1,2
b7C -1,2

(U//~~FOUO~~) A query of the National Crime Information Center (NCIC) database for a Glock 22, serial number [redacted] was performed but no record was located. An FBI Trace Summary Report revealed the weapon was purchased legally from a Shooters Shack in Poplar Bluff, Missouri on 03/12/2013 by an individual residing in [redacted], Missouri. The original buyer re-sold the weapon privately to a buyer in [redacted] Missouri, in approximately June 2013. The second owner re-sold the weapon privately in early 2014 to an individual residing in [redacted], Missouri. The third owner reported the weapon stolen to the St. Louis Metropolitan Police Department on 09/27/2014; however, the victim did not provide the serial number at the time of the theft. The owner reported the weapon stolen from his vehicle while parked at the City Museum in St. Louis.

b6 -2
b7C -2

(U//~~FOUO~~) On 08/26/2015, the UCPD took possession from the FBI of Washington's weapon in furtherance of the ongoing investigation into the homicide of Washington's mother.

**h. Subject Information:**

| | |
|---|---|
| Name | Washington, Major |
| Sex | Male |
| Race | Black |
| Height | 6'2" |
| Weight | 170 lbs |
| Hair | Brown |
| Eyes | Black |
| DOB | 05/31/1981 |
| SSAN | 496-84-7003 |
| FBI # | 942859NB0 |

(U//~~FOUO~~) An NCIC criminal history record included arrests for possession of controlled substances, burglary, assault of a law enforcement officer, and resisting arrest. A review of Missouri Department of Corrections records revealed Washington was incarcerated from 06/14/2006 through 10/12/2006 and 04/22/2011 through 01/05/2014. As a result of the 11/22/2015 and 11/24/2015 incidents at his mother's residence, the UCPD issued a "wanted" notification in the Regional Justice Information Service (REJIS) for Washington pending formal charges, which had not been issued at the time of Washington's death.

**i. Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) All members of the St. Louis FBI SWAT team wore ballistic helmets and [redacted] body armor with FBI flaps displayed in the front and back. b7E -1

(U//~~FOUO~~) TD, Defensive Systems Unit (DSU) inspected the armor kit worn by SA [redacted] during the incident. The body armor was manufactured by [redacted] was Model [redacted] In addition, SA [redacted] wore an [redacted] b6 -1 b7C -1 b7E -1

[redacted]

(U//~~FOUO~~) DSU examination indicated no damage to the front or rear armor panels of SA [redacted]'s armor kit; however, SA [redacted]'s left shoulder strap insert sustained severe damage from the bullet fired by Washington, which was encapsulated in the ballistic shoulder strap insert. DSU asserted without the augmentation of the shoulder armor inserts, SA [redacted] would have sustained a penetration in the area of his left clavicle. DSU assessed the [redacted] shoulder strap armor inserts performed as designed. b6 -1 b7C -1 b7E -1

**j. Forensic Summary**

(U//~~FOUO~~) St. Louis Field Office ERT processed the scene. Items recovered included 69 .223 caliber cartridge casings, a Glock 22 (.40 caliber) pistol, three .40 caliber cartridge casings, and numerous bullets, bullet jackets, and bullet jacket fragments. Additionally, ERT seized

bullets, bullet jackets, and bullet fragments recovered from Washington's body subsequent to his autopsy. All of this evidence was examined by LD.

(U//~~FOUO~~) **SA [redacted] Gunshot Wound** b6 -1 b7C -1

(U//~~FOUO~~) During the exchange of gunfire with Washington, SA [redacted] sustained a gunshot wound to his left leg. No photographs of the gunshot wound were obtained because the severity of the injury necessitated emergency surgery. INSD subsequently obtained medical records relating to the treatment of the gunshot wound at Barnes-Jewish Hospital. Surgical records indicated the bullet entered SA [redacted]'s left leg at mid-calf, transited the leg, inflicting a comminuted fracture of the left tibia, and exited on the right side of the calf. The round shattered on impact, producing shrapnel which lodged in the soft tissue of SA [redacted]'s leg. A quantity of small shrapnel was visually and radioscopically observed but was not removed, with the exception of a single bullet jacket fragment which was removed from SA [redacted]'s leg and processed by LD, FTU. FTU determined the bullet jacket fragment was from a barrel rifled with lands and grooves with a right twist, consistent with FBI-issued .223 carbines. Due to a lack of corresponding microscopic marks of value, no conclusion could be reached as to whether the bullet jacket fragment was fired from a SWAT operator's weapon; however, the rifling was similar to the rifling produced by the SWAT operators' weapons.

(U//~~FOUO~~) In order to determine the caliber of the bullet jacket fragment, DSU's Ballistic Research Facility (BRF) test fired .223 and .40 caliber rounds into clothing similar to that worn by SA [redacted] on 11/26/2014. BRF utilized a Glock 22 pistol and a current FBI issue .223 carbine to conduct the test. All shots were fired at a distance of 10 feet. BRF conducted a visual comparison of the bullet holes in the clothing worn by SA [redacted] and the bullet holes test-fired into similar clothing. BRF concluded the holes in SA [redacted]'s clothing were similar in appearance to the .223 test shots. The .40 caliber test shots were noticeably larger in diameter than the holes in SA [redacted]'s clothing. b6 -1 b7C -1

(U//~~FOUO~~) BRF examined the the bullet holes test-fired into clothing similar to that worn by SA [redacted] which resulted from direct fire, and observed they were round, symmetrical, and clean-edged in appearance, consistent with the bullet holes in SA [redacted]'s trousers and thermal undergarments. b6 -1 b7C -1

(U//~~FOUO~~) LD, FTU conducted a visual inspection of the bullet holes in the clothing worn by SA [redacted] on 11/26/2014. SA [redacted]'s tactical trousers and thermal undergarment both contained two small, round, symmetrical bullet holes on either side of the left leg at mid-calf, consistent with the track of the bullet as described in the medical records. The trousers and undergarments were microscopically examined and chemically processed for gunshot residues. A muzzle-to-target distance could not be determined based upon the available forensic evidence.

(U//~~FOUO~~) Based upon available forensic evidence and examination by LD and BRF, the SIRT investigation concluded SA [redacted] was likely shot by direct fire from a .223 firearm and hence, through elimination, by a SWAT operator's M4 carbine. The bullet jacket fragment recovered from SA [redacted]'s leg lacked sufficient lands and grooves to forensically b6 -1 b7C -1

associate it with an identified operator weapon. Although it was not possible through firearm/toolmark or trajectory analysis to correlate the fragment recovered from SA [redacted] with an individual operator's weapon, SA [redacted]'s account of the incident suggested he was shot early in the exchange of gunfire, before most operators had returned fire. Additionally, several operators were aware SA [redacted] had been shot prior to discharging their own weapons. b6 -1 b7C

(U//~~FOUO~~) **Major Washington Injuries and Cause of Death:**

(U//~~FOUO~~) A .223 caliber copper jacketed bullet was removed from Washington's right shoulder. This bullet was forensically determined to have been fired from SA [redacted]'s weapon. b6 -1 b7C -1

(U//~~FOUO~~) Two .223 caliber copper jacketed bullets were removed from Washington's left buttock and Washington's lower spine, respectively. These two bullets were forensically determined to have been fired from SA [redacted]'s weapon.

(U//~~FOUO~~) Two .223 caliber copper jacketed bullets were removed from Washington's left upper back and left clavicle, respectively. These two bullets were forensically determined to have been fired from SA [redacted]'s weapon. b6 -1 b7C -1

(U//~~FOUO~~) A .38 caliber/9mm copper jacketed bullet was removed from Washington's right arm. A check of the FBI Laboratory's General Rifling Characteristics (GRC) database produced a list of firearms with GRCs like those present on this bullet, including pistols and revolvers marketed by Colt, Davis Industries, and Smith and Wesson. The autopsy report characterized the bullet as an "old bullet fragment."

(U//~~FOUO~~) A copper jacket bullet fragment fired from a polygonally rifled barrel (indicative of a firearm manufactured by Glock) and several lead fragments were removed from Washington's brain. The associated gunshot wound of the right temporal scalp had a muzzle abrasion and stippling, indicatative of a contact wound. There was a corresponding exit wound on the left temporal scalp. The autopsy report indicated the wound was fatal.

(U//~~FOUO~~) The autopsy of Washington was conducted on 11/27/2014 by St. Louis County Assistant Medical Examiner [redacted] MD. The autopsy determined the manner of death was suicide, and the immediate cause of death was a self-inflicted gunshot wound to the head. The autopsy identified 17 total gunshot wounds, to include the self-inflicted gunshot wound to the head and 16 additional gunshot wounds. In addition, the autopsy identified several bullets and bullet fragments in Washington's back, liver, and right arm which the autopsy report characterized as "old bullet fragments." The toxicology report revealed the presence of cannabinoids in Washington's system at the time of his autopsy. b6 -4 b7C -4

(U//~~FOUO~~) **Cartridge Casings**

(U//~~FOUO~~) Sixty-nine .223 cartridge casings were recovered subsequent to the incident. Due to a lack of sufficient corresponding microscopic marks of value, no conclusion could be reached to attribute five of the .223 cartridge casings to specific weapons. The

remaining 64 .223 cartridge casings were attributed to the SWAT operators as identified in the Accounting of Shots Fired section of this report.

(U//~~FOUO~~) Three .40 caliber cartridge casings recovered at the scene were identified as having been fired from Washington's pistol.

(U//~~FOUO~~) **SA [redacted] M4 Carbine** b6 -1 b7C -1

(U//~~FOUO~~) On 08/13/2015, DSU conducted an inpection and testing of all SWAT weapons involved in the St. Louis AIS on 11/26/2014. Colt M4A1, serial number [redacted] assigned to SA [redacted] was inspected and while the selector/safety was present, DSU determined it was not fully functional. Specifically, there was no positive detent engagement to maintain the selector position in the safe, semi auto, or full automatic position. DSU determined there was an indication the grip was removed and re-installed improperly, causing the spring to be bent and the detent to fail. The spring for the detent was observed bent over and trapped between the grip and the lower receiver. Given this condition, while shooting in the semi-automatic mode, it was possible for the selector to move to fully automatic.

(U//~~FOUO~~) LD's forensic examination of recovered rounds identified four rounds fired from SA [redacted]'s weapon, including one recovered from Major Washington's body. In his SSS, SA [redacted] reported having fired 15 rounds during the exchange of gunfire. b6 -1 b7C -1

(U//~~FOUO~~) On 10/30/2015, SA [redacted] was interviewed by INSD. He acknowledged having removed the grip of his assigned M4 carbine the evening of 11/25/2014 in order to replace the standard-issue grip with an approved Hogue rubber grip he acquired while assigned to Atlanta several years earlier. SA [redacted] had long intended to replace the standard grip, which had a slick texture, with the rubber Hogue grip. The Hogue grip did not come with any instructions, and SA [redacted] was not aware replacing the grip could impair the function of the firearm. He was not aware Bureau policy required all alterations to assigned firearms be performed by FBI gunsmiths. SA [redacted] confirmed his M4 carbine functioned normally in semi-automatic mode on 11/26/2014, and he did not experience any malfunctions with the weapon.

(U//~~FOUO~~) The Firearms Policy Directive and Policy Guide stated, *"FBI gunsmiths must conduct alterations to, repairs to, and refinishing of assigned firearms; no other FBI personnel are authorized to alter FBI firearms or Bureau-approved POWs.*

(U//~~FOUO~~) **Investigation into the fire at** [redacted] b6 -2 b7C -2

(U//~~FOUO~~) The SLCC Bomb and Arson Unit conducted an investigation into the cause of the fire which started in the basement. The area of origin of the fire was identified as the southeast corner of quadrant H-4 (the northwest quadrant of the basement), in the area of two mattresses adjacent to a futon. Fire investigators noted the area of origin contained a very large amount of combustible materials including clothing, mattresses, corrugated boxes, and ignitable liquids which could have been easily ignited by a competent ignition source. Fire investigators

determined the fire originated above ground level in the basement, based on a lack of fire damage to combustible materials at or near ground level, even in the area of origin.

(U//~~FOUO~~) SLCC fire investigators noted [redacted] b7E -1

[redacted] fire investigators determined no research could be found regarding [redacted] as a competent ignition source of fire and how they could contribute to fire spread.

(U//~~FOUO~~) Fire investigators concluded all accidental causative factors could not be eliminated because of the significant alteration of the fire scene prior to the arrival of the fire investigators, and because the lack of competent research on [redacted] as a source of ignition. Based on the fire scene examination and the information available at the time of their investigation, it was the combined opinion of the participating fire investigators the cause of the fire was undetermined; however, fire investigators concluded [redacted] in the direction of Washington may have provided a competent ignition source for the combustible materials and ignitable liquids located in the area of origin and could not be eliminated as a cause of the fire. b7E -1

**k. Medical Summary**

(U//~~FOUO~~) SA [redacted] The Barnes-Jewish Hospital Emergency Room summary report indicated a comminuted fracture of SA [redacted]'s tibia and the presence of a large bullet fragment. SA [redacted] was discharged from the hospital on 11/30/2014, although his medical treatment continued. Subsequent to the incident, SA [redacted] was placed in the following administrative status with the FBI, where he remained: Leave Without Pay – Office of Workers' Compensation Programs. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] The Barnes-Jewish Hospital Emergency Room summary report indicated a fracture of SA [redacted]'s left clavicle and the presence of a bullet fragment inside the wound. There was no evidence bullet fragments traveled beyond SA [redacted]s clavicle. SA [redacted] was discharged from the hospital on 11/27/2014 . Subsequent to the incident, SA [redacted] was placed in the following administrative status with the FBI, where he remained: Leave Without Pay – Office of Workers' Compensation Programs. b6 -1 b7C -1

## III. Shooting Incident Review Team Details

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Kathryn Peterson
Inspector Trent R. Teyema
Assistant Inspector / Team Leader (TL) [redacted] b6 -1 b7C -1

AI/TL [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

**b. The FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:**

[redacted] – Evidence Response Team Unit – Team Leader
[redacted] – Evidence Response Team Unit
[redacted] – Firearms and Toolmarks Unit
[redacted] – Firearms and Toolmarks Unit
[redacted] – Firearms and Toolmarks Unit
[redacted] – Operational Projects Unit
[redacted] – Operational Projects Unit
[redacted] – Operational Projects Unit
[redacted] – Technical Hazardous Response Unit
[redacted] – Technical Hazardous Response Unit

b6 -1
b7C -1

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On 11/26/2014, Chief Inspector David Paul Gelios notified IIC Kathryn Peterson and Inspector Trent R. Teyema of a shooting incident at [redacted] in St. Louis, Missouri. IIC Peterson and the other Inspection Team members arranged logistics for travel to St. Louis.

b6 -2
b7C -2

(U//~~FOUO~~) On 11/27/2014, the SIRT traveled to St. Louis and reviewed the Inspection Division shooting review protocol. One member of the SIRT observed the autopsy of Washington while the remainder of the SIRT viewed the crime scene.

(U//~~FOUO~~) On 11/28/2014, IIC Peterson, Inspector Teyema, and the SIRT members met with St. Louis EM. IIC Peterson and Inspector Teyema also met with the Agents involved in the shooting along with the management to explain the SIRT process and its protocols. The UCPD and SLCPD Chiefs indicated there would be no investigation of the FBI Agent Involved Shooting by their respective agencies.

(U//~~FOUO~~) On 11/28/2014, IIC Peterson and Inspector Teyema met with the US Attorney's Office and DEA EM.

(U//~~FOUO~~) Eleven SSSs were taken from the FBI Agents involved in the shooting incident. One SSS was compelled at the request of SA [redacted] who executed an FD-645 (Warning and Assurance to Employee Required to Provide Information). Approval to compel SA [redacted] s statement was received from DOJ, CRD on 01/15/2014. An FD-927 (Warning and Assurance to Employee Request to Provide Information Following a Shooting Incident) was executed by the 10 Agents who provided voluntary SSSs. Other interviews, events, and observations were documented via FD-302s. b6 -1 b7C -1

(U//~~FOUO~~) On 12/01/2014, an EAP crisis team led by UC [redacted] arrived to support St. Louis personnel as a result of the shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) On 12/02/2014, IIC Peterson provided an exit brief to SAC Woods, the US Attorney's Office, St. Louis County District Attorney's Office, UCPD, SLCPD, DEA, and the U.S. Marshals Service.

(U//~~FOUO~~) On 12/02/2014, IIC Peterson and Inspector Teyema updated the DOJ, Civil Rights Division (CRD) on the outcome of the SIRT investigation.

## V. Administrative

### a. Firearms Training

(U//~~FOUO~~) St. Louis Principal Firearms Instructor [redacted] provided firearms qualifications records from the Firearms Information and Registration and Shooter Tracking (FIRST) system for Agents [redacted] The rifle and pistol qualification scores of the SWAT operators for the period of 01/22/2013 to 09/04/2014 were provided to the SIRT. All members of the St. Louis SWAT team were in compliance with FBI firearms requirements. b6 -1 b7C -1

### b. Deadly Force Training

(U//~~FOUO~~) [redacted] St. Louis CDC, provided annual Deadly Force Policy briefing to all Agents within the field office. This was typically done at one of the quarterly firearms training sessions. All SWAT operators involved in the AIS received Deadly Force Policy training in 2014, as detailed below: b6 -1 b7C -1

| Date of Training | Presenter | EC | Attendees |
|---|---|---|---|
| 02/13/2014 | CDC [redacted] | 1Z-SL-C192793-LEGAL; Serial 385 | SAs [redacted] |
| 02/18/2014 | SA [redacted] | 1Z-SL-C192793-LEGAL; Serial 386 | SAs [redacted] |
| 04/16/2014 | CDC [redacted] | 1Z-SL-C192793-LEGAL; Serial 395 | SAs [redacted] and [redacted] |

### c. United States Attorney's Office Prosecutorial Decision

(U//~~FOUO~~) On 08/06/2015, Richard G. Callahan, the United States Attorney (USA) for the Eastern District of Missouri, provided a prosecutorial declination for Agents involved in the 11/26/2014 AIS incident. The declination was provided via letterhead to IIC Kathryn Peterson advising upon his review of the investigation conducted by INSD, USA Callahan determined the circumstances justified the involved Agents' use of deadly force.

### d. Local Prosecutorial Decision

(U//~~FOUO~~) On 10/28/2015, Robert C. McCulloch, St. Louis County Prosecuting Attorney, provided a written declination of prosecution in the death of Major Washington.

### e. DOJ Civil Rights Division Prosecutorial Decision

(U//~~FOUO~~) On 11/04 /2015, Deputy Chief [redacted] DOJ CRD, advised DOJ CRD concurred with declining the matter for prosecution. b6 -3 b7C -3

## VI. Inspector's Draft Observations

(U//~~FOUO~~) **Observation 1**: SWAT operators were unaware of the number of rounds loaded in their weapons and extra magazines.

(U//~~FOUO~~) **Recommendation 1**: SAC, St. Louis, should ensure all SWAT operators have knowledge of the weapon status at all times.

(U//~~FOUO~~) **Observation 2**: An unauthorized alteration was performed on a SWAT Colt M4A1, serial [redacted], assigned to SA [redacted] b6 -1 b7C -1

(//~~FOUO~~) **Instruction 2**: SAC, St. Louis, will ensure alterations to, repairs to, and refinishing of assigned firearms are conducted in accordance with the Firearms Policy Directive and Policy Guide 0741DPG.

(U//~~FOUO~~) **Observation 3**: SWAT operators carried a mixture of authorized service ammunition and non-authorized ammunition, to include training rounds.

(U//~~FOUO~~) **Instruction 3**: SAC, St. Louis, will ensure Agents carry only authorized service ammunition while in duty status, in accordance with the Firearms Policy Directive and Policy Guide 0741DPG.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) St. Louis 11/26/2014 Agent-Involved Shooting **Date:** 01/15/2016

**CC:** [redacted]

b6 -1
b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** PETERSON KATHRYN
Timothy M. Feeney
TWERSKY RONALD
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A5789301 (U) St. Louis Field Office Shooting

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 11/16/2015.

**Details:**

(U//~~FOUO~~) On 11/16/2015, the SIRG reviewed an 11/26/2014 Agent-involved Shooting (AIS) that occurred in the St. Louis Field Office AOR.

(U//~~FOUO~~) On 11/26/2014, the St. Louis Field Office SWAT team was involved in an AIS while attempting to apprehend Major Earl Washington in St. Louis, Missouri. Washington was a suspect in the 11/24/2014 homicide of his mother, as well as the non-fatal shooting of a responding University City Police Department (UCPD) officer. After firing from concealment during a SWAT clearing operation, striking a SWAT operator in the shoulder, Washington was shot multiple times by

FBI SWAT operators, and died from a self-inflicted gunshot wound to the head. In the exchange of gunfire, a second FBI SWAT operator sustained a gunshot wound to the leg from what was later assessed to be friendly fire. The Shooting Incident Review Team (SIRT) arrived in St. Louis on 11/27/2014.

(U//~~FOUO~~) The St. Louis FBI SWAT team was deployed in response to a request by the St. Louis County Police Department (SLCPD), which had been contacted by UCPD for assistance in apprehending Washington after receiving information regarding his whereabouts. SLCPD's tactical team was occupied with the ongoing violent protests in Ferguson, Missouri. At the request of SLCPD, and after consulting with the St. Louis CDC and OGC, SAC William P. Woods directed SWAT and other tactical assets to assist UCPD.

(U//~~FOUO~~) At approximately 9:00 p.m. on 11/25/2014, FBI tactical elements arrived at a staging area near [redacted] a single-family residence in St. Louis where UCPD had determined Washington was located. FBI ASAC [redacted] was the On-Scene Commander (OSC). SAC Woods monitored the operation from the CP at the field office. **b6 -1,2 b7C -1,2**

(U//~~FOUO~~) Over the next several hours, St. Louis SWAT and Crisis Negotiators (CNs) made numerous attempts to establish contact with Washington utilizing a loudspeaker, a throw phone, and a third-party intermediary. [redacted] **b7E -1**

(U//~~FOUO~~) At approximately 12:30 a.m. on 11/26/2014, a St. Louis County and City (SLCC) Bomb and Arson Unit [redacted] was utilized to clear most of the interior first floor of the house and visually inspect a portion of the basement through two ground-level windows. [redacted] SAC Woods decided against [redacted] because the DEA SWAT team providing perimeter security was not equipped with [redacted] **b7E -1**

(U//~~FOUO~~) After all attempts to confirm Washington's presence in the

residence were unsuccessful, SAC Woods authorized an FBI SWAT tactical entry of the residence, to include [redacted] b7E -1 [redacted] At approximately 2:53 a.m. on 11/26/2014, the SWAT team made entry into the residence, cleared the ground floor, and visually inspected the attic. At approximately 3:02 a.m., a UCPD K-9 was released into the basement in an attempt to determine Washington's location. The K-9 returned to the handler without alerting to the presence of an individual in the basement.

(U//~~FOUO~~) At approximately 3:07 a.m., the SWAT team, consisting of the Senior Team Leader (STL) and 10 operators, descended the stairs from the first floor and began clearing the basement. At approximately 3:10 a.m., SA [redacted] and SA [redacted] approached a large, portable wardrobe in the northwest quadrant of the basement. As SA [redacted] pulled the zipper to open the wardrobe, Washington fired a Glock 22 .40 caliber pistol from a seated position of concealment inside, striking SA [redacted] in the left shoulder. SA [redacted] fell to the floor and returned fire with his M4 carbine from a seated position. b6 -1 b7C -1

(U//~~FOUO~~) Responding to the threat from a standing position beside the wardrobe, SA [redacted] also fired his M4 carbine at Washington. The remaining nine operators heard gunshots but initially struggled to pinpoint the source of the hostile gunfire. Three operators [redacted] while attempting to identify Washington's location. Ultimately, eight of the 11 operators in the basement, including SA [redacted] and SA [redacted] fired their M4 carbines to eliminate the threat from Washington. The exchange of gunfire consisted of multiple volleys as operators worked to identify, locate, and neutralize the threat. In the course of the gunfire exchange, SA [redacted] received a gunshot wound to the left leg, which shattered his tibia. Through forensic examination, a bullet jacket fragment recovered from SA [redacted]'s leg was determined to have characteristics similar to the .223 caliber ammunition used in the SWAT operators' M4 carbines. It could not be forensically determined whether the bullet was fired from one of the SWAT operators' carbines; however, Washington was not equipped with a .223 caliber firearm. b6 -1 b7C -1 b7E -1

Title: (U) St. Louis 11/26/2014 Agent-Involved Shooting
Re: 297I-HQ-A5789301, 01/15/2016

(U//~~FOUO~~) At approximately 3:12 a.m., SA [redacted] was assisted to evacuate from the basement under his own power. As the remaining operators continued to address the threat from Washington and render aid to SA [redacted], they observed a fire had started in the northwest quadrant of the basement. Observing Washington appeared to be deceased from multiple gunshot wounds, SA [redacted] removed a black, .40 caliber Glock 22 pistol which was lying on top of Washington's body and placed it on a nearby clothes dryer. The rapidly intensifying fire forced the SWAT team to evacuate the basement with haste and prevented them from removing Washington's body. Operators dragged and carried SA [redacted] up the stairs as the basement filled with smoke. By 3:17 a.m., all operators had escaped the burning residence, with heat signatures and smoke clearly visible [redacted] The two wounded Agents were transported to Barnes-Jewish Hospital for treatment. SAC Woods responded to the scene upon notification of shots fired and assumed on-scene command.

b6 -1
b7C -1
b7E -1

(U//~~FOUO~~) The 11/27/2014 autopsy report of the St. Louis County Medical Examiner concluded Washington's manner of death was suicide, and the immediate cause of death was a self-inflicted gunshot wound to the head. The entry wound, on the right side of Washington's head, exhibited characteristics of a contact wound, to include a muzzle abrasion and stippling. FBI LD Firearms/Toolmarks Unit (FTU) concluded a bullet fragment removed from Washington's brain was fired from a polygonally rifled barrel, indicative of a firearm manufactured by Glock.

(U//~~FOUO~~) In addition to the self-inflicted gunshot wound, the autopsy identified 16 additional gunshot wounds sustained during the exchange of gunfire with the SWAT team, as well as post-mortem thermal injuries from the fire. Several bullets and fragments associated with prior injuries of unknown origin were also recovered during the autopsy.

(U//~~FOUO~~) Ten of the 11 SWAT operators who were present in the basement provided voluntary Signed Sworn Statements (SSS) during the SIRT on-site. SA [redacted]'s SSS was delayed until 2/05/2015 due to his

b6 -1
b7C -1

medical status and his request to provide a compelled SSS. No outside law enforcement agency representative discharged a weapon or sustained an injury during the incident. A Laboratory Shooting Reconstruction Team (LSRT) collected and submitted evidence retrieved from the crime scene, which was extensively contaminated from fire and water damage.

(U//~~FOUO~~) The SLCC Bomb and Arson Unit conducted an investigation into the cause of the fire within the house, and concluded the cause of the fire was undetermined. The SLCC investigation noted the presence of combustible materials in the northwest corner of the basement, where the fire began, and concluded [redacted] could not be eliminated as a cause of the fire. **b7E -1**

(U//~~FOUO~~) On 08/06/2015, Richard G. Callahan, the United States Attorney for the Eastern District of Missouri, declined to issue charges against the Agents involved in the shooting incident. On 10/28/2015, Robert C. McCulloch, St. Louis County Prosecuting Attorney, issued a written declination of prosecution in the death of Major Washington.

**SIRG Observations**

(U//~~FOUO~~) On 11/16/2015, the SIRG reviewed the St. Louis AIS with the intent to:

1. **Evaluate the application of deadly force.**

(U//~~FOUO~~) The SIRG determined the application of deadly force by each of the SWAT operators who discharged their weapons was justified under the DOJ Deadly Force Policy.

2. **Provide the Director with evaluative analysis, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

(U//~~FOUO~~) Observation 1: St. Louis SWAT operators were unaware of the number of rounds loaded in their weapons and extra magazines.

Title: (U) St. Louis 11/26/2014 Agent-Involved Shooting
Re: 297I-HQ-A5789301, 01/15/2016

(U//~~FOUO~~) Analysis 1a: Signed Sworn Statements of St. Louis SWAT operators revealed some were unaware of the number of rounds loaded in their weapons and extra magazines.

(U//~~FOUO~~) Analysis 1b: The Firearms Policy Directive and Policy Guide 0741DPG Section 4.1.1 stated, "*All SAs are responsible for knowing the loaded condition (total number of rounds) of their pistols and/or shoulder weapons and must be prepared to report that number in connection with any post-incident debriefings, reviews, or investigations.*"

(U//~~FOUO~~) Instruction 1: SAC, St. Louis, will ensure all Agents have knowledge of the total number of rounds contained in their weapon(s) and extra magazines in accordance with the Firearms Policy Directive and Policy Guide 0741DPG.

(U//~~FOUO~~) Observation 2: An unauthorized alteration was performed on a SWAT Colt M4A1, serial [redacted], assigned to SA [redacted]. **b6 -1 b7C -1**

(U//~~FOUO~~) Analysis 2a: Colt M4A1, serial [redacted] was tested and inspected by DSU gunsmiths on 08/13/2015. While the selector/safety wa s present on this rifle, it was not fully functional. There was no positive detent engagement to maintain the selector position in safe, semi automatic, or full automatic positions. This was an indication the grip was removed and re-installed improperly causing the spring to be bent and the detent to fail.

(U//~~FOUO~~) Analysis 2b: SA [redacted] was interviewed by INSD on 10/30/2015. SA [redacted] acknowledged he unilaterally replaced the grip on Colt M4A1, serial [redacted]. **b6 -1 b7C -1**

(U//~~FOUO~~) Analysis 2c: The Firearms Policy Directive and Policy Guide 0741DPG Section 4.10 stated, "*FBI gunsmiths must conduct alterations to, repairs to, and refinishing of assigned firearms; no other FBI personnel are authorized to alter FBI firearms or Bureau-approved POWs.*"

(U//~~FOUO~~) Instruction 2: SAC, St. Louis, will ensure alterations to, repairs to, and refinishing of assigned firearms are conducted in accordance with the Firearms Policy Directive and Policy Guide 0741DPG.

(U//~~FOUO~~) Observation 3: SWAT operators carried a mixture of authorized service ammunition and training ammunition.

(U//~~FOUO~~) Analysis 3a: LD examined the unspent .223 caliber cartridges collected from all magazines carried by SWAT operators involved in the shooting incident. TD's Ballistic Research Facility and Defensive Systems Units also examined the collected unspent .223 caliber cartridges. The collective examination identified the presence of training ammunition within magazines carried by some SWAT operators involved in the shooting incident.

(U//~~FOUO~~) Analysis 3b: The Firearms Policy Directive and Policy Guide 0741DPG Section 4.9 stated, "*SAs must only load their Bureau-approved firearms with ammunition provided or authorized by the FBI. Only authorized service ammunition may be used for duty carry.*"

(U//~~FOUO~~) Instruction 3: SAC, St. Louis, will ensure Agents carry only authorized service ammunition while in duty status, in accordance with the Firearms Policy Directive and Policy Guide 0741DPG.

3. **Provide recommendations for administrative action if deemed necessary.**

(U//~~FOUO~~) The SIRG found the actions of the SWAT operators who discharged their weapons to be justified under the DOJ Deadly Force Policy and did not recommend any administrative action be taken against any of them.

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector Timothy M. Feeney, Office of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights

b6 -3
b7C -3

Division, Criminal Section, Department of Justice; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office Of General Counsel; SSA [redacted], Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted], Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; Unit Chief (UC) [redacted] New Agent Training Program Section, Defensive Systems Unit (DSU), TD; Section Chief (SC) Roger A. Coe, CD-3, East Asia Section, Counterintelligence Division; and SSA [redacted] Evidence Response Team, Laboratory Division (LD). The following non-voting members were also in attendance: Inspectors Vadim D. Thomas, R. Justin Tolomeo, Douglas A. Leff, Kathryn Peterson, Frank S. Vito, Eric Welling, OI, INSD; Assistant Inspectors/Team Leaders [redacted], OI, INSD; Program Management Analysts [redacted], Inspection Management Unit (IMU), INSD; SSA [redacted], Internal Investigations Unit (IIU), INSD; Special Assistant [redacted] OI, INSD; [redacted] Scientific Analysis Section, LD; [redacted] Firearms Toolmarks Unit, LD; and [redacted], Operational Projects Unit (OPU), LD.

b6 -1
b7C -1

♦♦

OFFICIAL RECORD
Documents participating have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Report of OCD SWAT shooting investigation. **Date:** 02/05/2013

**To:** [redacted] b6 -1 b7C -1
TWERSKY RONALD

**From:** OKLAHOMA CITY
OC-6
**Contact:** [redacted]

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271801-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This report is an overall review of investigations, interviews and evidence collection regarding the shooting incident injuring SA [redacted] during OCD SWAT training on 1/10/2013. b6 -1 b7C -1

**Details:**

This report will address an incident during Oklahoma City SWAT firearms training which was conducted at the Edmond Oklahoma Police Department Firearms range and shoot house. The scheduled training took place on 1/10/2013. The event involved SWAT team member SA [redacted] firing a round that ultimately struck SWAT Team member SA [redacted] in the upper leg. Appropriate Headquarters entities, including Inspection Division, were notified of the situation and the shooting inquiry was delegated to Oklahoma City Division (OCD). b6 -1 b7C -1

The Oklahoma City SWAT Team Leader SA [redacted] scheduled training for 1/10/2013, which included instruction and training regarding the use of flash bang devices and conducting close quarter battle (CQB) training. SA [redacted] was appointed SWAT Team Leader in 2008. The group was to initially gather at OCD training room and then training would be moved to the Edmond PD range on East Danforth b6 -1 b7C -1



NYT-423

Title: (U) Report of OCD SWAT shooting investigation.
Re: 297-HQ-A1271801-D, 02/05/2013

St. in Edmond, OK, approximately 14 miles from OCD HQ. Present for the training on 1/10/13 were the following individuals (all OCD SWAT Team members):

SA [redacted] SA [redacted] b6 -1
[redacted] SA [redacted] b7C -1

SA [redacted] SA [redacted]
[redacted] SA [redacted]

SA [redacted] SA [redacted]
[redacted] SA [redacted]

SA [redacted] SA [redacted]
SA [redacted]

ET [redacted]

(There were five SWAT Team members not present at this training. SAs [redacted] b6 -1
[redacted]) b7C -1

(Information in this report is based on a collection of accounts supplied through interviews of the above listed participants, collection of documents, ERT reports, medical records, and various external interviews, as well as on site observations. This investigation was supervised by ASAC [redacted] and coordinated by SSAs [redacted] Interviews were conducted by OCD SSAs including: SSA [redacted] SSA [redacted], SSA [redacted], SSA [redacted], SSA [redacted], SSA [redacted], SSA [redacted], SSA [redacted], SSA [redacted] and SSA [redacted])

On 1/10/13, SWAT Team members met as directed at 8:15 AM in the second floor (smaller) training room at OCD HQ office. SA [redacted] provided information regarding future expected operations and training. He also provided a Power Point presentation on the use and deployment

of flash bangs. Accounts vary regarding the exact time of completion but sometime between 9:30 AM and 10:30 AM the team departed for the Edmond PD firearms range (hereafter "the range"). It was noted there would be live flash bang training and live fire CQB exercises at the range.

Once at the range, members parked in the area designated near the shoot house. SA [redacted] conducted demonstrations of the proper handling and deployment of flash bangs in the open range area. Several of the operators with less experience using flash bangs were instructed and allowed to throw live flash bangs in this setting. b6 -1 b7C -1

[redacted] Sergeant, Edmond PD [redacted] provided a briefing on use of the shoot house. Members recalled this briefing occurred after the flash bang training and immediately before breaking for lunch or occurred immediately after lunch but before any shoot house training was initiated. In this briefing, [redacted] conducted a verbal brief and walk through of at least a portion of the shoot house. Within this brief, [redacted] noted numerous issues. Primary among them was past damage done to the shoot house by another law enforcement agency during misuse of the facility. Some members recalled this misuse involved repeatedly shooting inappropriate walls and support posts of the shoot house. The interior shoot house rooms were shown to team members and descriptions of which walls should not be shot were provided. It was also noted shots above a specified height should not be made due to the trajectory of the bullet and the height of the earth berm which acts as the backstop for rounds fired. b6 -4 b7C -4

An examination of the Edmond shoot house shows it to be a rectangular fully covered single story structure with a metal roof. The outside dimensions of the shoot house are 60 ft. by 36 ft. The structure has telephone type poles as primary supports. Interior walls are constructed using panels of approximately one quarter inch plywood. The exterior walls of the house are made of fiberboard and 2x4s. Wall supports throughout the shoot house are predominately 2x4s. The floor

of the facility is asphalt. The height of the roof, at its peak is approximately 20 ft., with a gap at the top to allow outside light into the house. In the scenario involving this shooting, the house was configured with 16 rooms. Some interior walls of the shoot house have the ability to be moved, reconfiguring the interior layout of the facility. Some walls have doorway gaps in them for "room entry" abilities. The house is surrounded by earth berms on three sides which serve as the backstop for bullets fired within the house. The berms height is estimated to be approximately 12 to 13 ft. tall. The fourth side of the house is open to the parking lot and is where the initial entry door is positioned. When using simunitions, 360 degree target placement was allowed inside the shoot house. Photographs of the shoot house, exterior and interior, were taken by OCD ERT following the shooting incident in question. In addition, ERT drafted a diagram depicting the shoot house as it was configured at the time of the shooting event in question. This diagram was used by SSAs during interviews of the SWAT Team. The alpha labeling of the rooms on the diagram was done by ERT members.

Interviews with the SWAT Team members varied on the exact comments made by [redacted] in his brief regarding which walls were allowed to be fired at during live fire exercises. Some members recall hearing only exterior walls were allowed to be used for target placement and shooting in live fire exercises. Others do not recall such a specific statement. Experience levels of the SWAT Team operators varied but all had been to the Edmond PD Range in the past and all had used the Edmond PD shoot house in the past. However, there were some operators who used the shoot house only for simunitions training. For these operators, it was the first participation in live fire exercises in Edmond PD's shoot house. Many of the operators noted they had been involved in training in other shoot houses at other ranges, some of which involved live fire exercises. Live fire exercises, by most accounts of those interviewed, required shooting at only exterior walls. SA [redacted] in his statement, noted he had been to the Edmond PD range "several times" and he had used the Edmond PD shoot house "multiple times." SA [redacted] also explained he had

b6 -4
b7C -4
b6 -1
b7C -1

participated in LETTS training at the Edmond PD range in May of 2012, which involved the use of the shoot house. This training lasted a week. SA [redacted] also stated he had used both handgun simunitions and "bluebolt M-4 ammunition" in the shoot house. b6 -1 b7C -1

[redacted] was interviewed as part of this investigation and noted in his interview that OCD SWAT Team members, particularly SA [redacted], SA [redacted] and SA [redacted] (former OCD SWAT Team member) had extensive training and experience in use of the shoot house and were considered (by Edmond PD) qualified to operate the shoot house without the presence of any Edmond PD training personnel. (It should be noted, neither SA [redacted] nor SA [redacted] were present during the shooting incident. OCD has an MOU with Edmond PD regarding use of the range.) Following [redacted]'s brief, he relinquished control of the shoot house to SA [redacted] and departed the shoot house area of the range. b6 -1,4 b7C -1,4

There were small variances and degrees of recollection regarding specific instructions and the briefing SA [redacted] provided prior to initiation of the CQB training in the shoot house. All noted SA [redacted] stated team members were guests, use of the facility was important, the team was to be aware of past misuse of the facility by other organizations and avoid similar use and damage to the facilities. Most recall being told the standard "QIT" or "Q" target was the target being used in the exercises during the training day. Through the interviews it was noted only SA [redacted] and SA [redacted] stated they were not aware Q targets were the targets being shot during this training. SA [redacted] noted this would be a live fire exercise and weapon discipline was very important. No members recall any specific brief or training this day regarding contingencies for any medical problems. It was noted each operator carries a medical trauma kit on their tactical vests and each carries the telephone number for mediflight air ambulance in their tactical helmet. b6 -1 b7C -1

SA [redacted] was responsible for running the training exercises. SA [redacted] was in charge of the entry team and directing b6 -1 b7C -1

tactical response to the situations which SA [redacted] constructed in the shoot house. Both SA [redacted] and SA [redacted] noted exercises would be room entry and clearing with the use of law enforcement, slow and deliberate entries (or "clears") as well as faster dynamic entries. SA [redacted] would make the determination as to the type of entry to be conducted and direct team responses both outside and inside the shoot house. Not all of the shoot house would be used for each exercise. SA [redacted] would set up and designate which rooms were not part of the exercise. The team would enter the shoot house without being supplied a blue print of the current layout or configuration of rooms within the house. Through the various scenarios, there were instances where breaching was a component of the exercise as well as the use of flash bangs. Execution of these specific elements was directed by SA [redacted] or SA [redacted] Not all exercises utilized breaching and flash bangs. b6 -1 b7C -1

There were five (5) to seven (7) specific scenarios made in the house leading to the final run of the day, which involved the shooting of SA [redacted] Each scenario used all eleven (11) operators at the training that day, with SA [redacted] overseeing the training. All briefings were conducted orally prior to entry. In order for all operators to get varied training experience, the positions of each operator was altered on each run. If a specific operator had been the number one man on a previous run, they would move to a position further back in the stack. b6 -1 b7C -1

During the various exercises in the shoot house, there was a limited placement of targets within each scenario. Several operators noted they had not engaged any or more than one or two targets through the entire training day. Protocol for entries was described by all interviewed as standard operating procedures. This entailed the weapon (shoulder weapon for these scenarios) having the safety on, the operator's finger off the trigger and outside the trigger guard. It also involved muzzle control. Once a target was identified, the weapon was brought on target, the safety disengaged and shot(s) fired into the target. Once this was completed, the weapon was returned to safe and the finger placed outside the trigger guard.

Interviews revealed, on one earlier run, possibly the first one, a question of not shooting a target was mentioned. SA [redacted] noted he entered a room where a Q target was positioned partially behind a piece of furniture. He chose not to fire as he felt the amount of the target exposed did not allow him to account for the subject's hands. He chose to hold his aim on the target and call them out to show their hands or give up. Following the termination of this exercise, SA [redacted] explained to the operators for this day's exercises all Q targets were to be considered threats which should be engaged. SA [redacted] confirmed this account of events during his interview. b6 -1 b7C -1

Regarding the final exercise of the day, the following general issues were determined in the interviews: 1) the entry started from outside the shoot house, 2) rooms labeled as E and G were being used and many felt those rooms had not been used prior to this exercise and 3) SA [redacted] and SA [redacted] were in the middle to back of the original lineup (stack) as they entered the shooting house. b6 -1 b7C -1

On this exercise, team members at the front of the stack entered and secured room A on the diagram. Members moved up to secured areas to stage for their next assignment on a clearing team. Room B was then cleared and secured. At this point, SA [redacted] called for the clearing of room E and G. SA [redacted] related he deployed a flash bang and SA [redacted] confirmed the flash bang was deployed in room E. It is clear that SA [redacted] entered room E and immediately engaged a Q target with two shots. This target was on the exterior wall directly across from the entry doorway. SA [redacted] after firing turned to the right, cleared the corner and moved to that corner to complete securing of the room. Following SA [redacted] SA [redacted] entered and secured the left side of the room. SA [redacted] entered and filled the middle of the room. b6 -1 b7C -1

Slightly behind, but moving simultaneously to this entry, a group of three operators were moving to enter and secure room G. SA [redacted] entered the room and secured the left side of the room upon entry. SA [redacted] entered behind him and moved to the right to secure the corner. SA [redacted] entered behind [redacted] to secure the b6 -1 b7C -1

middle of Room G. SA [redacted] upon checking the right corner, observed a target stand with a target attached. The target was not a "Q" target but rather a character target depicting a man holding a handgun. SA [redacted] took the safety off his weapon (his assigned M-4), fired one shot at the target, then engaged the safety of his weapon and moved to complete the securing of Room G. SA [redacted] stated he shot the target only once because he "felt it was sufficient." No other Agent in room G fired a shot. b6 -1 b7C -1

At this time, SA [redacted] (in room E) stated that something hit him. A "Code RED" real world emergency was called out. SA [redacted] began examining SA [redacted] and SA [redacted] entered to determine what had occurred. A call for a medic was made. SAs [redacted] (both team EMTs) responded immediately and began applying first aid. After this was initiated, SA [redacted] called out "who shot?" SA [redacted] stated that he had. SA [redacted] called 911 and for a helicopter to transport SA [redacted]. SA [redacted] went to SA [redacted]'s vehicle to get [redacted]'s trauma EMT kit and brought them to Room E to assist with first aid. SA [redacted] was directed to advise Edmond PD officials at the range of the incident, which he did. Edmond PD personnel responded to the shoot house. Emergency personnel from Edmond Fire Department also responded. At the same time, OCD SWAT team members began preparing an area for the helicopter to arrive for transport of SA [redacted]. b6 -1 b7C -1

During the time initial first aid was being provided to SA [redacted] SA [redacted] was approached in Room G by SA [redacted]. According to SA [redacted], he told SA [redacted] he shot the target. SA [redacted] stated SA [redacted] told him it was an accident and wasn't his fault. SA [redacted] talked with SA [redacted] prior to this and noted he (SA [redacted]) had shot. Both SA [redacted] and SA [redacted] agreed that SA [redacted] told SA [redacted] to "Calm down" and SA [redacted] noted he ([redacted]) was "highly emotional right now." SA [redacted] moved outside following his discussion with SA [redacted]. SA [redacted] secured SA [redacted]'s weapon and made it safe. ERT accounted for collection of the weapon and magazine and 24 .223 rounds. SA [redacted] has advised b6 -2 b7C -2

operators when filling their M-4 magazines, not to fill them completely (30 rounds) as it could "jam" the magazine and cause a failure to properly load rounds in the weapon. Rather, he recommends that by loading 25 rounds the operator would have a significantly full magazine and a clear recollection of the number of rounds loaded. SA [redacted] did not give these directions on this training day but has made these recommendations in past training. b6 -1 b7C -1

While the EMTs were providing first aid and the helicopter was enroute, SWAT team members and Edmond PD members began pulling down walls within the shoot house to allow medical personnel entry and exit with the stretcher which would be used to transport SA [redacted]. (Note: The ERT diagram was made after the walls in the shoot house were reconstructed, by Edmond PD Officers, as they existed prior to team members removing them for extraction of SA [redacted].) SA [redacted] was stabilized and the helicopter arrived. SA [redacted] was loaded in the helicopter and transported to Oklahoma University Trauma Center, Oklahoma City. Medical records obtained regarding treatment of SA [redacted] noted, "The patient is a [redacted]-year-old male status post gunshot wound to the right groin. The patient was taken to the operating room for exploration of wound, found to have no vascular or major nerve damage. Wound was irrigated and closed with staples. Two JP drains were placed. The patient was noted to have a graze wound to his right side of his scrotum which was Dermabonded." (Official Medical records have been acquired from OU Medical Center regarding SA [redacted]'s injuries and treatment, which have been uploaded to this file.) b6 -1 b7C -1

The remainder of the OCD SWAT team moved to the Edmond PD Range training room. They were met by SA [redacted] (OCD CDC) and ASAC [redacted] They discussed the review process which would be in place and no one had to give a statement at that time. Members were told SSA [redacted] and the OCD Squad 5 Agents, along with OCD ERT, would be conducting an investigation at the scene. b6 -1 b7C -1

All OCD SWAT members chose to consult with their attorney,

all represented by FLEOA. FLEOA Attorney [redacted] arrived in Oklahoma City on Monday 1/14/2013. Interviews with assigned OCD SSAs began on 1/14/13, following their consultation with OCD SWAT Team members. [redacted] or one of his associates sat in on the interviews either live or via teleconference. Once completed, the FD-302s and the signed sworn statement were reviewed by the SWAT Team member interviewed and [redacted] before the reports were finalized. b6 -2 b7C -2

In his interview, SA [redacted] stated he felt the target he saw upon entering room G was an imminent threat. He stated it was not immediately apparent to him the target was not on an exterior wall. He did not recall any specification or demonstration during the day that any specific target was to be used that day. SA [redacted] explained, based on his positioning on the entry team for each exercise, he had not taken a shot at any target prior to taking this shot. (It should be noted SA [redacted] commented he started out using only two Q targets per exercise and part way through the various exercises went to only one target per exercise.) SA [redacted] stated he was aware the exterior wall was made of a different material than the interior walls but due to the speed with which this event occurred, he was focused on the threat and not the wall. He also stated he felt the target was on an exterior wall as this would be the only wall a target was to be placed on during live fire. He felt upon entering, the target was approximately 5 to 6 feet away, in a stand and sat a bit shorter than most people. SA [redacted] stated he only fired once at the target as he felt it was sufficient. He stated he has normally trained to shoot each target 2 or 3 times. b6 -1 b7C -1

SA [redacted] noted in his interview, he was solely responsible for setting up each scenario and any targets involved. He arranged the room configuration and placed targets for each exercise. He would provide SA [redacted] with the background for each exercise. SA [redacted] was to act as the team leader for the operators entering the shoot house to deal with the described threat(s). SA [redacted] did not walk through the shoot house prior to any scenario, and did not assist in moving walls within the shoot house. SA [redacted] started out using two b6 -1 b7C -1

"Q" targets per exercise. Later in the day, he reduced it to one "Q" target per exercise. For the training scenario in which SA [redacted]'s injury occurred, SA [redacted] positioned only one target and placed it on an exterior wall in room E. SA [redacted] added that prior to this exercise rooms E and G had not been used in any scenarios. SA [redacted] had done the reconfiguration to use E and G. SA [redacted] entered room G, past the entry threshold. He looked around the room and did not see any targets during this inspection. He noted he did not place a target in room G but also recalled that there was some furniture in that room. SA [redacted] noted that at the time of this last scenario the lighting in the shoot house was becoming dim. SA [redacted] moved out of the area and began watching this exercise. All accounts indicate no one else made entry to the shoot house from this point until the SWAT Team made entry. [redacted] recounted direction by SA [redacted] to have teams move up to clear both rooms E and G. SA [redacted] noted room E was flash banged and two teams moved into the rooms. He heard shots fired in room E and a shot from some other room. b6 -1 b7C -1

SA [redacted] saw SA [redacted] down on the floor in room E. SAs [redacted] and [redacted] responded to provide medical aid to SA [redacted]. SA [redacted] then moved to room G. Once there, he spoke with SA [redacted] and asked what happened. SA [redacted] pointed to a target stand in the extreme right corner with a paper character target attached. SA [redacted] stated he had not previously seen the target or target stand and immediately discerned that he had overlooked the target stand in his walk through of the shoot house prior to the CQB scenario. SA [redacted] described the target as the profile of a man from the rear where the target is pointing a weapon away from whoever faces the target. SA [redacted] stated he had never seen this target before. He described it as an old Edmond PD target. He also noted he used character targets in some past SWAT training exercises but never this specific target. SA [redacted] had not used any character targets in SWAT training for over 6 months. b6 -1 b7C -1

OCD ERT processed the shoot house and collected both the firearm used by SA [redacted] and later the bullet removed from SA [redacted] b6 -1 b7C -1

[redacted]'s leg. These items were placed into evidence and sent to the FBI Laboratory for processing. Extensive photographs and a diagram of the scene were completed and are available for review in this file. In discussion with SA [redacted] (Team Leader for OCD ERT), he explained that ERT efforts would not allow for an exact trajectory of the bullet which impacted SA [redacted]'s leg. This is due to the fact there exists only one point of consideration on the bullets path and two points are required for such evaluation. SA [redacted] explained there was one hole in the interior plywood wall that could be associated with the bullet. The target shot by SA [redacted] was dangling from the target stand in room G upon their arrival and the backing on the stand had numerous holes in it. Most of those holes appeared to be larger handgun rounds but there was at least one smaller hole that could possibly be associated with the M-4 round fired from SA [redacted]'s weapon. It was located in what was estimated to be a lower center mass area, if the target had been held properly against the backing. For both SA [redacted] (initiation point) and [redacted] (termination point), their exact positioning at the time of the event could only be estimated. Thus, given the evidence available at the time ERT processed the scene, the bullet's specific trajectory could not be determined. Even with these observations, the height of the bullet hole in the plywood wall was consistent with the path to SA [redacted]'s leg.

b6 -1
b7C -1

SA [redacted] has been an OCD SWAT team member since late 2011. Records of his SWAT training were acquired and were uploaded to this file. It was noted by SA [redacted] he completed Basic SWAT training at Quantico. Additionally, SA [redacted]'s firearms records for the last two years were acquired and uploaded to this file. SA [redacted]'s records reflect he is current on qualifications and has passed all sessions.

b6 -1
b7C -1

SA [redacted] was interviewed regarding his recollections of events. He stated he had entered room E with SAs [redacted] SA [redacted] did not shoot and the room was secured. This was called out by each operator in room E. SA [redacted] stated while the three of them stood inside of the door to room E, he saw a flash and felt a

b6 -1
b7C -1

concussion blast hit his mid-section. He believed a flash bang had exploded and he was hit by the blast. The concussion pushed his groin protector into his groin causing pain. As he assessed the situation, he started feeling intense pain in his leg. He believes he yelled "it burns" as he collapsed to the floor and rolled onto his back. His recollections beyond this are fragmented.

There was initial media coverage of this training accident. This involved coverage by local television stations, including helicopter video coverage of the range and some team members. There was additional coverage in place at the hospital where SA [redacted] was treated. It also involved a media statement given on scene by the OCD Media Representative, authorized by OCD SAC. Following the initial coverage on the day of occurrence there was no follow up coverage of note. b6 -1 b7C -1

Conclusions

SA [redacted] organized and oversaw SWAT training in the shoot house. He was aware Edmond PD personnel provided safety briefings which directed live fire to be done only on exterior walls. SA [redacted] stated that only Q targets were to be used for this training and all Q targets were to be considered a threat. On the last exercise, he placed one Q target in room E of the shoot house. He entered room G but did not observe a target stand or older character target in room G prior to the scenario in question. b6 -1 b7C -1

SA [redacted] participated in training and prior to the last exercise had not engaged any target. He was aware he was only to shoot on exterior walls. He did not recall being told only Q targets were being used. He did recall being told any target was a threat. He entered room G, identified a character target and shot it one time. He did not identify the target was on an interior wall. b6 -1 b7C -1

SA [redacted] was shot in the upper thigh while conducting

Title: (U) Report of OCD SWAT shooting investigation.
Re: 297-HQ-A1271801-D, 02/05/2013

a SWAT training live fire scenario. SA [redacted] was in room E of the shoot house. He was struck by a round fired by SA [redacted] from his M-4 while in room G. This shot was fired by SA [redacted] once he entered the room and saw a stand and target in that room. The target in room G had been inadvertently missed for removal or moving by SA [redacted] during his pre-scenario inspection. This target was not a Q target but an older Edmond PD character target. This target was placed on an interior wall. SA [redacted] was provided first aid on scene, transported to a trauma center and is expected to fully recover. b6 -1 b7C -1

♦♦

OFFICE OF PROSECUTING ATTORNEY

ROBERT P. McCULLOCH
PROSECUTING ATTORNEY

ST. LOUIS COUNTY JUSTICE CENTER
100 SOUTH CENTRAL AVENUE
ST. LOUIS COUNTY, MO 63105

(314) 615-2600
TTY (314) 615-5267

October 28, 2015

Special Agent in Charge
Bill Wood
FBI
2222 Market Street
St. Louis, MO 63103

RE: Major Washington fatal shooting

Dear Agent Wood:

Based upon a thorough examination of all of the evidence in this matter, it appears that the use of force was justified and not excessive under the circumstances.

There is no further action to be taken in this matter. Please contact [redacted] if you have any questions or if any additional information is discovered.

A detailed final report will be finalized and delivered as soon as possible.

b6 -4
b7C -4

Very truly yours,

Robert P. McCulloch

Robert P. McCulloch
Prosecuting Attorney
St. Louis County, Missouri

RPM[redacted]

cc: [redacted]

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT CINCINNATI DIVISION 06/28/2012 **Date:** 08/01/2013

**To:** DA-INSPECTION FRONT OFFICE

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271286-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/28/2012, involving Special Agent (SA) [redacted] of the Cincinnati Division. During the execution of a search warrant, SA [redacted] responded to threat presented by subject Fallacy M. Myers, and fired three rounds from his Bureau-issued Glock Model 22, .40 caliber pistol, fatally wounding the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. Two Observations and associated Recommendations were adopted by the SIRG for the Cincinnati Division. b6 -1 b7C -1

**Administrative Notes:** (U) Reference report of Inspector Ronald Twersky, dated 10/22/2012.

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/26/2012, a case was opened regarding alleged criminal activities of Fallacy M. Myers. Investigation revealed Myers may have

been engaged in activities including transportation, coercion, and enticement of a minor; money laundering; tax evasion; distribution of controlled substances; and possession of a firearm by a prohibited person.

Pending the issuance of a search warrant for Myers' residence, an operational plan was completed and approved by Cincinnati Division Executive Management on 06/27/2012.

At approximately 7:00 a.m., on 06/28/2012, FBI Agents and Dayton Police Department (DPD) personnel met for an operational briefing. SA [redacted] led the briefing and reviewed the operational plan, including the FBI Deadly Force Policy. Following the briefing, FBI personnel, accompanied by a uniformed DPD officer in a marked cruiser, drove to the subject's residence. b6 -1 b7C -1

At approximately 7:30 a.m., SA [redacted] knocked and announced the presence of law enforcement personnel. After receiving no response from the occupants of the residence, SA [redacted] attempted to breach the door with a ram. Following ram attempts, which did not breach the door, Myers opened the front door. He stepped onto the front porch, where he was handcuffed and patted-down for weapons by SA [redacted] Myers remained with SA [redacted] outside the house while other Agents conducted a protective sweep of the residence. Myers requested to use the bathroom, and was escorted inside by SAs [redacted] and [redacted] SA [redacted] conducted a more detailed protective sweep of the bathroom and removed a lockbox. SA [redacted] removed Myers' handcuffs and Myers was allowed to use the restroom with the door open. After Myers used the restroom, he was again handcuffed by SA [redacted] b6 -1 b7C -1

Myers was escorted through the house to the backyard under the control of SAs [redacted] SA [redacted] decided to remove Myers' handcuffs and advised him he was not under arrest and was free to leave if he so chose. SAs [redacted] escorted Myers further away from the residence to an area in the backyard. Myers was compliant and cooperative and agreed to be voluntarily interviewed. b6 -1 b7C -1

During the search, Myers was taken inside the residence, where he assisted Agents in identifying personal property. He was then escorted to the kitchen by SAs [redacted] where the interview continued. During the interview, SA [redacted] remained in the kitchen with Myers, who was not handcuffed. b6 -1 b7C -1

Four handguns were recovered during the search, and SA [redacted] in coordination with Acting Supervisory Senior Resident Agent (A/SSRA) [redacted] and Assistant United States Attorney (AUSA) [redacted] determined a probable cause arrest of Myers was warranted for possession of a firearm by a prohibited person. b6 -1,3 b7C -1,3

After the decision was made to arrest Myers, SAs [redacted] offered him the chance to get dressed. Myers was seated, without handcuffs, in the kitchen when he was advised by SA [redacted] that he was going to be taken into custody by the DPD and transported to the Montgomery County Jail. As SA [redacted] began to escort Myers to the bedroom to obtain clothing, Myers ducked around SA [redacted] and moved to the kitchen table. Although Myers' back was to SA [redacted] he observed Myers' shoulders and arms moving in a motion consistent with someone loading a firearm magazine. SA [redacted] drew his handgun and yelled for Myers to stop what he was doing. Myers raised his hands to show SA [redacted] he was slashing his wrists with a knife. SA [redacted] ordered Myers to drop the knife and subsequently called out for a Taser from the DPD officer located outside the residence. b6 -1 b7C -1

Myers slowly walked backwards toward SA [redacted] who continued telling Myers to drop the knife. Myers turned around, faced SA [redacted] and Myers feigned as if he was going to move quickly toward SA [redacted] Myers dropped the knife in compliance with SA [redacted] s commands. Myers then grabbed a larger knife from a knife rack, turned away from SA [redacted] and retreated further into the kitchen. Myers stood with his back to SA [redacted] and continued cutting himself, inflicting lacerations to both wrists and his neck. SA [redacted] continued yelling for Myers to drop the knife. Hearing the initial commotion, SA [redacted] joined SA [redacted] in the doorframe area between the kitchen and the living room. b6 -1 b7C -1

SAs [redacted] were searching a vehicle outside the residence when they heard shouting. They ran to the front door and SA [redacted] proceeded toward SAs [redacted] Because no one responded to SA [redacted]'s calls for a Taser, SA [redacted] advised SA [redacted] to take his place so he could go to the front door to locate the DPD officer. Myers was still facing away from the Agents, so SA [redacted] stepped back and SA [redacted] stepped to the left of SA [redacted] in the doorframe area. Both SAs [redacted] had their weapons pointed at Myers. b6 -1 b7C -1

SA [redacted] stepped into the kitchen in an effort to de-escalate the situation with Myers. She then observed Myers pivot toward her with the blade of the knife facing her and SA [redacted] Myers started to step around the kitchen table toward the Agents. SA [redacted] feared for her life and the safety of SA [redacted] and retreated backwards to the kitchen doorway and started to pull the trigger on her Bureau-issued service pistol. Simultaneously, SA [redacted]'s arm appeared in SA [redacted]'s line of fire, and as she began to drop to one knee to avoid friendly fire, she stumbled. As SA [redacted] regained her balance, she heard multiple gunshots. b6 -1 b7C -1

SA [redacted] was positioned in the living room during the confrontation and moved in front of the bedroom doorway. She observed Myers holding a knife at sternum height, with the blade pointed out toward the Agents, who were staggered along the kitchen doorframe. SA [redacted] saw Myers make a movement toward the Agents prior to hearing shots. b6 -1 b7C -1

SA [redacted] instructed Myers to stop and drop the knife. SA [redacted] then observed Myers pivot to the right with the knife in his right hand. SA [redacted] believed Myers presented an imminent threat of death or grave bodily harm to SA [redacted] who had moved within approximately six feet of Myers. As Myers continued the pivoting motion and stepped toward SA [redacted] SA [redacted] provided a final command for him to stop and drop the knife to no avail. At that point SA [redacted] fired three shots at Myers. b6 -1 b7C -1

Myers collapsed on his back to the floor and was subsequently

pronounced dead at the scene by responding paramedics from the Dayton Fire Department. Throughout the confrontation, Myers did not say anything to the Agents or respond verbally to their commands.

Immediately following the shooting, DPD Officer [redacted] who was positioned outside the residence at the time of the shooting, entered the house and immediately called for a paramedic. SA [redacted] made the first telephonic notification of the Agent-involved shooting to A/SSRA [redacted] at 11:48 a.m. b6 -1,4 b7C -1,4

SA [redacted] directed SAs [redacted] to move away from the kitchen doorway, and they went into the living room. Officer [redacted] and SA [redacted] took positions in the kitchen doorway to maintain the integrity of the scene.

Prosecution of the law enforcement officers involved in the shooting was declined by [redacted] First Assistant, Prosecuting Attorney, Montgomery County Prosecutor's Office, on 07/13/2012. b6 -4 b7C -4

On 07/16/2012, [redacted], Civil Rights Division, United States Department of Justice (USDOJ), advised the shooting did not "establish sufficient evidence of willful conduct to warrant a federal criminal civil rights investigation of this matter." b6 -3 b7C -3

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] b6 -1,3 b7C -1,3

Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors Gregory T. Bretzing, Christopher W. Davis, and Ronald Twersky, OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD ; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] Inspection Management Unit, INSD.

b6 -1
b7C -1

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in the shooting of Fallacy M. Myers. The shooting was deemed in policy and the use of deadly force was determined to be justified under the circumstances.

b6 -1
b7C -1

SIRG members unanimously adopted the following observations and recommendations of the SIRT:

Title: (U) SHOOTING INCIDENT CINCINNATI DIVISION 06/28/2012
Re: 297-HQ-A1271286-D, 08/01/2013

**Inspector's Observations:**

**Observation 1:** Agents did not maintain positive control of the subject, Fallacy Myers, throughout the search operation.

**Analysis 1:** Agents planned and briefed the search warrant operation, and demonstrated positive control of the subject upon their initial encounter with him. Myers was handcuffed, searched, and detained outside the residence, while other Agents conducted a protective sweep of the house. Myers was subsequently allowed to use the restroom, re-handcuffed, and escorted through the residence to the backyard. This was consistent with guidance from the Legal Handbook for Special Agents, Section 5-2.2.5, Controlling the Premises, which reads in part:

*After having made entry, Agents should take whatever reasonable steps are necessary to protect themselves. They may control the movements of persons found inside the premises and may conduct a limited search of people for weapons if the Agent has a reasonable suspicion that they are armed. While executing a search warrant on premises, Agents have authority to detain occupants while the search is being conducted. Agents may conduct a limited search of persons for weapons only if Agents have a reasonable suspicion that the person searched is armed. Restraining devices may only be used when to do so is reasonable under the circumstances.*

Agents were permitted to detain Myers for limited purposes, as referenced in the Legal Handbook for Special Agents, Section 4-2.4, Site of Detention, which reads in part:

*As a general rule, Agents have the authority to detain anyone present at a location, be it a private residence or business establishment open to the public. The primary purpose for this detention is to ensure the Agents' safety during the execution of the warrant. A second reason is to ensure the presence of the occupants to whom possession of evidence or contraband found during the search may be attributed.*

Although he was the subject of a sexual exploitation of children investigation, Myers was not under arrest at the start of the search. Once Myers was in the backyard, he was under the control of SAs [redacted] and [redacted] SA [redacted] decided to remove Myers' handcuffs and told him he was free to leave if he so chose. The Agents asked Myers to submit to an interview, and read him his Miranda rights to ensure there was no question concerning the voluntariness of Myers' statements. Myers consented to the interview and signed the Miranda waiver. Myers was isolated with the Agents in the rear of the backyard at that time. b6 -1 b7C -1

Agents [redacted] interviewed Myers intermittently for more than three hours. SA [redacted] was consistently left to maintain control of Myers. SA [redacted] moved between the interview with Myers and the search activity. Myers was 6'4" and 270 pounds, and he did not display physical limitations. During the time the Agent(s) remained with Myers in the backyard, the distance between the location of the interview and the residence largely mitigated the threat to other searching personnel. At some point, a decision was made to move Myers closer to the residence, and later inside the residence. It was noted the temperature during the search rose to the upper 80s, and Myers was moved in part to get relief from the increasing late morning heat. b6 -1 b7C -1

While in the backyard, SA [redacted] observed Myers looking at his service weapon, which was secured in a tactical holster. SA [redacted] was made uncomfortable by Myers' gaze, so he moved his chair from the shade into the sun to distance himself from Myers. Myers also made multiple statements to SA [redacted] along the lines of "Buddy, if I was in your shoes, I wouldn't believe my fucking lies." b6 -1 b7C -1

The decision to arrest Myers had not been finalized when Agents moved Myers into the kitchen. Searching personnel advised SA [redacted] the kitchen had been "searched," and the Agents moved with Myers into the kitchen. Myers was also permitted to enter his bedroom, under escort and while not handcuffed, in order to point out items of the bedroom b6 -1 b7C -1

which belonged to him. During the search, Agents recovered four firearms from the residence, and Myers was queried about the recoveries by SA [redacted] b6 -1 b7C -1

Upon consultation with the USAO, a decision was made to arrest Myers for possession of the recovered weapons by a prohibited person. After Myers was advised he would be arrested and booked into the local county jail, he was told he could obtain a change of clothing from the bedroom. SA [redacted] announced Myers would be escorted through the residence to the bedroom because several Agents and unarmed Professional Support employees were involved in search-related activities in the residence. As Myers began to be escorted to the bedroom, with SA [redacted] following behind, Myers suddenly turned and ducked around SA [redacted] and obtained the first of two knives he would utilize to inflict injury to himself and prompt the use of deadly force by SA [redacted] b6 -1 b7C -1

Proper Arrest Plans and Techniques were detailed in SAC Memorandum 27-20 01, dated December 28, 2001, which was codified in MIOG, Part 2, Section 11. MIOG, Part 2, Section 11 was later superseded by DIOG, Section 19. Relevant sections of the DIOG and the MIOG (prior controlling policy) are cited as follows:

*MIOG, PART 2, SECTION 11. TECHNIQUES AND MECHANICS OF ARREST*

*11-1 ARREST TECHNIQUES*

*11-1.1 General*

*(2) A person who is being placed under arrest may do one of several things: submit peacefully, attempt to flee, attempt to injure or kill the arresting person(s), affect a rescue by confederates, or commit suicide. The arrest team should consist of enough Agents/officers, whenever possible, to cope properly with those or other situations which may arise.* [redacted] b7E -5

[redacted] b7E -5

*11-1.2 Initial Approach*

*(3) When a person is arrested, he/she should not be permitted to move about; however, if movement is necessary, the subject(s) should be accompanied by Agents/officers. If it is necessary to obtain clothing for the subject(s) the Agents/officers should locate the clothing and search it thoroughly before giving it to the subject(s). ...*

*11-1.3 Search of the Person*

*11-1.3.1 High-Risk Search/Full-Body Search/Handcuffing*

[redacted] b7E -5

*(2) Agents are responsible for the welfare and condition of a person*

*once he or she is placed under arrest, and it is required that all arrested persons be handcuffed with hands behind the back, back-to-back, and double-locked. If circumstances necessitate handcuffing with the hands to the front, then the hands must be back to back, and the cuffs must be belted down and double locked. Agents are reminded that handcuffs and other restraining devices are only temporary controls and Agents must maintain a close guard over subjects at all times, preventing any attempts at self-injury and/or suicide, until they are released to another authority.*

*DIOG, Section 19, reads in part:*

*DIOG, Section 19.5.3. RESTRAINING DEVICES*

*Temporary restraining devices, such as handcuffs, shackles and/or belts may be used to secure an arrestee. Use of such devices is lawful and proper, and Agents are expected to employ reasonable judgment under the circumstances in the use of these devices and to resolve any doubt in favor of their use.*

**Recommendation 1:** SAC, Cincinnati should effect training to ensure Agents maintain positive control when handling subjects during search and arrest operations.

**Observation 2:** SAs [redacted], both of whom were involved in the confrontation with subject Myers, remained at the scene over four hours after the shooting. b6 -1 b7C -1

**Analysis 2:** The field office responded quickly to the shooting incident. Cincinnati management promptly removed SA [redacted] from the scene and provided him support and appropriate counsel from the Associate Division Counsel. However, SAs [redacted] both of whom were also involved in the critical incident, remained at the scene for over four hours after the shooting. The delay in removing SAs [redacted] and [redacted] from the scene may have exposed them to additional trauma,

presented opportunities for them to be prematurely questioned by responding investigators, or exposed them to circumstances which could affect their independent recollection of the shooting incident.

In order to ensure an effective response, the Critical Incident Handbook, 2011 Edition, was available as a guide field offices can use to establish localized shooting response plans. The handbook provides a checklist from the June 2003 publication "Shooting Incidents: Issues and Explanations for FBI Agents and Managers." Included in the checklist is the instruction to "separate and remove involved Agents(s) from the scene."

**Recommendation 2:** SAC, Cincinnati should ensure Agents involved in a shooting incident are removed from the scene as soon as possible.

## PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

Title: (U) SHOOTING INCIDENT CINCINNATI DIVISION 06/28/2012
Re: 297-HQ-A1271286-D, 08/01/2013

SAC, Cincinnati is required to provide detailed responses addressing the Recommendations in this EC, pages 6 through 12, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand alone response. The Observation and related Recommendation is to be recited verbatim from the inspection EC, followed by the division's detailed response (it is not necessary to repeat the analysis section of the Observation in the response). If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please e-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1

♦♦

FD-263 (Rev. 10-18-2012)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ - INSD | FBIHQ | 04/12/2013 | 03/14/2013 – 03/19/2013 |

**TITLE OF CASE**
Shooting Inquiry
Report of Shooting Incident
Albany Field Office
03/14/2013

REPORT MADE BY: **IIC Thomas P. Ravenelle** | TYPED BY:

**CHARACTER OF CASE**
Shooting Incident Review

b6 -1
b7C -1

REFERENCES:

Telephone call on 03/14/2013 from Albany SAC Andrew W. Vale to A/Chief Inspector Howard S. Marshall and Inspector Thomas P. Ravenelle.

APPROVED | ASSISTANT DIRECTOR

**DO NOT WRITE IN SPACES BELOW**

COPIES MADE:
1 - Inspection (Attn: SIRT)
1 – INSD (297-HQ-A1270912-D

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

**Notations**

A
**COVER PAGE**

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 04/12/2013

Report of: IIC Thomas P. Ravenelle Office: FBIHQ – INSD

Case ID#: 297-HQ-A1270912-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
ALBANY FIELD OFFICE
03/14/2013

Investigative Period: 03/14/2013 – 03/19/2013

Reference: (U) Telephone call on 03/14/2013 from Albany SAC Andrew W. Vale to A/Chief Inspector Howard S. Marshall and Inspector Thomas P. Ravenelle.

---

**Synopsis**

(U//~~FOUO~~) On 03/13/2013, Kurt R. Myers, of 32 South Washington Street, Apt. #3, Mohawk, NY 13407, shot six people, killing four of the victims, in a Herkimer County, NY shooting spree. After the shootings, Myers hid in an abandoned building located at 248 Main Street, Herkimer, NY.

(U//~~FOUO~~) On 03/14/2013, after being located by FBI and New York State Police (NYSP), Myers fired several rounds from his shotgun at law enforcement. One of the rounds fatally struck an Hostage Rescue Team (HRT) K-9, named "APE." HRT Special Agents returned gun fire striking Myers several times causing his death.

**Details**

(U//~~FOUO~~) On 03/13/2013, subject Kurt Myers shot six people, killing four of the victims, in a Herkimer County, NY shooting spree. During the shooting spree, Myers utilized a Mossberg pistol grip 12 gauge shotgun. After the shootings, Myers hid in an abandoned building located at 248 Main Street, Herkimer, NY. Upon being located and surrounded by law enforcement, he fired four shots at them. A Deputy U.S. Marshal unsuccessfully returned fire at Myers.

(U//~~FOUO~~) On 03/13/2013, the NYSP Special Operations Response Team (SORT) requested assistance from the FBI Albany Field Office SWAT Team and the HRT. On 03/14/2013, HRT members arrived with a complement of nine operators, one medic, two mobility specialists, and two K-9 operator/handlers. [redacted] b7E -1

[redacted] b7E -1

(U//~~FOUO~~) At approximately 8:00 a.m., on 03/14/2013, the designated teams entered the building and utilized a slow, methodical "law enforcement" clear technique to search for Myers. HRT SAs [redacted] were members of the first team, and they proceeded to clear the right side of the building. After SAs [redacted] entered one of the rooms, they were fired upon from an adjacent rear room by an individual later identified as Myers. HRT SAs [redacted] returned fire and re-traced their steps with SA [redacted] to regain a tactical position of cover. b6 -1 b7C -1

(U//~~FOUO~~) The Agents called for Ape and his handler to come forward and provide support. The Agents [redacted] in anticipation of releasing Ape into the room from where the gunshots emanated. Ape was released and Agents followed Ape's path toward the room where the subject was located. As Ape entered the room, Myers fired a rifled slug and struck Ape, knocking him down. Ape immediately got up and again went after Myers. The subject fired his shotgun again, striking Ape in the side. As Myers continued to shoot, SA [redacted] immediately engaged Myers through the doorway, continuing to shoot at Myers until he emptied his magazine. He called out that his magazine was empty and "rolled" out of the room. SA [redacted] believed Myers was still a threat, so he fired six or seven times into the room. SA [redacted] stopped firing before another operator called out the subject was down. During the exchange of gunfire, SA [redacted] also fired in the direction of Myers through the wall, at a point opposite from where he believed Myers was located. HRT and NYSP SORT operators entered the room, discovered Myers lying on the floor and restrained him using flex cuffs. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) HRT medical personnel provided first aid to Ape; however, he succumbed to his injuries. APE had been training with his handler, SA [redacted] for a year and was placed into action only a month before this encounter. Myers fired five rounds of rifled slug at Ape and the Agents. Four Agents fired a total of 39 .223 caliber rounds at Myers. b6 -1 b7C -1

(U//~~FOUO~~) The four deceased victims of the shooting spree were identified as:

- Thomas Steka, employee at Gaffey's Lube
- Michael Renshaw, a customer at Gaffey's Lube
- Michael Rancier, barbershop customer
- Harry Montgomery, barbershop customer

(U//~~FOUO~~) Critically injured victims of the shooting spree were identified as:

- [redacted]
- [redacted] b6 -5 b7C -5

(U//~~FOUO~~) FBI Personnel involved in the operation included:

**HRT**

SA [redacted] (Fired weapon)
SA [redacted] (Fired weapon)
SA [redacted] (Fired weapon)
SA [redacted] (Fired weapon)
SA [redacted] (K-9 Handler)
SA [redacted]
SSA [redacted]
SA [redacted]
SSA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
UC [redacted]
SA [redacted]
UC [redacted]
SA [redacted]
TC [redacted]

b6 -1
b7C -1

**FBI ALBANY SWAT**

SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]

b6 -1
b7C -1

**Substantive Case Files**

Case ID: [redacted]
Title: MYERS, KURT R.

b7A -1

**Subject**
NAME: KURT R. MYERS
DOB: 10/28/1948

Residence: 32 South Washington Street, Apt. #3,
Mohawk, NY 13407

**ENCLOSURES:**

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

**ADMINISTRATIVE:**

The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Thomas P. Ravenelle
Inspector-in-Place (IIP) John H. Derbas
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1 b7C -1
AI/TL [redacted]
AI/TL
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP

FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:

SSA [redacted] (Lab Team Leader) b6 -1 b7C -1
[redacted]
– Evidence Response Team Unit
– Firearms and Toolmarks Unit
– Operational Projects Unit – Photographer

**SHOOTING INCIDENT REVIEW PROTOCOL:**

(U//~~FOUO~~) All members of the SIRT reviewed the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 03/14/2013, IIC Ravenelle spoke with Albany SAC Andrew W. Vale to arrange logistics prior to arriving in Albany. On 03/14/2013, the SIRT traveled to the Albany Field Office. Upon arriving, IIC Ravenelle and the SIRT members met with Albany EM and SSA

personnel before traveling to the shooting scene, which occurred at an abandoned building located at 248 Main Street, Herkimer, NY.

(U//~~FOUO~~) On 03/14/2013, IIC Ravenelle met with the involved HRT, SWAT SAs, New York State Police, and management personnel to explain the review process and protocols.

(U//~~FOUO~~) Five Signed Sworn Statements (SSS) were taken from the HRT Agents involved in the shooting. Other interviews, events, and observations were documented via FD-302s. All FBI and TFO personnel were allowed to read their FD-302 to confirm the accuracy of the information provided. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSSs and interviews of witnesses were conducted voluntarily.

(U//~~FOUO~~) An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all FBI personnel interviewed.

(U//~~FOUO~~) On 03/21/2013, IIC Ravenelle conducted an out brief with SAC Vale and ASAC [redacted] and explained the ensuing steps of the SIRT process. b6 -4 b7C -4

(U//~~FOUO~~) On 03/20/2013, IIC Ravenelle met with District Attorney (DA) Jeffrey S. Carpenter and NYSP Senior Investigator [redacted] to brief them on the details of the shooting incident.

**PERSONNEL INVOLVED**:

**HRT**

SA [redacted] (Fired Weapon)
SA [redacted] (Fired Weapon)
SA [redacted] (Fired Weapon)
SA [redacted] (Fired Weapon)
SA [redacted] (K-9 Handler)
SA
SA
SA
UC
SA
SA
SSA
TC
SA
UC
SA
SA

b6 -1
b7C -1

**FBI ALBANY SWAT**

SA [redacted]
SA
SA
SA
SA
SA
SA
SA
SA
SA
SA
SA
SA

b6 -1
b7C -1

**NYSP**

[redacted]

b6 -4
b7C -4

**FIREARMS TRAINING:**

(U//~~FOUO~~) HRT provided firearms qualifications records for SAs [redacted] A review of the records indicated all four were current on their firearms qualification certifications. b6 -1 b7C -1

**DEADLY FORCE TRAINING:**

(U//~~FOUO~~) On 03/16/2013, Supervisory Special Agent [redacted] who is the Chief Division Counsel for CIRG, provided the dates of when "Use of Deadly Force" training was provided to CIRG personnel. SSA [redacted] stated the "Use of Deadly Force" presentation was part of a training session conducted by SSA [redacted] at FBI Headquarters on approximately 09/25/2012, which was video recorded and distributed via email to all CIRG members in 12/2012. On 03/17/2013, Assistant Inspector Team Leader [redacted] elephonically contacted HRT UC [redacted] who confirmed HRT personnel completed "Use of Deadly Force" training on the following dates: b6 -1 b7C -1

| | |
|---|---|
| [redacted] | 01/17/2013 |
| | 03/07/2013 |
| | 01/28/2013 |
| | 01/17/2013 |

b6 -1 b7C -1

(U//~~FOUO~~) On 03/17/2013, HRT UC [redacted] provided INSD a copy of the Operations Order (OPORD) for the 03/14/2013 operation involving subject Kurt R. Myers. The OPORD contained the following information:

1. Execution - task organization
2. Situation - subject information
3. Situation - supporting agencies
4. Execution - HRT Blue
5. HRT Blue deployment manifest
6. Execution - coordinating instructions
7. Contingencies
8. Execution – DOJ/FBI Deadly Force Policy

**USE OF BODY ARMOR AND LAW ENFORCEMENT IDENTIFIERS:**

(U//~~FOUO~~) All SSA, SA, and NYSP personnel involved in the operation wore ballistic body armor. FBI or law enforcement identifiers were worn, and personnel verbally identified themselves as law enforcement to the subject.

**CRIMINAL HISTORY:**

(U//~~FOUO~~) Senior Investigator [redacted] NYSP Troop D, Major Crimes Division, voluntarily provided the FBI Lead Worksheet Number 168 containing the results of the Alcohol, Tobacco, and Firearms (ATF) Trace for a Mossberg Model 590 12 gauge pump action shot gun bearing serial number, L804944. The trace form indicated the weapon was originally sold on b6 -4 b7C -4

09/26/1995, at the Gun Brokerage, 2120 Whitesboro Street, Utica, New York. The original purchaser was identified as [redacted] NY. b6 -2 b7C -2

(U//~~FOUO~~) NYSP Investigator [redacted] and NYSP Investigator [redacted] interviewed [redacted] of Frank's Guns, 9103 River Road, Marcy, NY. [redacted] provided investigators a records check conducted at Frank's Guns which indicated the suspect's shotgun, a Mossberg 12 gauge, Model 590, serial number, L804944, was listed as "received" on 11/10/1995, from [redacted] NY. The records further indicated the same shotgun was later purchased from Frank's Guns on 04/27/1996, by Kurt Myers, date of birth 10/28/1948, driver's license number 363-174-534, address 9408 Main Street, Holland Patent, NY. b6 -2,4,6 b7C -2,4,6

(U//~~FOUO~~) A National Criminal Information Center (NCIC) inquiry for Kurt R. Myers, born 10/28/1948, determined he was arrested on 05/27/1973, for Operating a Motor Vehicle while intoxicated. On 06/09/1973, Myers pled guilty to the lesser charge of misdemeanor Operating a Motor Vehicle While Under The Influence of Alcohol or Drugs.

**LABORATORY DIVISION REPORTS:**

(U//~~FOUO~~) The scene of the shooting was secured and processed by Albany ERT, New York State Police Evidence Recovery Unit, and the Laboratory Shooting Reconstruction Team to include use of total station.

(U//~~FOUO~~) An inventory of all recovered evidentiary items is included within this report in Tab XIV – Shooting Scene. As of the date of this report, New York State and FBI Laboratory testing results were still pending.

**Firearms/Toolmarks Testing**

(U//~~FOUO~~) The Laboratory Division (LD), Firearms-Toolmarks Unit was requested to generate a shooting incident reconstruction report, and the Operational Projects Unit was requested to prepare supporting demonstrative imagery and graphics of the scene. As of the date of this report, the LD products were pending. They will be included within this report in Tab XIV – Shooting Scene.

**MEDICAL REPORT:**

(U//~~FOUO~~) FBI ERT Team Leader SA [redacted] requested SA [redacted] travel to Cornell University (CU) and attend the necropsy of the HRT K-9 killed in the line of duty, named "Ape." "Ape" was shot by Kurt Myers on 03/14/2013, while accompanying HRT as they attempted to arrest Myers in an abandoned building located at 248 North Main Street, Herkimer, NY. SA [redacted] met HRT Operator SA [redacted] and an unidentified NYSP Officer as they arrived at CU with Ape's body. Ape's necropsy was conducted by Dr. [redacted] at the CU Necrology Lab, located at 240 Farrier Road, Ithaca, NY. b6 -1,2 b7C -1,2

(U//~~FOUO~~) During the necropsy, Dr. [redacted] found four unnatural holes in Ape's body, indicating Ape was hit by two projectiles. Dr. [redacted] retrieved two large metal fragments which SA [redacted] secured as evidence. Additionally, SA [redacted] took multiple photographs during the b6 -1,2 b7C -1,2

necropsy which he safeguarded at the FBI Binghamton RA. Upon completion of drafting the final necropsy report, Dr. [redacted] forwarded the report to Dr. [redacted] from Herkimer Vet Services. b6 -2 b7C -2

**CIVIL RIGHTS DIVISION**:

(U//~~FOUO~~) On 03/14/2013, IIC Ravenelle contacted [redacted] Special Legal Counsel, DOJ and briefed him on the shooting incident. b6 -3 b7C -3

(U//~~FOUO~~) As of the date of this report, a prosecutive opinion for the Department of Justice, Civil Rights Division, was pending.

**LOCAL PROSECUTIVE OPINION**:

(U//~~FOUO~~) On 03/18/2013, IIC Ravenelle met with Herkimer County DA Jeffrey S. Carpenter to brief him on the details of the shooting incident.

(U//~~FOUO~~) As of the date of this report, a prosecutive opinion from Herkimer County DA Jeffrey S. Carpenter was pending.

**INSPECTOR'S OBSERVATIONS**:

(U//~~FOUO~~) The SIRT did not identify any issues or observations.

Original Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) SHOOTING INCIDENT ALBANY FIELD OFFICE 03/14/2013 **Date:** 08/29/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** STROUD SHAWN W, [redacted]

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** STROUD SHAWN W

**Case ID #:** 297-HQ-A1270912-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following a SIRG meeting held on 07/31/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division (INSD) Shooting Incident Report dated 04/12/2013, prepared by former Inspector Thomas P. Ravenelle. A copy of the complete INSD Shooting Incident Report was uploaded to the captioned file.

**Details:**

(U//~~FOUO~~) On 07/31/2014, the SIRG convened to review a shooting incident which occurred on 03/14/2013, involving Hostage Rescue Team (HRT) Special Agents (SAs) [redacted] b6 -1 b7C -1 [redacted] On 03/13/2013, subject Kurt Myers shot six people with a 12-Gauge shotgun, killing four of the victims in a Herkimer County, NY killing spree. Myers barricaded himself in an abandoned building located at 248 Main Street, Herkimer,

NY, and fired at law enforcement officers, including an exchange with a Deputy U.S. Marshal. The New York State Police (NYSP) Special Operations Response Team (SORT) requested assistance from the FBI Albany Field Office SWAT Team and HRT. On 03/14/2013, HRT members arrived with a complement of nine operators, one medic, two mobility specialists, and two K-9 operators/handlers. FBI HRT, FBI Albany SWAT and NYSP SORT members [redacted] At approximately 8:00 a.m., on 03/14/2013, the team entered the building and utilized a slow methodical "law enforcement" clear technique to search for Myers. FBI HRT SAs [redacted] proceeded to clear the right side of the building. After SAs [redacted] entered one of the rooms, they were fired upon from an adjacent rear room by an individual later identified as Myers. SAs [redacted] returned fire and re-traced their steps with SA [redacted] to regain a tactical position of cover. The Agents called for a K-9 to come forward, and subsequently [redacted] in anticipation of releasing the K-9 into the room where the gun shots had emanated. K-9 Ape was released and Agents followed Ape's path toward the room where the subject was located. As Ape entered the room, Myers fired. One shotgun slug struck Ape knocking him down. Ape got up and again went after the subject. The subject fired his shotgun again striking Ape in the side. SAs [redacted] immediately engaged the subject through the doorway, continuing to shoot at Myers until they believed he was no longer a threat. SA [redacted] also fired in the direction of Myers through the wall, at a point opposite from where he believed Myers was located. Subsequently, HRT and NYSP SORT operators entered the room, discovered Myers lying on the floor and restrained him using flex cuffs.

b6 -1
b7C -1
b7E -1

b6 -1
b7C -1

**Results of the SIRG**

(U//~~FOUO~~) On 07/31/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

Title: (U//~~FOUO~~) SHOOTING INCIDENT ALBANY FIELD OFFICE 03/14/2013
Re: 297-HQ-A1270912-D, 08/29/2014

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SAs [redacted] on 03/14/2013 was in compliance with the Department of Justice's Deadly Force policy. b6 -1 b7C -1

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following observation concerning the handling of weapons utilized in the shooting incident:

**Observation 1:** HRT operators removed accessories from firearms used in a shooting incident prior to surrendering them as evidence.

**Analysis 1:** Field Evidence Management and Operations Policy Implementation Guide (PG) Section 4.8 required seized firearms to include all accessories, parts, ammunition and associated items, including but not limited to sites, holsters, bayonets, cases, scopes, flash suppressors, magazines, muzzle attachments, and flashlights/laser sighting devices that are designed or meant to be used in conjunction with a firearm, and are to be classified and stored as a firearm and categorized and entered into the FBI's central record keeping system/collected items as a "Firearms/Other."

HRT SC Cornelius and UC [redacted] stated HRT had a limited number of [redacted] for their weapons. In an effort to maintain "mission status," HRT operators removed [redacted] grips, and other accessories from the firearms used during the shooting incident prior to surrendering them to the Albany Principal Firearms Instructor. b6 -1 b7C -1 b7E -1

**Instruction 1:** AD, CIRG will ensure compliance with Field Evidence Management and Operations PG, Section 4.8.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SAs [redacted] as a result of their b6 -1 b7C -1

involvement in this shooting incident.

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting member. The following members were in attendance: Acting Chief Inspector Paul D. Delacourt, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Criminal Investigative Division; Acting SC [redacted] Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Squad CR-2 Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and UC [redacted] Defensive Systems Unit, TD. The following non-voting individuals were also in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Office of Inspector General, USDOJ; [redacted] Internal Affairs, Customs and Border Patrol (CBP); [redacted] CBP; UC [redacted] Firearms and Toolmarks Unit, LD; SSA [redacted] ERTU, LD; Inspectors Shawn W. Stroud, Timothy M. Feeney, Trent R. Teyema, R. Justin Tolomeo, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Team Leaders [redacted] and [redacted] INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD.

b6 -1,3
b7C -1,3

**Procedures for Responding to the Observations**

(U//~~FOUO~~) AD, CIRG, is responsible for ensuring each Inspection Instruction/recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is

addressed by the division. The Inspector-in-Charge (IIC) will review the division's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) AD, CIRG, is required to provide a response, via EC, detailing the actions taken by the division to resolve each Instruction/Recommendation. Follow-up EC responses must be directed to UC [redacted] IMU, INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] IMU, INSD. b6 -1 b7C -1

♦♦

# DISTRICT ATTORNEY
# COUNTY OF HERKIMER

**Jeffrey S. Carpenter**
**District Attorney**

301 North Washington Street, Suite 2401
Herkimer, New York 13350-1299
Telephone: (315) 867-1155
Facsimile: (315) 867-1348
Email: hcda@herkimercounty.org

**First Assistant District Attorney**
Robert P. McGraw
**Assistant District Attorneys**
Robert R. Calli, Jr.
Jacquelyn M. Asmus
Clifford C. Eisenhut

June 13, 2014

Inspector Shawn W. Stroud
Inspection Division, Room [redacted]
Federal Bureau of Investigation
935 Pennsylvania Ave. N.W.
Washington, DC 20535

b6 -1,3
b7C -1,3

Inspector [redacted]
United States Marshals Service
Office of Inspection, Internal Affairs
2604 Jefferson Davis Highway
Alexandria, VA 22301

RE: Investigation – Kurt R. Myers Shooting
March 13-14, 2013
D.A. File #6241

Gentlemen:

I have thoroughly reviewed, in its entirety, the investigation into the fatal shooting of Kurt R. Myers on March 14, 2013, by federal law enforcement officers which consisted of the investigation by the New York State Police, crime scene photos, ballistic analysis and reports, witness statements, statements by law enforcement officers involved in the incident and the autopsy of Kurt Myers. To better understand my conclusion, I will *briefly* set out the factual background of the case, as follows:

**Background:**

March 13, 2013:

At approximately 9:30 a.m., an individual, now identified as Kurt R. Myers (d/o/b 10/28/1948), set fire to an occupied multiple housing unit at 32 South Washington Street, Mohawk, New York. Myers then proceeded to John's Barber Shop located at 17 Main Street, Mohawk, New York whereby he entered and discharged a 12-gauge shotgun fatally wounding Harry M. Montgomery and Michael Ransear and critically wounding [redacted]

b6 -5
b7C -5

Myers then proceeded to Gaffey's Fast Lube, 320 Mohawk Street, Herkimer, New York whereby he entered and discharged a 12-gauge shotgun fatally wounding Michael S. Renshaw and Thomas Stefka.

Myers then immediately fled the shooting at 320 Mohawk Street, Herkimer, New York in a 2007 Jeep Wrangler bearing NY Registration FRC-9144. It is now known that Myers proceeded to a vacant multi-level, multiple-unit building located at 248 North Main Street, Herkimer, New York wherein he remained surrounded by local, state and federal law enforcement units until March 14, 2013.

At approximately 1:30 p.m., Myers fired upon law enforcement who returned fire into the building. It has been determined that the Deputy United States Marshall, who returned fire, did not strike Myers.

That, on March 13, 2013 and continuing to March 14, 2013, multiple attempts were made, to no avail, to negotiate the surrender of Myers to law enforcement together with the deployment of non-lethal devices including [redacted] b7E -1

Given the nature of this incident, together with its location, a decision was made to request the assistance of the Hostage Rescue Team (HRT) of the Federal Bureau of Investigation (FBI).

March 14, 2013:

At approximately 5:00 a.m., the HRT team arrived in Herkimer and staged at [redacted] b7E -1 Herkimer, New York, hereinafter the "command post".

At approximately 7:30 a.m., a briefing was held at the command post wherein it was disclosed that multiple teams, consisting of members from the HRT team, the FBI Albany SWAT team and the New York State Police Special Operations Response Team (SORT) would be deployed to 248 North Main Street, Herkimer, New York to search for and apprehend Kurt R. Myers. At this briefing, all members were instructed on the FBI's Deadly Force Policy as well as the applicable New York State Penal Law Article 35-Defense of Justification (inclusive of use of physical force and use of deadly physical force). Additionally, HRT K-9 units were included in this operation.

Thereafter, the above-referenced teams were deployed to 248 North Main Street, Herkimer, New York.

Upon entry into 248 North Main Street, each team began to perform their respective assignments in an effort to slowly and methodically search for suspect Kurt R. Myers. As the search was ongoing, the suspect fired upon law enforcement members. HRT team members [redacted] b7E -1 returned fire. HRT K-9 "APE" was also deployed into the area where the suspect was located wherein he and members of the HRT team were fired upon. K-9 "APE" sustained fatal gun-shot wounds. HRT team members returned fire upon the suspect, Kurt R. Myers, wherein he sustained fatal gun-shot wounds.

Upon entry into the room where the suspect was located, he was restrained as is standard operating procedure, and K-9 "APE" was removed to an awaiting law enforcement vehicle for transportation to a pre-determined veterinary care facility.

All law enforcement personnel involved then returned to the command post wherein they began the debriefing process. Law enforcement members who discharged their firearms surrendered their weapons for processing and further analysis.

The scene at 248 North Main Street, Herkimer, New York was secured by the New York State Police for processing and further analysis.

A thorough analysis was performed on the weapons that were discharged by law enforcement personnel for comparison with the projectiles located at the scene as well as those removed from the person of Kurt R. Myers. It has been determined that Kurt R. Myers died as a result of multiple gunshot wounds to his person that, based upon the physical evidence as well as the statements by law enforcement, were the direct result of the return fire by members of the HRT team.

**Conclusion:**

That, based upon the above, the Office of the Herkimer County District Attorney believes that the shooting of Kurt R. Myers by federal law enforcement officers was justified pursuant to New York Penal Law Article 35 and, as such, will not initiate any criminal prosecution of those law enforcement officers involved. Specifically, the Office of the Herkimer County District Attorney is declining to prosecute

Investigator [redacted] U.S. Marshals Service; Special Agent [redacted] Federal Bureau of Investigation; Special Agent [redacted] Federal Bureau of Investigation; Special Agent [redacted] Federal Bureau of Investigation; and Special Agent [redacted] Federal Bureau of Investigation for their involvement in the shooting of Kurt R. Myers. If you require anything further, please do not hesitate to contact me. b6 -1,3 b7C -1,3

I appreciate your considerations in this matter. Thanking you, I remain

Respectfully,

Jeffrey S. Carpenter

cc: Captain [redacted] NYSP
Senior Investigator [redacted] NYSP b6 -4 b7C -4

[redacted] b6 -1,3,4 b7C -1,3,4

From: [redacted] (CRT) [redacted]@usdoj.gov]
Sent: Thursday, June 26, 2014 3:14 PM
To: [redacted]
Cc: [redacted] (CRT); [redacted] (USANYN); [redacted] (CIG)
Subject: Albany FBI HRT Shooting

Inspector [redacted]
Inspection Division
FBI

On the morning of March 13, 2013, in Herkimer, New York, FBI HRT operators encountered and exchanged gunfire with Kurt Meyers resulting in Meyers' death. The day before, Meyers had shot six civilians, killing four of them. Thereafter, he exchanged gunfire with a U.S. Marshall and barricaded himself inside an abandoned building. A four man HRT team, supported by a canine, encountered Meyers while searching for him in the building. Meyers fired his shotgun at the HRT operators as they approached. The four HRT operators returned his gunfire. During the ensuing gunfight, the canine was shot and killed by Meyers and Meyers was struck by HRT return gunfire and subdued. He died on the scene from multiple gunshot wounds.

Based upon a review of materials from the FBI Inspection Division Shooting Incident Report, we have concluded that the facts do not warrant a federal criminal civil rights investigation. The evidence gathered during the shooting incident review establishes that the operators who fired their weapons did not acted "willfully," intending to violate the law. Rather, they returned the gunfire of a desperate man who had had recently murdered others and who demonstrated to law enforcement that the HRT operators were facing an imminent deadly risk that warranted their use of deadly force.

Based upon these pertinent facts shared with the United States Attorney's Office for the Northern District of New York, that office concurs with our prosecutive assessment. Further, the Office of the Herkimer County District Attorney also reviewed the matter and determined that Meyers' death was the direct result of return gunfire by the HRT operators and thus declined prosecution under its statutes.

We appreciate the voluntary statements provided by the HRT operators which enabled a fully informed decision by prosecution authorities. The Inspection Division should thus conclude its administrative review of this matter.

[redacted] b6 -3 b7C -3
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice



NYT-469

FD-204 (Rev.,10-17-2012)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC Robert J. Shields, Jr.
Date: 01/29/2013

Case ID #: 297-HQ-A1271464-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
DALLAS FIELD OFFICE
08/02/2012

Character: SHOOTING INCIDENT REVIEW

Synopsis: On 08/02/2012, Dallas SWAT executed a search warrant at a rural residence in [redacted] Texas related to [redacted] believed to be responsible for five bank robberies. As the SWAT team approached the residence, it [redacted] to divert attention from the front door. Other SWAT personnel simultaneously deployed around the residence and turned on their police emergency lights to clearly announce a law enforcement presence. The entry team breached the front door, [redacted] then held a position outside the front door. As [redacted] exited the residence, she said [redacted] were inside armed with guns. The entry team pulled back to a tactical position and [redacted] into the residence.

b6 -2,7
b7C -2,7
b7E -1

Shortly thereafter, through a bedroom window on the side of the residence, [redacted] fired two rounds from his revolver at three SWAT operators. [redacted] then moved to a position inside the residence near the open front door and fired in the direction of SWAT operators positioned outside. SA [redacted] observed [redacted] fire and returned one round, which struck [redacted] in the right shoulder. Approximately ninety minutes later, both [redacted] emerged from the house and surrendered. No one else was injured.

b6 -1,7
b7C -1,7



NYT-470

Details:

PRE-SWAT OPERATION

On 05/24/2012, Dallas Squad C-4 opened an investigation into the 05/18/2012 armed robbery of a Bank of America branch in Forney, Texas. The Dallas Bank Robbery Coordinator, SA [redacted] connected the two unidentified subjects in the Forney bank robbery to four other recent bank robberies. The local media referred to the subjects as the "Laurel and Hardy Bandits." b6 -1 b7C -1

In June 2012, a non-symboled source connected [redacted] Texas to the five bank robberies, and provided information corroborated by witness statements. b6 -7 b7C -7

In mid-June 2012, Acting SSA [redacted], Squad C-4, advised SWAT Senior Team Leader (STL) [redacted] of the facts of the case and the potential need for SWAT assistance. STL [redacted] subsequently planned the operation and wrote the operations order. b6 -1 b7C -1

On 07/26/2012, Squad C-4 obtained a Search Warrant for [redacted] Texas. At the time, the USAO did not believe sufficient probable cause existed to authorize arrest warrants for [redacted] b6 -7 b7C -7

On 07/31/2012, a few days after the Search Warrant was signed, STL [redacted] briefed the operations order to SWAT team members at the Dallas Field Office using a slide presentation. During the presentation, STL [redacted] briefed the FBI Deadly Force Policy, which was displayed in a slide at the end of the presentation. b6 -1 b7C -1

On 08/01/2012, STL [redacted] met with SAC Diego G. Rodriquez, ASAC [redacted] ASAC [redacted], and SSA [redacted] and obtained SAC approval for the operations order. During this meeting, SAC Rodriquez approved the use of [redacted] and delegated authority to [redacted] to ASAC [redacted] the On-Scene Commander (OSC). b6 -1 b7C -1 b7E -1

SWAT OPERATION - AUGUST 2, 2012

On 08/02/2012, prior to the start of the operation, participants were E-mailed a copy of the final operations order. At approximately 5:40 a.m., at [redacted] Texas, STL [redacted] briefed the operations order to all personnel directly involved with the operation, including the following: b6 -1 b7C -1 b7E -1

OSC:
ASAC [redacted]

Dallas SWAT Team:
SA [redacted]
SA [redacted] (Team Leader/Blue team)
SA
SA
SA
SA
SA
SA
SA
SA (Team Leader/Gold team)
SA
SA
SA [redacted] (STL)
SA
SA
SA
SA

Tactical Operations Command (TOC):
SA
SA
SA
SA [redacted] (Paramedic)

Crisis Negotiators:
SA
SA

Squad C-4:
TFO
TFO [redacted] (Case Agent)
SA [redacted]
SSA
TFO
SA
SA [redacted] (Bank Robbery Coordinator)

Texas Department of Public Safety Uniformed Officers:
Sergeant
Corporal [redacted]

b6 -1
b7C -1

b6 -1
b7C -1

b6 -1,4
b7C -1,4

b6 -4
b7C -4

After STL [redacted]'s briefing, the Blue and Gold team Leaders, SAs [redacted], conducted brief-backs with their respective teams.

b6 -1
b7C -1

At 5:56 a.m., the SWAT team and other law enforcement personnel departed [redacted] and proceeded to the [redacted] address, which faced South. The SWAT team arrived in

b6 -7
b7C -7
b7E -1

six vehicles at 6:05 a.m. At 6:06 a.m., SA [redacted] on the Northwest side of the house from the front passenger seat of the first SWAT vehicle to arrive on-scene. This vehicle, driven by SA [redacted] also transported SA [redacted] After SA [redacted], the five SWAT vehicles, including a Humvee, surrounded the house and turned on the police emergency lights. b6 -1 b7C -1 b7E -1

Separately, a SWAT van transported the SWAT Gold team, including the entry team, from [redacted] to the residence. Approximately 200 yards from the residence, the entry team, which consisted of SAs [redacted] and [redacted] exited the van and transferred to the Humvee, which was driven by SA [redacted] and transported ASAC [redacted] in the front passenger seat and SA [redacted] in the rear passenger compartment. SAs [redacted] mounted the driver-side rails of the Humvee and SAs [redacted] mounted the passenger-side rails. SA [redacted] exited the van, mounted the back of the Humvee, and covered the entry team with his sniper rifle as it approached the residence. b6 -1 b7C -1 b7E -1

After SA [redacted] stopped the Humvee near the Southeast corner of the house, the entry team disembarked and approached the front door of the residence, which was located inside a screened-in porch. As the entry team approached, SA [redacted] continued to provide cover while SA [redacted] exited and covered the entry team with his M-4 from the front of the Humvee. ASAC [redacted] and SA [redacted] remained in the Humvee. b6 -1 b7C -1

SAs [redacted] "stacked" on the right side of the door while SA [redacted] positioned himself on the left side of the door. At 6:06 a.m., SA [redacted] breached the front door with a battering ram. After the breach, SA [redacted] gave a procedural warning to the entry team and [redacted] approximately one foot inside the door. While SA [redacted] other members of the entry team continued to announce words to the effect, "FBI. We have a search warrant. Come to front door." As this announcement was made, [redacted] appeared and walked toward the front door. While she walked, she confirmed the presence of [redacted] inside the residence. At 6:07 a.m., [redacted] complied with instructions provided to her by SA [redacted] and exited the residence. b6 -1,2 b7C -1,2 b7E -1

SA [redacted] whose primary responsibility was to provide cover for shield team #2 and handle prisoners, escorted [redacted] to the rear of the van. While doing so, she told [redacted] the subjects were inside the house, were in possession of a lot of guns, including handguns and an AK-47 rifle, and the subjects would fight it out with law enforcement and "go out with a bang." SA [redacted] turned [redacted] over to STL [redacted] and SA b6 -1,2 b7C -1,2

after which she made similar statements, which SA reported over the radio. b6 -1 b7C -1

Members of entry team continued to announce the FBI's presence until SA made the radio announcement, at which time they retreated to positions of cover behind the Humvee.

b6 -1 b7C -1 b7E -1

After ASAC authorized its use, STL gave the order over the radio between 6:15 a.m. and 6:26 a.m.

On the Northwest side of the residence, after receiving the order from STL SA gave the order to SA SA retrieved from the vehicle. SA identified two West side windows, which he described from left to right as A1 and A2, in which SA then SA heard SA ask STL via radio whether In preparation, SA retrieved eight additional from the vehicle, which he subsequently b6 -1 b7C -1 b7E -1

Upon arrival, SA drove an SUV to the Northeast side of the residence. SA was the passenger. Both were on the SWAT Blue team. In accordance with the operations order, SA turned on the vehicle's police lights after SAs covered the windows and door on the North side of the residence. Several minutes after exited the residence, SA received an order from STL SA retrieved his from the back seat of the vehicle, and over the course of approximately three minutes. which did not hit its' target, was fired at the easternmost window on the North side of the residence (North A1). at the North A2 window and again at the North A1 window. Both found their mark. During the three-minute period, SA heard SA announce over the radio shots had been fired. Approximately five to ten minutes later, at STL request, SA into the East A2 window. b6 -1,2 b7C -1,2 b7E -1 b6 -1 b7C -1

SA did not upon the initial order Later, after retrieving it from his vehicle. b6 -1 b7C -1 b7E -1

After the entry team members took positions behind the Humvee, the FBI Crisis Negotiators, SAs who had moved from the van to a position just off the driver's side

of the Humvee, used a bullhorn to announce the FBI had a search warrant and for [redacted] to exit the residence. SAs [redacted] did not carry a "throw" phone or a "rescue" phone because there was no room in the van, which was overcrowded with 10 to 12 SWAT personnel. b6 -1,7 b7C -1,7

Neither SA [redacted] nor SA [redacted] After [redacted] both moved to the rear of the van, farther away from the residence. SA [redacted] was also at the rear of the van with [redacted] When [redacted] the four of them moved further away. b6 -1,2 b7C -1,2 b7E -1

At STL [redacted] s request, SAs [redacted] returned to the van and used the bullhorn to continue to call out the subjects. Shortly thereafter, STL [redacted] advised the call outs were not loud enough. SA [redacted] attempted to use the van's PA system without success. STL [redacted] and SA [redacted] then walked to the van and asked SA [redacted] to move it approximately 20 yards closer to the house. Again, SA [redacted] utilized the bull horn to continue announcing the FBI's presence. At this time, [redacted] and the subjects had not yet made verbal contact with the SWAT team or negotiators. b6 -1 b7C -1 b7E -1

Shots Fired

[redacted] Fired Two Shots - West Side: b6 -1,7 b7C -1,7 b7E -1

At 6:29 a.m., as SA [redacted] was either [redacted] or after he began [redacted] he heard, and both SAs [redacted] observed, the muzzle flash of two gun shots fired in rapid succession coming from the West A2 window.

[redacted] Fired One Shot - South Side:

A few minutes after the beginning of [redacted] SA [redacted] moved the Humvee to the front of the residence to provide cover from an angle at which SWAT operators had a better view of the open front door and interior of the residence. ASAC [redacted] and SA [redacted] remained in the Humvee. At STL [redacted] s direction, SA [redacted] positioned the Humvee with the passenger side facing the front door. b6 -1,7 b7C -1,7 b7E -1

At 6:30 a.m., after the vehicle was in its new position, while looking through the front passenger-side window at the front door, SA [redacted] observed a man wearing a white shirt, standing in the front doorway, raise a chrome firearm and fire one round through the front door toward the Humvee. SA [redacted] observed the same individual point a gun toward the Humvee, heard a gunshot come from this individual's direction, and heard a subsequent round fired back. b6 -1 b7C -1

SA [redacted] Returned a Single .223 Round from a Colt M-4

b6 -1
b7C -1

After SA [redacted] moved the Humvee, SA [redacted] rotated through a tactical position at the rear of the Humvee with a direct view of the front door. During one of his rotations, he used the TRL-3 laser/flashlight mounted on his Colt M-4 .223 rifle to illuminate the residence. He switched the laser on in order to discourage aggressive action by the subjects. Using the flashlight, SA [redacted] could see into the residence, including what appeared to be a back wall.

At 6:30 a.m., SA [redacted] saw a person with disheveled hair, wearing a white shirt, emerge from behind a piece of unidentified furniture near what appeared to be a back wall. SA [redacted] saw this person moving and repeatedly shouted for this person to show his hands. SA [redacted] observed a muzzle flash come from this person. SA [redacted]'s immediate thought he was being fired upon. Out of concern for his safety and the safety of others, SA [redacted] took his Colt M-4 rifle off safe mode and using the weapon's [redacted] discharged one .223 caliber round. After SA [redacted] fired, the subject immediately dropped out of his sight.

b6 -1
b7C -1
b7E -1

After the gun shots, SA [redacted] opened SA [redacted]'s door and directed SA [redacted] SA [redacted], and ASAC [redacted] to exit the Humvee on the side facing away from the front door and to get on the ground. SA [redacted] then used a ballistic shield to protect them.

b6 -1
b7C -1

SA [redacted] realizing SA [redacted] fired his weapon, asked him to describe what he saw. SA [redacted] said he observed a man inside the residence discharge a gun, but was unsure whether his return fire struck him.

Just after SA [redacted] heard over the radio shots were fired, SA [redacted] advised via radio [redacted]'s cellular telephone was in the residence. At 6:35 a.m., after SA [redacted] called it five times to no avail, [redacted] called SA [redacted]'s cellular telephone. Over approximately the next hour and twenty-five minutes, SA [redacted] spoke several times. During these phone calls, [redacted] told SA [redacted] he had been shot.

b6 -1,2,7
b7C -1,2,7

At 8:09 a.m., [redacted] exited the house and surrendered. He was wearing a white, blood-stained shirt. One minute later, [redacted] exited the front door of the house and surrendered.

b6 -7
b7C -7

While examining and bandaging his gunshot wound, [redacted] made several unsolicited remarks, including he had shot out the back and front of the residence.

At 8:26 a.m., Dallas SWAT cleared the residence.

At 8:28 a.m., [redacted] was transported to Hunt County Jail. b6 -7 b7C -7

At 8:33 a.m., [redacted] was transported to [redacted] Medical Center.

POST-SWAT OPERATION

ASAC [redacted] notified SAC Rodriguez via Blackberry E-mail shots had been fired. Upon learning this, SAC Rodriguez requested ASAC [redacted] to notify SIOC. SAC Rodriquez subsequently notified DAD Cory B. Nelson, INSD, and ADD Kevin L. Perkins. While driving to the scene, SAC Rodriguez contacted [redacted] Chief Division Counsel, Dallas Field Office. b6 -1 b7C -1

SAC Rodriguez arrived at the scene just prior to the surrender of the subjects, which he observed from his vantage point. He learned the basic facts from STL [redacted] including SA [redacted] had fired his weapon, and his weapon and magazines had been secured by ERT. He observed SWAT enter and clear the location. b6 -1 b7C -1

SAC Rodriquez spoke with SA [redacted] and determined he was okay, then separated personnel directly involved in the operation to determine how they were, and to advise them of what the administrative process would be over the next several days. b6 -1 b7C -1

SAC Rodriquez ensured the crime scene was secure before it was turned over to ERT. At approximately 8:30 a.m., a search was initiated by the Dallas ERT at [redacted] Texas. b6 -7 b7C -7

Post-incident interviews revealed a neighbor, [redacted] date of birth [redacted] witnessed the incident. At 6:00 a.m., after [redacted] by the Dallas SWAT team, [redacted] who lived at [redacted] approximately 50 yards Southwest of the [redacted] residence, exited his residence and observed a long line of cars with red and blue lights flashing parked along [redacted] heard a loudspeaker repeating [redacted] please come out." [redacted] observed a Humvee parked in front of the [redacted] s house. At some point, [redacted] heard a shot, which sounded as if it had come from the house. Immediately following this, [redacted] observed someone standing behind the Humvee fire a shot from a long gun into the house. [redacted] heard no more shooting after this. b6 -7,8 b7C -7,8 b7E -1

## ACCOUNTING OF SHOTS FIRED

The FBI Laboratory has received several Dallas examination requests, to include SA [redacted]'s Colt M4A1 Carbine, four magazines, 111 rounds of .223 ammunition, and one spent casing. Also pending is the analysis of ammunition and a .357 Smith and Wesson revolver recovered [redacted] address. b6 -1,7 b7C -1,7

## MEDICAL RECORDS

A full copy of [redacted]'s medical records was obtained from [redacted] Medical Center. A review of these records indicated [redacted] was hospitalized and examined on 08/02/2012, and released on the same date. The report stated [redacted] had a single puncture wound and laceration with controlled bleeding located in the rear of his right shoulder. An X-Ray showed a bullet traveled over the right posterior shoulder region. Areas of shrapnel were noted in the deltoid region as well as a second area of shrapnel within the right trapezius. There was also a fracture of the right shoulder bone. b6 -7 b7C -7

A full copy of [redacted] medical records will be retained by INSD. b6 -7 b7C -7

## INSPECTOR'S OBSERVATIONS

**DL SIRT Observation 1:** The OSC improperly placed himself in a tactical position.

**Analysis 1:** According to the SWAT Policy Implementation Guide (PG), Section 2.2.2 (02/29/2012, revised 04/25/2012), the [redacted]." ASAC [redacted] took a position in the Humvee, which transported the entry team to the target location, and was positioned approximately seven to ten yards from the front door to the residence. When the operation escalated, he was not in the optimal location to assess the situation and make critical decisions. b6 -1 b7C -1 b7E -5

**DL SIRT Recommendation 1:** SAC, Dallas should ensure OSCs are knowledgeable of their role and responsibilities during SWAT operations.

**DL SIRT Observation 2:** TOC personnel were assigned non-TOC functions.

**Analysis 2:** TOC SA [redacted] drove the Humvee transporting the entry team to the residence and positioned it approximately 15 yards from the front door. SA [redacted] subsequently repositioned the Humvee approximately seven to ten yards from the front door. SA [redacted] then exited and took a tactical position at the front of b6 -1 b7C -1

the Humvee, covering the entry team with his M-4. SA [redacted], a medic, as well as ASAC [redacted] the OSC, both non-tactical personnel, were also in the Humvee. Because of their proximity and position relative to the front door of the residence, these individuals were unnecessarily exposed to potential harm. In addition, due to their proximity and position, SAs [redacted] and [redacted] witnessed the subject discharge his weapon. b6 -1 b7C -1

**DL SIRT Recommendation 2:** SAC, Dallas should ensure all personnel participating in SWAT tactical operations are qualified, properly trained, and appropriately utilized.

**DL SIRT Observation 3:** Participants either did not possess or did not utilize the proper protective equipment.

**Analysis 3:** According to the SWAT PG, Section 3.4, "...[redacted]" Although not SWAT operators, ASAC [redacted], SA [redacted], and SA [redacted] were positioned in close proximity to the entry team. None wore the required SWAT equipment, except for SA [redacted] who wore ballistic plates in his standard Bureau body armor. b6 -1 b7C -1 b7E -5

ASAC [redacted] SA [redacted] SA [redacted], positioned in the Humvee, and Crisis Negotiators, SAs [redacted] positioned outside the van, did not have [redacted] All were adversely affected due to their close proximity [redacted] After [redacted] SAs [redacted] were forced to move 100 yards further away from the residence, [redacted] then take a protected position inside the van to resume attempts to contact the subjects. SA [redacted] was issued [redacted], but did not bring it to the operation. b6 -1 b7C -1 b7E -1

SA [redacted] a SWAT operator located near SUV #5 did not [redacted] upon the initial order [redacted] Later, after [redacted] he [redacted] after retrieving it from his vehicle. b6 -1 b7C -1 b7E -1

**DL SIRT Recommendation 3:** SAC, Dallas should ensure all personnel participating in SWAT operations are issued and properly utilize the required protective equipment.

**DL SIRT Observation 4:** The SWAT team and Crisis Negotiation team did not utilize standard equipment.

**Analysis 4:** The Crisis Negotiation team left the "throw phone" at the staging area. The negotiators were able to converse with the subjects only after repeatedly calling a mobile phone in the house.

**DL SIRT Recommendation 4:** SAC, Dallas should ensure the Crisis Negotiating team utilizes the proper equipment during crisis negotiations.

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT DALLAS DIVISION 08/02/2012 **Date:** 07/28/2013

**To:** DA-INSPECTION FRONT OFFICE (AD)

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271464-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/02/2012, involving Special Agent (SA) [redacted] of the Dallas Division. During the execution of a search warrant, SA [redacted] fired one round from his Bureau-issued Colt M-4, .223 caliber carbine, striking one of the subjects in the right shoulder. SIRG members recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. Four Observations and associated Recommendations were adopted by the SIRG for the Dallas Division. b6 -1 b7C -1

**Administrative Notes:** (U) Reference report of Inspector Robert J. Shields, Jr., dated 01/29/2013.

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/24/2012, the Dallas Division opened an investigation regarding the 05/18/2012 armed robbery of a Bank of America branch in

Forney, Texas. The Dallas Bank Robbery Coordinator, SA [redacted] connected the two unidentified subjects in that robbery to four other recent bank robberies. In June 2012, a source connected [redacted] to the five bank robberies, and provided information corroborated by witness statements. b6 -1,7 b7C -1,7

In mid-June 2012, Acting Supervisory Special Agent (A/SSA) [redacted] advised Special Weapons and Tactic (SWAT), Senior Team Leader (STL) [redacted] of the case and the potential need for SWAT assistance. STL [redacted] subsequently planned the operation and wrote the operations order. On 07/26/2012, a Search Warrant was obtained for [redacted] Texas. On 07/31/2012, STL [redacted] briefed the operations order including the FBI Deadly Force Policy to SWAT team members. b6 -1,7 b7C -1,7

On 08/01/2012, STL [redacted] met with SAC Diego G. Rodriquez, ASAC [redacted] ASAC [redacted] and SSA [redacted] and obtained SAC approval for the operations order. During the meeting, SAC Rodriquez approved the use of [redacted] and delegated authority to [redacted] to ASAC [redacted] the On-Scene Commander (OSC). b6 -1 b7C -1 b7E -1

On 08/02/2012, participants were E-mailed a copy of the final operations order. At approximately 5:40 a.m., at [redacted] in [redacted] TX, STL [redacted] briefed the operations order to all personnel directly involved with the operation. After STL [redacted]'s briefing, the SWAT Blue and Gold Team Leaders, SAs [redacted] conducted brief-backs with their respective teams. b6 -1 b7C -1 b7E -1

At 5:56 a.m., the SWAT team and other law enforcement personnel departed [redacted] and proceeded to the [redacted] address in six vehicles and arrived at 6:05 a.m. At 6:06 a.m., SA [redacted] on the Northwest side of the house. After SA [redacted] the five SWAT vehicles, including a Humvee, surrounded the house and activated their police emergency lights. b6 -1,7 b7C -1,7 b7E -1

Approximately 200 yards from the residence, the entry team, which consisted of SAs [redacted] and b6 -1 b7C -1

[redacted] exited their van and transferred to the Humvee, which was driven by SA [redacted]. Also in the Humvee was ASAC [redacted] in the front passenger seat and SA [redacted] in the rear passenger compartment. SAs [redacted] mounted the driver-side rails of the Humvee and SAs [redacted] mounted the passenger-side rails. SA [redacted] mounted the back of the Humvee, and covered the entry team with his sniper rifle as they approached the residence. b6 -1 b7C -1

After SA [redacted] stopped the Humvee near the Southeast corner of the house, the entry team disembarked and approached the front door of the residence. As the entry team approached, SA [redacted] continued to provide cover from the rear of the Humvee, while SA [redacted] covered the entry team from the front of the Humvee. ASAC [redacted] and SA [redacted] remained in the Humvee. b6 -1 b7C -1

SAs [redacted] "stacked" on the right side of the door while SA [redacted] positioned himself on the left side of the door. At 6:06 a.m., SA [redacted] breached the front door with a battering ram. After the breach, SA [redacted] gave a procedural warning to the entry team and [redacted] approximately one foot inside the door. While SA [redacted] other members of the entry team continued to announce words to the effect, "FBI. We have a search warrant. Come to front door." As the announcement was made, the [redacted] appeared and walked toward the front door. She confirmed the presence of [redacted] inside the residence. At 6:07 a.m., [redacted] complied with instructions and exited the residence. b6 -1,2,7 b7C -1,2,7 b7E -1

SA [redacted] escorted [redacted] to the rear of a SWAT van. She told [redacted] the subjects were inside the house, were in possession of a lot of guns, including handguns and an AK-47 rifle, and the subjects would fight it out with law enforcement and "go out with a bang." SA [redacted] turned [redacted] over to STL [redacted] and SA [redacted] after which she made similar statements which were reported over the radio by SA [redacted]. b6 -1,2 b7C -1,2

Members of the entry team continued to announce the FBI's presence

until SA [redacted] made the radio announcement, at which time they retreated to positions of cover behind the Humvee. b6 -1 b7C -1

After ASAC [redacted] authorized its use, STL [redacted] radioed the order to [redacted] After receiving the order to [redacted] from STL [redacted] SA [redacted] gave the order to SA [redacted] SA [redacted] into two west side windows identified by SA [redacted] SA [redacted] subsequently [redacted] into the residence. SAs [redacted] covered the windows and door on the North side of the residence. Several minutes after [redacted] exited the residence, SA [redacted] received an order from STL [redacted] to [redacted] SA [redacted] SA [redacted] heard SA [redacted] announce over the radio shots had been fired. Approximately five to ten minutes later, at STL [redacted]'s request, SA [redacted] into the window. [redacted] were subsequently [redacted] between 6:15 a.m. and 6:26 a.m. b6 -1,2 b7C -1,2 b7E -1

After the entry team members took positions behind the Humvee, the FBI Crisis Negotiators, SAs [redacted] used a bullhorn to announce the FBI had a search warrant and for [redacted] to exit the residence. SAs [redacted] did not carry a "throw" phone or a "rescue" phone to the operation because there was no room in the van, which was overcrowded with SWAT personnel. b6 -1,7 b7C -1,7

Neither SA [redacted] nor SA [redacted] had [redacted] After being [redacted] both moved to the rear of the van. SA [redacted] was at the rear of the van with [redacted] When [redacted] the four of them moved further away. b6 -1,2 b7C -1,2 b7E -1

At STL [redacted]'s request, SAs [redacted] returned to the van and used the bullhorn to continue to call out the subjects. Shortly thereafter, STL [redacted] advised the call outs were not loud enough. SA [redacted] attempted to use the van's PA system without success. STL [redacted] and SA [redacted] then walked to the van and asked SA [redacted] to move it approximately 20 yards closer to the house. Again, SA [redacted] b6 -1 b7C -1

and [redacted] utilized the bullhorn to continue announcing the FBI's presence. At this time, [redacted] and the subjects had not yet made verbal contact with the SWAT team or negotiators. b6 -1 b7C -1 b7E -1

At 6:29 a.m., SA [redacted] heard, and both SAs [redacted] and [redacted] observed, the muzzle flash of two gun shots fired in rapid succession coming from a window. b6 -1 b7C -1

A few minutes after the beginning of [redacted] SA [redacted] moved the Humvee to the front of the residence to provide cover from an angle at which SWAT operators had a better view of the open front door and interior of the residence. ASAC [redacted] and SA [redacted] remained in the Humvee. At STL [redacted]'s direction, SA [redacted] positioned the Humvee with the passenger side facing the front door. b6 -1 b7C -1 b7E -1

At 6:30 a.m., while looking through the front passenger-side window at the front door, SA [redacted] observed a man wearing a white shirt, standing in the front doorway, raise a chrome firearm and fire one round through the front door toward the Humvee. SA [redacted] also observed the same individual point the gun toward the Humvee, heard a gunshot come from this individual's direction, and heard a subsequent round fired back. b6 -1 b7C -1

From his position SA [redacted] saw a person with disheveled hair, wearing a white shirt, emerge from behind a piece of furniture near what appeared to be a back wall. SA [redacted] saw this person moving and repeatedly shouted for him to show his hands. SA [redacted] observed a muzzle flash come from the person and immediately thought he was being fired upon. Concerned for his safety as well as the safety of others, SA [redacted] discharged one round. The subject immediately dropped out of sight. b6 -1 b7C -1

After the gun shots, SA [redacted] opened SA [redacted]'s door and directed SA [redacted], SA [redacted] and ASAC [redacted] to exit the Humvee on the side facing away from the front door and to get on the ground. SA [redacted] then used a ballistic shield to protect them. b6 -1 b7C -1

Just after SA [redacted] heard over the radio shots were fired, SA [redacted] advised via radio [redacted]'s cellular telephone was inside the residence. At 6:35 a.m., after SA [redacted] called it five times to no avail, [redacted] called SA [redacted]'s cellular telephone. Over approximately the next hour and twenty-five minutes, SA [redacted] spoke several times. During these phone calls, [redacted] told SA [redacted] he had been shot. b6 -1,2,7 b7C -1,2,7

At 8:09 a.m., [redacted] exited the house and surrendered. One minute later, [redacted] exited the front door of the house and surrendered. Immediate medical assistance was provided to [redacted] He was transported by ambulance to the [redacted] Medical and released the same day. b6 -7 b7C -7

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted], Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted], Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors Gregory T. Bretzing, Christopher W. Davis, and Ronald Twersky, OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource b6 -1,3 b7C -1,3 b6 -1 b7C -1

Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted], Inspection Analysis Unit, INSD; and MPAs [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action, if deemed necessary.

SIRG members unanimously agreed that the use of deadly force employed by the Agent was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. SIRG members unanimously adopted the following observations and recommendations of the SIRT: b6 -1 b7C -1

### INSPECTOR'S OBSERVATIONS

**Observation #1**: The OSC improperly placed himself in a tactical position.

**Analysis**: According to the Special Weapons and Tactics Policy Implementation Guide (PIG), Section 2.2.2 (02/29/2012, revised 04/25/2012), the "..[redacted]". ASAC [redacted] took a position in the Humvee, which transported the entry team to the target location, and was positioned approximately seven to ten yards from the front door to the residence. When the operation b6 -1 b7C -1 b7E -5

escalated, he was not in the optimal location to assess the situation and make critical decisions.

**Recommendation #1:** SAC, Dallas should ensure OSC's are knowledgeable of their role and responsibilities during SWAT operations.

**Observation #2:** TOC personnel were assigned non-TOC functions.

**Analysis:** TOC SA [redacted] drove the Humvee transporting the entry team to the residence and positioned it approximately 15 yards from the front door. SA [redacted] subsequently repositioned the Humvee approximately seven to ten yards from the front door. SA [redacted] then exited and took a tactical position at the front of the Humvee, covering the entry team with his M-4. SA [redacted] a medic, as well as ASAC [redacted] the OSC, both non-tactical personnel, were also in the Humvee. Because of their proximity and position relative to the front door of the residence, these individuals were unnecessarily exposed to potential harm. In addition, due to their proximity and position, SAs [redacted] witnessed the subject discharge his weapon. b6 -1 b7C -1

**Recommendation #2:** SAC, Dallas should ensure all personnel participating in SWAT tactical operations are qualified, properly trained, and appropriately utilized.

**Observation #3:** Participants either did not possess or utilize the proper protective equipment.

**Analysis:** According to the SWAT PIG (02/29/2012, revised 04/25/2012), Section 3.4, ".. [redacted] " Although not SWAT operators, ASAC [redacted] SA [redacted] and SA [redacted] were positioned in close proximity to the entry team. None wore the required SWAT equipment, except for SA [redacted] who wore ballistic plates in his standard Bureau body armor. b6 -1 b7C -1 b7E -5

ASAC [redacted] SA [redacted] SA [redacted] positioned in the Humvee, and b6 -1 b7C -1

Crisis Negotiators, SAs [redacted] positioned outside the van, did not have [redacted]. All were adversely affected due to their close proximity [redacted] After [redacted] SAs [redacted] were forced to move 100 yards further away from the residence, [redacted] then take a protected position inside the van to resume attempts to contact the subjects. SA [redacted] was issued a [redacted] but did not bring it to the operation. b6 -1 b7C -1 b7E -1

SA [redacted] a SWAT operator located near SUV #5 did not [redacted] upon the initial order [redacted] Later, after [redacted] he [redacted] after retrieving it from his vehicle. b6 -1 b7C -1 b7E -1

**Recommendation #3**: SAC, Dallas should ensure all personnel participating in SWAT operations are issued and properly utilize the required protective equipment.

**Observation #4**: The SWAT team and Crisis Negotiation team did not utilize standard equipment.

**Analysis**: The Crisis Negotiation team left the "throw phone" at the staging area. The negotiators were able to converse with the subjects only after repeatedly calling a mobile phone in the house.

**Recommendation #4**: SAC, Dallas should ensure the Crisis Negotiating team utilize the proper equipment during crisis negotiations.

## PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/ Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Instruction/Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, Dallas is required to provide detailed responses addressing the Recommendations in this EC, pages 7, 8 and 9, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand-alone response. The Observation and related Instruction/Recommendation is to be recited verbatim from the inspection EC, followed by the field office's detailed response. If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please E-mail the Sentinel link to MPA [redacted] b6 -1 b7C -1

◆◆

**From:** [redacted](CRT) [mailto:[redacted]@usdoj.gov] b6 -1,3,4
**Sent:** Thursday, September 27, 2012 3:16 PM b7C -1,3,4
**To:** Shields, Robert J.
**Cc:** [redacted](USATXN); [redacted](CRT); [redacted](CRT)
**Subject:** Dallas FBI Agent Involved Shooting on 08/02/2012

Inspector Robert Shields:

Based upon a review of materials that you provided from your Shooting Inquiry, we have determined that the shooting and wounding of [redacted] on October 14, 2010, in [redacted] TX by Special Agent [redacted] during the execution of a search warrant does not warrant a criminal investigation. [redacted] were heavily armed inside their home and [redacted] had fired shots at agents from inside the house. Once [redacted] was extracted from the house, [redacted] advised that [redacted] were heavily armed and would not surrender. The SWAT team then surrounded [redacted] the house. Watching through the front door about a half an hour later, SA [redacted] saw [redacted] ordered him to show his hands, saw a muzzle flash from [redacted]'s position, and fired a single shot wounding [redacted] in the shoulder. Another agent corroborated SA [redacted]'s account and [redacted] later complemented the agent for "a good shot." Both men surrendered within minutes after [redacted] was wounded. b6 -1,2,7 b7C -1,2,7 b7E -1

There is no evidence that contradicts the voluntary statement provided by SA [redacted] that he fired under the above describe conditions and that he feared for his safety and the safety of others. The totality of the evidence supports a conclusion that there was no violation of the federal criminal civil rights statutes. Hunt County DA [redacted] reviewed the Shooting Inquiry documents and complemented their completeness and quality, expressing a desire to share the reports with his own officers as an example of a model investigation. He further advised that no local investigation would be conducted. The USAO is prosecuting [redacted] for assault on a federal officer. We appreciate the agent's willingness to provide a voluntary statement to enable a fully informed decision in this matter. b6 -1,4,7 b7C -1,4,7

Please complete your administrative review of this matter. Additionally, please provide AUSA [redacted] [redacted] Criminal Chief, ND of TX, with all documents generated by the Inspection Division, including the final report, for his review to insure his office fulfills its discovery obligations in the AFO criminal prosecution. b6 -3 b7C -3

[redacted]
Special Legal Counsel
[redacted]
cell - [redacted]

Civil Rights Division
US Department of Justice
601 D Street, NW
Room [redacted]
Washington D.C. 20004 b6 -3 b7C -3

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT SPRINGFIELD DIVISION 03/15/2012 **Date:** 08/02/2013

**To:** DA-INSPECTION FRONT OFFICE

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271954-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/15/2012, involving Special Agent (SA) [redacted] of the Springfield Division. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in the shooting incident. Three Observations and associated Recommendations were adopted by the SIRG for the Springfield Division. b6 -1 b7C -1

**Administrative Notes:** (U) Reference report of Inspector Ronald Twersky, dated 11/06/2012.

**Details:**

On 03/15/2015, SA [redacted] assigned to the Springfield Division's Fairview Heights R.A., was involved in a shooting incident following a traffic stop of a vehicle in East St. Louis, Illinois. Participating in the traffic stop with SA [redacted] was Illinois State Police (ISP) Sergeant (Sgt.) [redacted] and SA [redacted] a City of O'Fallon (Illinois) Police Officer assigned as an SA to the ISP's Metropolitan Enforcement Group of Southern Illinois (MEGSI). The three law enforcement officers were part of the Working Against Violent Elements (WAVE) detail, a multi-agency initiative which b6 -1,4 b7C -1,4

included vehicle patrols to establish an enhanced law enforcement presence in the East St. Louis area.

On 03/15/2012, at approximately 4 p.m., a WAVE detail briefing was held at the ISP Headquarters in Collinsville, Illinois. FBI SA [redacted] and Sgt. [redacted] led the briefing, which included a review of recent intelligence regarding violence in the Metro East. Steven Holmes, a local "shooter" wanted by the ISP, was shot and killed on 03/11/2012. Holmes' murder triggered a "war" between those loyal to Holmes and a rival violent group believed to be responsible for Holmes' death. Also discussed was the recovery of two assault weapons and another killing which occurred during the previous WAVE operation on 03/14/2012. b6 -1,4 b7C -1,4

Vehicle stops were discussed and participants were reminded to ensure members were backing each other up, calling out the location of the stop, and [redacted] of the stop. SA [redacted] stressed the importance of the detail's goal of "slowing down" the shootings and violence. Attendees were reminded shootings tend to happen in "groups and bunches," and caution was needed. SA [redacted] also advised the ISP's SWAT team was assisting the WAVE later that evening. The FBI's deadly force policy was not discussed during the briefing. b6 -1 b7C -1 b7E -1

Later in the evening, Sgt. [redacted] (driver), SA [redacted] (front-seat passenger), and SA [redacted] (rear-seat passenger) stopped a car occupied by [redacted] (driver) and [redacted] (passenger). Sgt. [redacted] approached the driver's side of the vehicle and engaged the occupants in conversation while SAs [redacted] and [redacted] positioned themselves on the passenger side. SA [redacted] observed a semi-automatic handgun on the driver's side floorboard of the vehicle, which was accessible to the occupants. SA [redacted] moved to the front of the vehicle with his weapon drawn and ordered the driver to open his door. The driver of the vehicle subsequently accelerated and lunged the vehicle forward, striking SA [redacted] s right leg. As the car moved forward SA [redacted] observed the passenger b6 -1,4,7 b7C -1,4,7

of the vehicle lean towards the middle of the seat, as if he was reaching for the firearm. At approximately the same time, SA [redacted] heard a muffled gunshot. Fearing for his life, SA [redacted] fired seven rounds at the passenger. b6 -1 b7C -1

When the car initially accelerated forward, SA [redacted] heard a gunshot. Realizing the vehicle posed an imminent threat to SA [redacted] she fired two or three rounds at the driver to stop the threat. As the vehicle continued moving forward, SA [redacted] fired one additional round, stopping when she observed SA [redacted] clear of the vehicle. b6 -1 b7C -1

The vehicle came to a stop after travelling approximately 55 to 65 feet. Both subjects exited the vehicle and were taken into custody. None of the law enforcement officers were injured by gunfire. SA [redacted] who was struck by the vehicle, was taken to a hospital with a minor injury. b6 -1 b7C -1

The driver ([redacted]) was slightly injured with an abrasion to the side, and he complained of back pain. He was treated and taken to the St. Clair County jail. The passenger [redacted] was shot multiple times in the torso area. He was treated at the scene by two members of the ISP, Special Weapons and Tactic team, and subsequently transported to the St. Louis University Hospital, where he was released approximately one week later. b6 -7 b7C -7

On 03/20/2012, St. Clair County First Assistant State's Attorney (FASA) [redacted] advised Inspector Twersky his office did not anticipate receiving a case from the ISP regarding FBI SA [redacted] or MEGSI SA [redacted] related to the 03/15/2012 incident. ISP Master Sergeant [redacted] Division of Internal Investigation, who was present at the meeting, concurred no such case was being pursued by the ISP. b6 -1,4 b7C -1,4

On 05/07/2012, Mr. [redacted] Special Legal Counsel, Civil Rights Division, U.S. Department of Justice, advised the circumstances of the officer-involved shooting did not "establish sufficient evidence b6 -3 b7C -3

of willful conduct to warrant a federal criminal civil rights investigation of this matter."

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors Gregory T. Bretzing, Christopher W. Davis, and Ronald Twersky, OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD ; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

b6 -1
b7C -1

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent

to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and 4) provide recommendations for administrative action if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in the shooting incident. The SIRG determined the use of deadly force by SA [redacted] was justified and within policy. b6 -1 b7C -1

SIRG members unanimously adopted the following observations and recommendations of the SIRT:

**INSPECTOR'S OBSERVATIONS**

**Observation 1:** Members of the Working Against Violent Elements (WAVE) detail did not conduct periodic tactical training as a unit, particularly with respect to vehicle stops, in the period preceding the 03/15/2012 shooting incident.

**Analysis 1:** The WAVE was a multi-agency detail comprised of law enforcement officers from local, state, and federal agencies. The WAVE consisted of a core group of ISP and FBI full-time members, who were augmented on a regular basis by members of various ISP units, to include the MEGSI and the ISP SWAT team, and other law enforcement agency members. FBI Agents participating in the WAVE detail were routinely assigned to patrol with their state and local counterparts during operations. The WAVE detail routinely engaged in car stops based on identified traffic violations. WAVE members trained with their respective agencies, and detailed briefings were conducted prior to WAVE operations. Also, a Springfield EC dated 01/05/2011, documenting additional requirements and guidance to the WAVE "Standing Operations Order/Plan," included procedures on felony car stops. However, the WAVE detail did not conduct periodic tactical training, particularly with respect to car stops, as a cohesive unit.

**Recommendation 1:** SAC, Springfield should ensure members of an FBI-involved detail or task force conduct periodic training on tactical scenarios reasonably expected to be encountered during operations, to include car stops.

**Observation 2:** Deficiencies were noted in the post-shooting office response.

**Analysis 2:** Springfield responded quickly to the 03/15/2012 Agent-Involved Shooting (AIS). However, the office did not utilize or have a formal AIS response plan. In order to ensure an effective response to an AIS, the Critical Incident Handbook, 2011 Edition, relating to AIS incidents, was available as a guide field offices can use to establish localized shooting response plans. The handbook was applicable in light of the following:

The Springfield CDC was notified of the shooting and coordinated with Springfield EM; however the CDC did not respond to the scene in order to provide counsel. CDCs are trained to obtain emergency representation for Agents involved in a shooting. In addition, it is good practice for the CDC to meet with those involved in a shooting incident to provide any legal information, most often the legal distinction between a voluntary and compelled interview. The CDC can provide routine legal information and answer basic legal questions, particularly issues relevant to shooters and non-shooters.

A Springfield Agent participating in the WAVE detail questioned the involved Agent about the shooting, beyond a public safety inquiry, shortly after the incident while both were still at the scene. While the Agent was concerned about the well-being of the involved agent, it is standard practice for post-shooting inquiries to be conducted by FBI personnel not directly or indirectly involved in the AIS.

**Recommendation 2:** SAC, Springfield should consider establishing a formal AIS response plan and office procedures regarding AIS incidents.

**Observation 3:** Springfield did not document all law enforcement contacts initiated as part of WAVE detail operations.

**Analysis 3:** The WAVE Initiative Strategy (EC dated 09/20/2011) employed concentrated enforcement actions, such as warrant sweeps, probable cause traffic stops, knock and talks, and controlled drug purchases to further investigative objectives.

FBI reports of traffic stops, knock and talks, and other WAVE detail law enforcement actions involving FBI Agents were completed if the law enforcement activity yielded firearms, drugs, "actionable intelligence," or intelligence deemed of value. Reports were not routinely completed to document negative law enforcement contacts or operations, such as traffic stops which did not yield actionable intelligence. It is prudent to memorialize enforcement-related contact with members of the public, to include traffic stops resulting in temporary detentions. A negative contact report or log can be utilized to summarize the identity of persons stopped, the time/date of the stop or contact, and the duration. Such documentation can be used for reference purposes should the stop or contact be the basis of a complaint or civil action at some future date.

**Recommendation 3:** SAC, Springfield should ensure FBI law enforcement contacts or actions, whether positive or negative, are documented to an appropriate file.

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS AND RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/ Recommendation is satisfactorily resolved. IMU maintains an Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

Title: (U) SHOOTING INCIDENT SPRINGFIELD DIVISION 03/15/2012
Re: 297-HQ-A1271954-D, 08/02/2013

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, Springfield is required to provide detailed responses addressing the Recommendations in this EC, pages 5, 6, and 7, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Recommendation must be responded to in a one-page, stand alone response. The Observation and related Recommendation is to be recited verbatim from the inspection EC, followed by the division's detailed response (it is not necessary to repeat the analysis section of the Observation in the response). If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please e-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1

♦♦

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT LOS ANGELES FIELD OFFICE 09/11/2012 **Date:** 08/22/2013

**To:** DA-INSPECTION

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271741-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/11/2012, involving Special Agent (SA) [redacted] of the Los Angeles Field Office. During the execution of a federal arrest warrant, SA [redacted] fired one round from her Bureau-issued Glock Model 22, .40 caliber pistol, injuring an aggressive pitbull dog. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident. One Observation and associated Recommendation was adopted by the SIRG for the Los Angeles Field Office. b6 -1 b7C -1

**Administrative Notes:** (U) Reference Electronic Communication (EC) of SA [redacted] dated 11/29/2012. b6 -1 b7C -1

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 09/11/2012, Squad CE-5 was executing a federal arrest warrant for [redacted] at his residence located at [redacted] b6 -7 b7C -7

[redacted] California. The operations plan included information regarding the presence of dogs at the location which resulted in one team member being equipped with a fire extinguisher to repel any aggressive dog, if necessary. b6 -7 b7C -7

At approximately 6:00 a.m., the arrest team lined up to the left of the front door of the residence and knocked and announced the presence of law enforcement personnel. SA [redacted] was assigned to provide cover for SA [redacted] who was covering a window to the right of the front door. During the knock and announce, the front door opened from the force of the knock and an aggressive dog exited the apartment and charged at the arrest team. The Agent holding the fire extinguisher discharged it at the dog, driving the dog away from team members. The dog charged toward SAs [redacted] SA [redacted] waited for the dog to cross past the open door, indicating the dog was not going back inside the residence. When the dog was approximately one foot away from SA [redacted] SA [redacted] fired one round striking the dog in the leg. The injured dog retreated inside the apartment and the subject was taken into custody. b6 -1 b7C -1

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Jr., Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The b6 -1,3 b7C -1,3



NYT-501

following non-voting members were also in attendance: Inspectors Gregory T. Bretzing, Christopher W. Davis, and Ronald Twersky, OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and MPAs [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force employed by SA [redacted] was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident. b6 -1 b7C -1

SIRG members adopted the following observation and recommendation of the Shooting Incident Review Team (SIRT):

**INSPECTOR'S OBSERVATION**

**Observation 1:** Policy regarding the use of fire extinguishers during enforcement operations does not exist.

**Analysis 1:** Prior to the execution of a federal arrest warrant, an approved operations plan noted the presence of a dog at the arrest location. As a safety precaution, one Agent was equipped with a fire extinguisher for use against the dog if necessary. During the execution of the search and arrest warrants, Agents encountered a Pit Bull dog which exited the apartment while Agents knocked and announced. While still outside of the apartment, one of the entry team Agents utilized a fire extinguisher against the dog with minimal effect. Almost simultaneously, a second Agent discharged her weapon at the dog. One round struck the dog, after which the dog re-entered the apartment.

**Recommendation 1:** AD CIRG, AD TD, and AD FLSD should establish policy on the use of fire extinguishers during enforcement operations.

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/ Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Instruction/Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

AD, CIRG is required to provide detailed responses addressing the

Recommendation in this EC, pages 3 and 4, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand-alone response. The Observation and related Recommendation is to be recited verbatim from the inspection EC, followed by the field office's detailed response. If supporting documentation is available, it should be enclosed with each response.

AD, TD is required to provide detailed responses addressing the Recommendation in this EC, pages 4 and 5, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand-alone response. The Observation and related Recommendation is to be recited verbatim from the inspection EC, followed by the field office's detailed response. If supporting documentation is available, it should be enclosed with each response.

AD, FLSD is required to provide detailed responses addressing the Recommendation in this EC, pages 4 and 5, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand-alone response. The Observation and related Recommendation is to be recited verbatim from the inspection EC, followed by the field office's detailed response. If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted]. In addition, after the EC is serialized with the attached responses, please E-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1



NYT-504

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT NEW HAVEN DIVISION 05/24/2012 **Date:** 11/07/2013

**CC:** DA-INSPECTION FRONT OFFICE

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** BRETZING GREGORY T
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271786-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/24/2012, involving Special Agent (SA) [redacted] of the New Haven Division. During an attempted arrest, SA [redacted] fired three rounds from his personally owned, Bureau-approved Glock Model 27, .40 caliber pistol at a subject who accelerated a vehicle at a high rate of speed toward Supervisory Special Agent (SSA) [redacted] SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

**Administrative Notes:** (U) Reference report of SSAs [redacted] and [redacted] dated 08/08/2012. b6 -1 b7C -1

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

Since February 2012, the New Haven Division, Bridgeport, Connecticut, Resident Agency (BRA) Safe Streets Task Force (SSTF) has

Title: (U) SHOOTING INCIDENT NEW HAVEN DIVISION 05/24/2012
Re: 297-HQ-A1271786-D, 11/07/2013

conducted an investigation into [redacted] b7A -1

On 05/10/2012, New Haven Division Executive Management and the United States Attorney arranged for a meeting between the United States Attorney's Office and BRA SSTF personnel to receive an updated briefing and discuss the future investigative plan.

During the meeting on 05/15/2012, an Assistant United States Attorney (AUSA) summarized [redacted] b7A -1

Information provided by a Confidential Human Source (CHS) identified [redacted] as a suspect in a shooting on [redacted] was a subject of [redacted] another subject of both investigations, were identified as suspects in a [redacted] shooting/homicide based on CHS information. b6 -7 b7C -7 b7A -1 b7D -1

In response to the increased violence and as a result of the [redacted] a Federal Grand Jury delivered a true bill which resulted in federal arrest warrants being issued for [redacted] subjects were deemed dangerous enough to require the utilization of Special Weapons and Tactics (SWAT) teams from New Haven and Albany Field Offices, as well as from state and local law enforcement agencies. b7A -1

An operations plan was drafted consisting of the execution of search and arrest warrants on 05/24/2012. A Command Post and a Tactical Operations Center were established to facilitate and coordinate the operational activity. Night time "no knock" arrest warrants and one search warrant were authorized as a result of the subjects' violence.

On 05/24/2012, at approximately 4:30 a.m., the warrants were executed. As a result of the subjects being nomadic, a pre-operation briefing was held the day before the execution of the warrants in order to discuss alternate locations where the subjects may be located. Another briefing of the teams was held on the morning of the takedown at approximately 3:00 a.m. During this briefing, the DOJ/FBI Deadly Force Policy was briefed to participating law enforcement personnel.

One subject was arrested at his primary location and a second subject was arrested at his secondary location. Law enforcement personnel continued to attempt to locate and arrest the remaining [redacted] fugitives, including [redacted] Arriving at a residence associated with [redacted] New Haven SWAT Agents observed a [redacted] [redacted] parked in the driveway. SSTF Officers observed [redacted] operating this vehicle the day before during [redacted] [redacted] The SWAT team entered the residence and while searching for [redacted] encountered an individual subsequently identified as [redacted] [redacted] who was questioned, identified, and released.

b6 -2,7
b7C -2,7
b7A -1

On the morning of 05/24/2012, SA [redacted] led the team assigned to arrest [redacted] Upon being granted access to her residence, the team determined [redacted] was not inside. [redacted] advised [redacted] was living in an apartment in [redacted] but he did not know the apartment number. After returning to the Command Post, law enforcement personnel reviewed information provided by a CHS, as well as tenant listings for [redacted] and determined [redacted] was likely to be living in Apartment [redacted] in [redacted]

b6 -1,2,7
b7C -1,2,7

A plan was developed to effect a knock-and-talk at Apartment [redacted] and arrest [redacted] SA [redacted] and SSA [redacted] traveled in SA

b6 -1,7
b7C -1,7

[redacted]s vehicle while TFOs [redacted] traveled to the location in TFO [redacted]' van. The plan consisted of checking in with the Bridgeport Police Department (BPD) Mobile Operations Post to inform them of FBI presence as well as the possibility of an arrest. Following the check in, they planned to don the appropriate gear and effect the plan. b6 -1,4 b7C -1,4

While en route to [redacted] to arrest [redacted], TFO [redacted] observed the [redacted] previously operated by [redacted] traveling in front of them. SSA [redacted] ordered a moving surveillance of the vehicle while TFO [redacted] called for marked BPD units to stop the vehicle and identify the driver and any other occupants. The two law enforcement vehicles followed the [redacted] for a short period of time until the driver of the [redacted] made a U-turn and proceeded in the opposite direction at which time SA [redacted] identified the driver of the [redacted] as [redacted] b6 -1,4,7 b7C -1,4,7

The [redacted] turned right from [redacted] onto [redacted] and parked behind another vehicle in front of the residence located at [redacted] A [redacted] exited the vehicle and the two law enforcement vehicles attempted to pin the [redacted] in and arrest the driver, who was believed to be [redacted] As SA [redacted] exited his vehicle and moved behind the trunk of his car, the [redacted] accelerated in reverse at a high rate of speed and crashed into TFO [redacted]' van. As SSA [redacted] exited the passenger side of [redacted]'s vehicle, the [redacted] accelerated forward at a high rate of speed toward him. SSA [redacted] dove back into SA [redacted]'s vehicle. SA [redacted] fired three rounds at the driver of the [redacted]. The driver of the [redacted] fled the area and crashed a short distance from where the shots were fired. The driver, identified as [redacted] was arrested. b6 -1,2,7 b7C -1,2,7

No personal injuries were incurred as a result of the shots fired by SA [redacted]. Two rounds were recovered from the subject's vehicle and the third skipped across the hood of a parked car, struck the wall of a nearby house, and landed on a coffee table inside a residence. b6 -1 b7C -1

It should be noted that investigators recovered digital video of

the shooting incident recorded by a school bus which was passing near the scene. SIRG members opined that the presence of the school bus could have created a serious safety issue if an exchange of gun fire has ensured.

On 08/14/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Jr., Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; Supervisory Special Agent (SSA) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Assistant Director Nancy McNamara, INSD; Inspectors Gregory T. Bretzing, Dena Elaine Choucair, and Ronald Twersky, OI, INSD; Team Leader [redacted] OI, INSD; SC Stuart P. Fronk, Internal Investigation Section, INSD; SSA [redacted] Training Unit, TD; SSA [redacted] Evidence Response Team, LD; Management and Program Analyst (MPA), [redacted] Inspection Analysis Unit, INSD; and MPAs [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and

(4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. SIRG members adopted the following observations and instruction/recommendations. b6 -1 b7C -1

**Observation 1**: SA [redacted] did not activate his police lights or sirens, nor did he use the public address (PA) system to relay any commands during the attempted car stop and arrest of subject [redacted] b6 -1,7 b7C -1,7

**Analysis**: The Ground Surveillance Policy Implementation Guide, Section 4.7 stated, "FBI vehicles responding to emergency or pursuit situations must utilize an adequate warning system such as a siren, flashing lights, or other device required by local statutes where use of such equipment will not compromise the discreet surveillance requirement."

The Training Division Vehicle Stops Lesson plan version 2.0 published by the Practical Applications Unit, last updated and approved on 06/26/2012 consisted of three primary learning objectives. Enabling Learning Objective (ELO) #2 elaborated on the considerations for determining and selecting an apprehension/vehicle stop location. The training detailed the need by law enforcement personnel to utilize a Radio/PA system during a vehicle stop. Emphasis was added regarding issuing commands over the PA system.

In an attempt to apprehend and arrest the subject a car stop was executed. The subject's vehicle was positioned behind an unoccupied vehicle along the side of the road. SA [redacted] pulled his vehicle alongside the subject's vehicle thereby preventing the car from pulling away from the curb at an angle. While the second law enforcement vehicle driven by TFOs [redacted] pulled in behind the subject's vehicle. Neither car activated their police lights or sirens, nor were any verbal commands given over the PA system. While it cannot be assumed the subject would have complied with commands, all b6 -1,4 b7C -1,4

possible attempts should be made to ensure police safety and subject compliance.

**Recommendation 1:** SAC, New Haven, will ensure all personnel utilize the bureau vehicle lights/sirens and PA systems during vehicle stop operations.

**Observation 2:** The car stop and attempted arrest were conducted within the immediate vicinity of a school bus occupied by children.

**Analysis:** The Ground Surveillance Policy Implementation Guide, Section 4.12.2 stated, "The following guidelines are supplemental to DIOG Secti on 19 and Appendix F. SAs are encouraged to review and become familiar with both sections prior to executing an arrest in conjunction with surveillance operations. SAs must be cognizant of the following in conducting arrests: Prior and continuous training, good judgment, proper planning, and adherence to basic law enforcement principles all contribute toward enhancing the maximum level of safety and effectiveness during these high risk arrests."

Video surveillance cameras installed in both the front and rear of the school bus captured the two arresting vehicles on an oblique angle illustrating the Agents and TFOs were approximately 20 feet from a school bus full of children.

SA [redacted] fired three rounds at the subject, who was in his vehicle. One of the three rounds SA [redacted] fired skipped off the hood of a nearby parked car, struck the wall of a house, and landed on a coffee table inside the residence. Had an exchange of gun fire ensued, the school bus would have been in the direct line of return fire to law enforcement positions. b6 -1 b7C -1

**Recommendation 2:** SAC, New Haven, will ensure all personnel critically evaluate their surroundings and the overall safety of innocent bystanders prior to executing a car stop or arrest.

**Observation 3:** SA [redacted] carried his personally owned Glock 27 as b6 -1 b7C -1

his primary weapon system in lieu of his higher capacity FBI-issued Glock 22.

**Analysis:** The MIOG section 12-3 stated, "FBI SAs are authorized to carry and utilize only issued or Bureau-approved personally owned weapons (POWs) regardless of on or off-duty status." This section further stated, "Small-framed handguns (i.e., Smith and Wesson revolver Models 36, 49, 60; Glock 26 and 27 pistols, etc.) are most useful when concealability is important and should not be considered as a primary firearm in most situations."

On the morning of 05/24/2012SA [redacted] carried his personally owned Glock 27 as his primary weapon system during the planned arrest of subject [redacted] When it was discovered the subject was not her residence, SA [redacted] began the subsequent surveillance which led up to the shooting. While Agents routinely carry their personally owned weapons on and off-duty, during a planned arrest scenario, the higher capacity FBI-issued handgun is the preferred option. b6 -1,7 b7C -1,7

**Recommendation 3:** SAC, New Haven, will ensure all personnel carry their FBI-issued weapon system during planned arrest situations, in lieu of their lower capacity small-framed handguns.

**Observation 4:** SSA [redacted] exited the vehicle after it was positioned alongside the subject's vehicle to "pin in" the subject. This created increased risk to himself and a heightened likelihood of an Agent involved shooting. b6 -1 b7C -1

**Analysis:** The Training Division Vehicle Stops Lesson plan ELO #3 described the recommended positioning of the vehicles during the vehicle stop and the activities of each member of the team. The occupants of the two forward vehicles are recommended to open their doors in a position of cover, yet keep their feet inside of vehicle in the event the subject vehicle becomes "mobile" or is "used as a weapon."

In his attempt to pin the subject vehicle, SA [redacted] pulled his b6 -1 b7C -1

vehicle so close alongside the subject vehicle, SSA [redacted] was not able to open his door. The second vehicle driven by TFO [redacted] did not close the gap in time and afforded the opportunity for the subject to put his vehicle in reverse and strike TFO [redacted]'s vehicle. Once the subject's vehicle backed up, SSA [redacted] opted to get out of his vehicle and unnecessarily put himself in the forward driving path of the subject vehicle. Since there were only two vehicles utilized to conduct the car stop, the team was not able to effectively cover the danger areas. Additionally, with SSA [redacted] in the driving path, SA [redacted] felt compelled to fire his weapon as SSA [redacted] was in imminent danger of being struck by the subject's vehicle.

b6 -1,4
b7C -1,4

**Recommendation 4:** SAC, New Haven, will ensure all personnel who participate in high risk vehicle stops are trained in the proper vehicle placement and Agent positioning.

**Observation 5:** SSA [redacted] and SA [redacted] were not wearing FBI issued Ballistic Protective Undergarments (BPU) during the arrest operation.

b6 -1
b7C -1

**Analysis 5:** MIOG, Part 2, Section 12-13.1(1) states: [redacted]

b7E -5

It was determined through interviews SSA [redacted] and SA [redacted] were not wearing body armor at the time of the shooting incident. Both men were traveling to the Bridgeport Police Department Mobile Operations Center located at the [redacted] apartment complex. Their intent was to put on their vests and raid jackets prior to approaching Apartment [redacted] in search of another subject. While driving en route to the apartment complex they spotted someone they thought to be one of the fugitives and executed a car stop and attempted arrest without putting on their BPUs.

b6 -1,7
b7C -1,7

This operation contained multiple subjects requiring SWAT arrest teams, so there was every indication arrests associated with this operation could involve a violent altercation. Under such

circumstances, it is imperative participants wear appropriate protective gear and BPUs during the operation.

**Instruction 5**: SAC, New Haven, will ensure all Agents comply with the MIOG requirement to wear BPUs during operational activity.

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/ Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/ Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Instruction/Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, New Haven is required to provide detailed responses addressing the Instruction/Recommendations in this EC, pages 6, 7, 8, 9 and 10, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand-alone response. The Observation and related Instruction/Recommendation is to be recited verbatim from the inspection EC, followed by the field office's detailed response. If supporting documentation is available, it should be enclosed with each response.

Title: (U) SHOOTING INCIDENT NEW HAVEN DIVISION 05/24/2012
Re: 297-HQ-A1271786-D, 11/07/2013

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please E-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system.

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Miami SWAT shooting-Animal **Date:** 08/10/2015

**From:** MIAMI
MM-C-18
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** A/ASAC [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297J-HQ-A6467488 (U) Miami Shooting

**Synopsis:** (U) To report results of a review of an animal shooting incident involving SA [redacted] which occurred on June 26, 2015. b6 -1 b7C -1

**Package Copy:** (U) The following original documents are being placed in FD-340 envelopes and mailed to the Inspection Division:

1) Original Signed Sworn Statement (SSS) of SA [redacted] dated July 9, 2015, with two drafts, interview notes, interview log and FD-927.
2) Original SSS of SA [redacted] notes, hand drawn diagram, interview log and FD-645.
3) Original SSS of SA [redacted] notes, interview log and FD-645.
4) One DVD of ERT scene photos.
5) SA [redacted] Firearms qualifications, SWAT certification, official records of training, Front/Rear photos of [redacted] SIOC email reference weather conditions. b6 -1,7 b7C -1,7
6) Copy of [redacted] arrest warrant
7) [redacted] deadly force policy/legal training attendance records.
8) One insert which included an FD-340 envelope which included a statement from the veterinarian, Animal Services Officer information and an FD-597 receipt.
9) One insert which included an FD-340 envelope which includes the original FBI Miami SWAT operations plan in support of the arrest on June 26, 2015.

**Details:**

UNCLASSIFIED

Title: (U) Miami SWAT shooting-Animal
Re: 297J-HQ-A6467488, 08/10/2015

On June 26, 2015, SA [redacted] discharged six rounds from his FBI-issued Springfield 1911,.45 caliber handgun, at a pit bull mix dog which had just attacked and bitten a fellow SWAT team member during the execution of an arrest warrant. The shooting review was delegated to the Miami Division by Chief Inspector David Gelios on June 26, 2015. The following are the results of the shooting incident review, which included a SSS from SA [redacted] other witnesses at the scene, and the Miami ERT processing of the scene. b6 -1 b7C -1

On June 4,.2015, Case Agent [redacted] Squad C-6, obtained a federal arrest warrant for the arrest of [redacted] in violation of Title 18, United States Code, Section 922(d)(1) to wit: Knowingly transfering a firearm to a convicted felon, who was known to reside at [redacted] Florida. b6 -1,7 b7C -1,7

In order to safely effect the arrest of [redacted] the Miami SWAT team was assigned to serve the arrest warrant. The team consisted of 27 operators, four Crisis Negotiators, two Assistant Special Agents in Charge, three Tactical Operation Command (TOC) Specialists and the SWAT coordinator. A team briefing was held at 4:15 a.m. on June 26, 2015, attended by all participants in the operation. The briefing was led by Senior Team leader (STL) [redacted] STL [redacted] discussed all aspects of the operations order, including the FBI Deadly Force Policy. Team members were provided copies of the Operations Order. b6 -1,7 b7C -1,7

On June 26, 2015, at approximately 6:16 a.m., Miami SWAT arrived at the target location. It was previously known that dogs were present at this location. The house was surrounded by SWAT operators. Miami SA's and task force officers were positioned on the outer perimeter. The plan was for Miami SWAT to knock and announce their presence and call residents out of the house. Verbal commands were given to the residents, later determined to be eight, including [redacted] The residents were non-compliant from the beginning by refusing to open the door. Upon calling the residents out, one resident ran away from the front door into the interior of the residence. Ultimately, the subjects who were removed from the residence were yelling and screaming at the b6 -7 b7C -7

Title: (U) Miami SWAT shooting-Animal
Re: 297J-HQ-A6467488, 08/10/2015

SWAT operators as the situation continued to be resolved. Due to the non-compliance of the residents, STL [redacted] ordered that an alternate breach be commenced at the back door of the residence. Attempts were also being made to place subjects under arrest on the front side of the residence where a breach had been made as subjects were non-compliant. One subject was observed attempting to carry a dog in his arms out of the house. STL [redacted] gave him radio commands to stop fearing the subject would throw the dog, described as a pit bull mix, at SWAT operators at the front door threshold. The subject then handed the dog off to a black female in a white shirt. While subjects were being taken into custody in the front yard, the aforementioned pit bull mix became loose and exited the house. The owners did not have control of the animal when it exited the residence and it was running around the front yard, going from person to person. STL [redacted] gave verbal and radio commands for a resident to take control of the dog.

b6 -1,7
b7C -1,7

At this point, SWAT operator SA [redacted] went to the threshold of the front door, handcuffed a female resident and walked her away from the house. The dog darted across the yard and jumped up at SA [redacted] The dog jumped up a second time and bit SA [redacted] s right arm. After seeing SA [redacted] get bitten, STL [redacted] went across the yard to the dog and observed SA [redacted] separate from the handcuffed subject. Fearing that SA [redacted] would sustain serious physical injuries if the dog latched on, and that he could possibly be bitten himself, STL [redacted] drew his Bureau issued pistol and fired rounds at the dog. The dog did not collapse at the first volley of approximately two shots, but did so at the front door after the last volley of approximately three to four shots. STL [redacted] was within approximately five feet of the dog and had to avoid the legs of SA [redacted] because the dog was spinning around while continuously trying to bite SA [redacted] STL [redacted] stopped shooting when the dog separated from SA [redacted] and he perceived the immediate threat was over. STL [redacted] tracked the dog with his weapon and observed him run to the front door (where SWAT members were positioned) and collapse at the threshold, where he eventually died.

b6 -1
b7C -1

b6 -1
b7C -1

Title: (U) Miami SWAT shooting-Animal
Re: 297J-HQ-A6467488, 08/10/2015

STL [redacted] was wearing standard SWAT issued gear on this mission. After the shooting of the dog, STL [redacted] ensured everyone on the team was checked and inspected by the SWAT medics to confirm no one else had sustained injuries. Assistant Special Agent in Charge (ASAC) [redacted] and ASAC [redacted] were present on scene during the operation. Supervisory Special Agent (SSA) [redacted] of the Miami A-3 squad was notified and responded. SSA [redacted] of the C-18 squad, Miami Shooting Response Team leader, was also notified and responded to the scene, as did SSA [redacted] of the C-15 squad. Miami's Evidence Response Team (ERT) was notified and responded to the scene. ERT took photographs, created a sketch of the scene and collected three (3) shell casings.

b6 -1
b7C -1

The weapon used by STL [redacted] was collected by Assistant Principal Firearms Instructor (APFI) [redacted] who was present as a SWAT team operator. A replacement weapon, magazines and ammunition were issued to STL [redacted] A physical check of the Springfield 1911 was conducted and a round count indicated six rounds had been fired. The dog was transported from the scene and examined by Animal Control Officer [redacted] Dr. [redacted] of the Miami Dade Animal Services conducted a necropsy and determined the cause of death to be from multiple gunshot wounds which affected the liver, stomach and left lung.

b6 -1,4
b7C -1,4

On July 23, 2015, SSA [redacted] and Assistant State Attorney (ASA) [redacted] discussed the matter and the facts were presented for a prosecutorial decision. As a result, ASA [redacted] declined formal presentation of the incident for prosecutorial consideration.
The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to INSD.

b6 -1,4
b7C -1,4

1. FD-1085, Shooting Incident report, electronically submitted June 29, 2015.
2. FD-302 of APFI [redacted] regarding firearms training, SWAT

b6 -1
b7C -1



NYT-519

certification and official training records for STL [redacted] for the 24 month period before the shooting incident. b6 -1,4,7 b7C -1,4,7

3. FD-302 regarding Deadly Force policy training.
4. FD-302 of arrest warrant/indictment of [redacted]
5. FD-302 of [redacted], Assistant State Attorney, Miami-Dade County, regarding prosecutorial decision.

Miami's review of the shooting incident involving STL [redacted] found no discrepancies between STL [redacted]'s account of the shooting and the information obtained from witness interviews. The results of the investigation were coordinated with Chief Division Counsel (CDC) [redacted] b6 -1 b7C -1

[redacted]

◆◆

FD-263 (Rev. 10-18-2012)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| | | 06/04/6013 | 06/04/2013 – 06/11/2013 |

| TITLE OF CASE | REPORT MADE BY | TYPED BY |
|---|---|---|
| Shooting Incident Review<br>Report of Shooting Incident<br>Albuquerque Field Office<br>06/04/2013 | **IIP Eliasib Ortiz, Jr.** | |
| | **CHARACTER OF CASE** | |

REFERENCES:

Telephone call on 06/04/2013, from Albuquerque Field Office (AQ) SAC Carol K.O. Lee to the Inspection Division

| APPROVED | ASSISTANT DIRECTOR | DO NOT WRITE IN SPACES BELOW |
|---|---|---|
| COPIES MADE:<br>1 - Inspection (Attn: SIRT) | | |

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

Notations

A

**COVER PAGE**

NYT-521

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 06/10/2013

Report of: IIP ASAC Eliasib Ortiz, Jr. Office: FBIHQ – INSD

Case ID#: 297-HQ-A1270914-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
ALBUQUERQUE FIELD OFFICE
06/04/2013

Investigative Period: 06/04/2013 – 06/11/2013

Reference: (U//~~FOUO~~) Telephone call on 06/04/2013, from Albuquerque Field Office (AQ) SAC Carol K.O. Lee to Inspection Division.

**Synopsis**

(U//~~FOUO~~) On June 4, 2013, AQ SA [redacted] and Task Force Officer (TFO) [redacted] participated in a drug buy/walk operation. The plan called for the buy/walk to occur at about 4:00 p.m., followed by a traffic stop conducted by a marked police unit to identify the subjects. FBI and TFO surveillance units were assisted by Albuquerque Police Department (APD) [redacted] and were positioned to monitor the buy/walk. The buy was made from [redacted] an associate of the subject later identified as [redacted] The transaction was executed from inside a [redacted] The plan called for a traffic stop to identify the subject; however surveillance lost the [redacted] AQ personnel ran the [redacted] license plate information and obtained an address associated with a female subject, [redacted] who was identified as associated with [redacted] and the buy. The associated address was [redacted] Albuquerque, NM. [redacted] reported a [redacted] depart the [redacted] surveillance observed subjects matching known descriptions inside the [redacted] surveillance lost the [redacted] and [redacted] re-located the [redacted] FBI case Agent [redacted] announced the decision to stop and arrest the subjects over the radio. [redacted] surveillance to the vicinity of [redacted] TFO [redacted] drove his task force vehicle with SA [redacted] in the passenger seat to [redacted] TFO [redacted] momentarily stopped the vehicle when confronted by the [redacted] driving toward them at a high rate of speed. At approximately 5:45 p.m., SA [redacted] exited the vehicle with his MP5 and took position near his vehicle. SA [redacted] fired his weapon three times toward the driver, [redacted] as [redacted] vehicle approached. SA [redacted] feared [redacted] was attempting to drive his vehicle into their vehicle with the intent to cause death or serious bodily injury. Two shots fired impacted houses and one hit the subject's vehicle. [redacted] fled in his vehicle and was arrested shortly thereafter by APD officers. No injuries resulted from the shooting.

b6 -1,2,4,7
b7C -1,2,4,7
b7E -1,6



NYT-522

**Details**

(U//~~FOUO~~) On 06/04/2012, Special Agents assigned to Albuquerque (AQ) SQ-4, members of the Albuquerque Safe Streets Task Force (SSTF) and other local law enforcement personnel executed a buy and walk operation in southwest Albuquerque, New Mexico. The plan called for an undercover (UC) task force officer (TFO) to make contact with a subject known to [redacted] b6 -7 b7C -7 b7D -1 b7E -1

(U//~~FOUO~~) SA [redacted] case Agent and UC handling Agent, prepared an operations order for the proposed buy/walk operation. The operations order was signed on 06/03/2013 by SSA [redacted] the Squad 5 SSA, and by SSA [redacted] the Squad 4 SSA who was the Acting ASAC. At approximately 2:00 p.m., on 06/04/2013, SA [redacted] conducted an operational briefing at the FBI Albuquerque Field Office for all personnel involved in the operation. In attendance at this operational briefing were Squad 4 FBI Agents and Task Force Officers (TFOs), Las Cruces Police Department TFOs, and Albuquerque Police Department (APD) Gang Unit members. APD [redacted] supported the operation, but did not attend the operational briefing. b6 -1 b7C -1 b7E -1,6

(U//~~FOUO~~) At the briefing, the planned undercover drug purchase followed by a traffic stop by marked APD units to identify the subjects was briefed by SA [redacted] The operation was planned for approximately 3:00 pm the same day. The FBI's Deadly Force Policy was read by SA [redacted] SA [redacted] instructed TFOs to follow their own deadly force policy. All personnel participating in the operation knew their roles and responsibilities. Questions were solicited, but no questions were asked. The operations order did not direct the execution of an arrest of [redacted]' nor was such approval sought. b6 -1,7 b7C -1,7

(U//~~FOUO~~) When the briefing concluded, SA [redacted] and the team members left the FBI office to set up surveillance of the operation. At approximately 3:00 p.m., surveillance was established in the area of a [redacted] Albuquerque. As a member of SQ-4, SA [redacted] was supporting the drug buy/walk surveillance operation. The plan called for the buy/walk to occur at [redacted] Albuquerque, New Mexico, however, was changed to the vicinity of the [redacted] in Albuquerque, New Mexico. This change was at the request of the subject, who wanted the buy to occur in that area of the city. FBI, TFO surveillance units, and Albuquerque Police Department (APD) [redacted] positioned near the address and monitored conversations between a task force UC and the subject who was later identified as [redacted] aka: "[redacted]" b6 -1,7 b7C -1,7 b7E -1,6

(U//~~FOUO~~) [redacted] who was in telephonic contact with the UC, altered the buy location from [redacted] to inside the [redacted] and finally outside in the [redacted] parking lot. [redacted] altered the meeting location, based upon his concern that law enforcement was possibly in the area. After numerous telephonic conversations between the undercover and [redacted] the drug transaction was executed by an individual later identified as [redacted] an associate of [redacted] After some rudimentary counter-surveillance, [redacted] conducted the transaction from inside a [redacted] with the undercover who approached the vehicle on foot. b6 -7 b7C -7



NYT-523

[redacted] exchanged a clear plastic bag containing a white rock like substance, which appeared to be crack-cocaine, with the UC for [redacted] dollars in cash. b6 -7 b7C -7 b7E -12

(U//~~FOUO~~) The plan called for APD marked units to conduct a traffic stop upon completion of the purchase in order to identify the subject. However, surveillance personnel lost the [redacted] before a traffic stop could be executed. Surveillance units later found the [redacted] parked and unoccupied in a nearby [redacted] parking lot located behind the [redacted] Surveillance observed a female, later identified as [redacted], approach the [redacted] from a [redacted] and return to the [redacted] FBI AQ surveillance lost the [redacted] However FBI AQ ran checks on the license plate of the [redacted], and AQ FBI determined the vehicle was registered to [redacted] and obtained an address of [redacted] Albuquerque, New Mexico. b6 -2,7 b7C -2,7

(U//~~FOUO~~) [redacted] reported locating the [redacted] parked adjacent to the [redacted] address and observed a subject walk away from the [redacted] and into the open garage of the [redacted] address. Approximately 36 minutes later [redacted] observed a [redacted] depart the garage of the residence [redacted] surveillance units observed a female driver and two subjects matching the description of [redacted] inside the [redacted] surveillance lost view of the [redacted] and [redacted] to determine the location and progress of the vehicle. Upon reacquiring the subjects, SA [redacted] who had recently learned the drugs purchased were not narcotics, announced the decision to stop and arrest the subjects over the radio. SA [redacted] did not specifically seek or obtain authorization from his supervisor SSA [redacted] to execute a warrantless arrest of [redacted] Neither SA [redacted] nor SSA [redacted] prepared or briefed an arrest plan, nor was AQ Executive Management (EM) notified of the change of scope of the operation. b6 -1,2,7 b7C -1,2,7 b7E -1,6

(U//~~FOUO~~) At approximately 5:47 p.m., [redacted] to the vicinity of [redacted] Albuquerque, New Mexico, and reported seeing a female and male occupant hastily exit the [redacted] At about 5:49 p.m., SA [redacted] (passenger) and TFO [redacted] (driver) driving his [redacted] sedan arrived at [redacted] TFO [redacted] vehicle was not equipped with law enforcement lights or audio equipment. TFO [redacted] momentarily stopped the vehicle in order to reverse direction and follow another TFO on another street. While stopped, TFO [redacted] was confronted by the [redacted] turning the corner at the end of [redacted] and driving towards them at a high rate of speed. SA [redacted] exited the [redacted] with his bureau issued .10MM MP5, and assumed a firing position adjacent to the vehicle. SA [redacted] believed his actions would cause the subject to stop his vehicle allowing an arrest to be affected. TFO [redacted] also attempted to exit the vehicle, but forgot to unbuckle his seat belt and was consequently unable to exit the vehicle. SA [redacted] witnessed the subject duck down behind the steering wheel and accelerate toward the [redacted] SA [redacted] was wearing a blue body armor vest with the word "POLICE" lettered across the front and back. After checking for a clear field of fire, SA [redacted] shot three times toward the driver, [redacted] in fear of [redacted] driving his vehicle into TFO [redacted] and SA [redacted] causing death or serious injury. Two shots impacted nearby houses and one shot impacted the [redacted] s vehicle smashed into the driver's side door of TFO [redacted] 's vehicle and the b6 -1,4,7 b7C -1,4,7 b7E -1,6

driver's side mirror of a vehicle parked nearby. [redacted] then fled the scene and was arrested shortly thereafter by responding APD patrol officers. [redacted] was later located and detained by law enforcement, but released for insufficient evidence. [redacted] remained at large.

b6 -2,7
b7C -2,7

(U//~~FOUO~~) There were no other Agents, Task Force officers (TFOs) or other law enforcement personnel in close proximity to the shooting incident. No other law enforcement officers fired their weapons and none were injured.

(U//~~FOUO~~) The shooting scene was processed by FBI AQ ERT and the [redacted] was processed by the APD. SA [redacted]'s issued H&K MP5 was rendered safe and entered into evidence. Three 10mm caliber shell casings were recovered which were consistent with the ammunition used in SA [redacted]'s weapon. FBI AQ initiated an Assault on a Federal Officer (AFO) case as a result of this incident. APD is pursuing local charges against [redacted]

b6 -1,7
b7C -1,7

(U//~~FOUO~~) The occupants of the subject vehicle were:

| Name | | | |
|---|---|---|---|
| Position | Driver at time of accident | Right front passenger | Initial Driver |
| Sex | Male | Male | Female |
| Race | | | |
| Height | | | |
| Weight | | | |
| Hair | | | |
| Eyes | | | |
| DOB | | | |
| SSAN | | | |
| FBI # | | | |

b6 -2,7
b7C -2,7

(U//~~FOUO~~) The shooting incident resulted from AQ Agents attempting to affect a vehicle stop on individuals who had recently engaged in a narcotics transaction with an UC.

**Substantive Case Files**

(U//~~FOUO~~) After the shooting incident, the following substantive case was opened:

(U) [redacted] (Subject);
Assault on Federal Officers;
Albuquerque, New Mexico
89B-AQ-2898309

b6 -7
b7C -7

**Enclosures**



NYT-525

(U//~~FOUO~~) All enclosures have been made part of this report and are identified in the enclosed table of contents.

## A. Administrative

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Eliasib Ortiz, Jr.
Inspector Gregory T. Bretzing
AIIP [redacted] b6 -1
AIIP b7C -1
AIIP
AIIP
AIIP

## B. Shooting Incident Review Protocol

(U//~~FOUO~~) On 06/05/2013, IIC Ortiz spoke with AQ ASAC [redacted] to arrange logistics prior to arriving in Albuquerque. On 06/05/2013, the SIRT traveled to Albuquerque. On the morning of 06/05/2013, IIC Ortiz and the SIRT members met with AQ EM and SSA personnel before traveling to the shooting scene which occurred in the vicinity of [redacted] in southwest Albuquerque, New Mexico. b6 -1,2 b7C -1,2

(U//~~FOUO~~) All members of the SIRT reviewed the FBI produced video entitled, "The Rain After the Storm – Shooting Incident Investigations," and the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 06/05/2013, IIC Ortiz met with the involved FBI SAs and management personnel to explain the review process and protocols.

(U//~~FOUO~~) One Signed Sworn Statement (SSS) was taken from the FBI Agent directly involved in the shooting. Other interviews, events and observations were documented via FD-302s. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor the FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSS and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all FBI personnel interviewed via SSS.

(U) On 06/11/2013, IIC Ortiz communicated via email with Chief Deputy District Attorney [redacted] of the Bernalillo County District Attorney's Office. [redacted] requested and received a copy of the Shooting Incident Review results. [redacted] stated his office would b6 -4 b7C -4



NYT-526

review the Shooting Incident Review and provide a decision regarding a declination recommendation. The decision would be communicated to the appropriate Inspection Division personnel, as well as the Albuquerque Field Office, to include SAC Lee.

(U) On 06/11/2013, IIC Ortiz and AIIP [redacted] met with AUSA [redacted] for the District of New Mexico, to provide an update on the investigation. AUSA [redacted] indicated his office would allow another District to review the shooting and render an opinion. This action was based on the decision to prosecute the subject, and the possibility that a declination from the District of New Mexico would show bias against the subject. b6 -1,3 b7C -1,3

(U) On 06/11/2013, IIC Ortiz provided an exit brief to SAC Lee and her CDC.

## C. Personnel Involved in the Shooting

1. SA [redacted] (fired weapon)
2. TFO [redacted] b6 -1,4 b7C -1,4

## D. Firearms Training

(U//~~FOUO~~) FBI Albuquerque provided qualification records for SA [redacted] A review of the office training records for SA [redacted] who discharged his weapon, revealed he was in compliance with the firearms qualifications requirements for his bureau issued Glock 22 handgun, however he had not qualified with his bureau issued H&K MP-5 in the last year. The training records for the previous five quarters reflected the following: b6 -1 b7C -1

| Date | Make | Model | Serial Number | Score | Point Scale | Qualifying Score |
|---|---|---|---|---|---|---|
| 05/02/2013 | Glock | 22 | [redacted] | | 100 | 90 |
| 05/02/2013 | Colt | M16A1 | | | 100 | 80 |
| 05/02/2013 | Glock | 22 | | | 100 | 60 |
| 01/13/2013 | Glock | 22 | | | 300 | N/A |
| 12/20/2012 | Glock | 22 | | | 100 | 80 |
| 12/20/2012 | Colt | M16A1 | | | 100 | 80 |
| 12/20/2012 | Glock | 22 | Vault | [redacted] | 100 | 80 |
| 12/20/2012 | Glock | 22 | [redacted] | | 60 | 48 |
| 10/25/2012 | Glock | 22 | | | 60 | 48 |
| 09/27/2012 | Glock | 22 | | | 100 | 80 |
| 09/27/2012 | Glock | 22 | | | 100 | 80 |
| 09/27/2012 | Colt | M16A1 | | | 100 | 80 |
| 09/27/2012 | Glock | 22 | | | 60 | 48 |
| 08/28/2012 | Glock | 22 | | | 60 | 48 |
| 08/28/2012 | Glock | 22 | | | 100 | 80 |
| 08/28/2012 | Glock | 22 | | | 60 | 48 |
| 08/28/2012 | Glock | 22 | | | 60 | 48 |

b6 -1 b7C -1



NYT-527

| | | | | | |
|---|---|---|---|---|---|
| 08/28/2012 | Colt | M16A1 | | 100 | 80 |
| 05/21/2012 | Glock | 22 | | 60 | 48 |
| 05/21/2012 | Glock | 22 | | 100 | 80 |
| 05/21/2012 | Glock | 22 | | 60 | 48 |
| 05/02/2012 | Colt | M16A1 | | 100 | 80 |
| 05/02/2012 | Colt | M16A1 | | 100 | 80 |
| 04/04/2012 | Glock | 22 | | 100 | 80 |
| 04/04/2012 | Glock | 22 | | 100 | 80 |
| 04/04/2012 | Colt | M16A1 | | 100 | 80 |
| 04/04/2012 | Glock | 22 | | 60 | 48 |
| 12/16/2011 | Colt | M-4 | Vault | 100 | 80 |
| 12/16/2011 | H&K | H&K-69A1 | | 100 | 80 |
| 12/16/2011 | Glock | 22 | | 100 | 80 |
| 12/16/2011 | Glock | 22 | | 100 | 80 |
| 12/16/2011 | Glock | 22 | | 100 | 80 |
| 12/16/2011 | Glock | 22 | | 100 | 80 |
| 11/08/2011 | Glock | 22 | | 100 | 80 |
| 11/08/2011 | Glock | 22 | | 300 | N/A |
| 11/08/2011 | Colt | M-4 | Vault | 100 | 80 |
| 11/08/2011 | Glock | 22 | | 100 | 80 |
| 11/08/2011 | Colt | M-4 | Vault | Pass/Fail | Pass |
| 11/08/2011 | Colt | M16A1 | | 100 | 80 |
| 09/23/2011 | Glock | 22 | | 100 | 80 |
| 09/23/2011 | Colt | M16 | | 100 | 80 |
| 09/23/2011 | Glock | 22 | | 100 | 80 |
| 09/23/2011 | Colt | M16 | | 100 | 80 |
| 07/26/2011 | Glock | 22 | | 300 | N/A |
| 07/26/2011 | Glock | 22 | | 100 | 80 |
| 07/26/2011 | Colt | M4 | Vault | 100 | 80 |
| 07/26/2011 | H&K | MP5/10A2 | | 100 | 80 |
| 07/26/2011 | H&K | HK-69A12 | | 100 | 80 |
| 07/26/2011 | Glock | 22 | | 100 | 80 |
| 07/21/2011 | Glock | 22 | | 100 | 80 |
| 07/21/2011 | H&K | MP5/10A2 | | 100 | 80 |
| 07/21/2011 | Glock | 22 | | 100 | 80 |
| 07/21/2011 | Glock | 22 | | 100 | 80 |
| 06/03/2011 | Glock | 22 | | 100 | 80 |
| 03/18/2011 | Remington | 870 | | 100 | 80 |
| 03/18/2011 | H&K | MP5/9 | Vault | 100 | 80 |
| 03/18/2011 | Glock | 22 | | 100 | 80 |
| 03/18/2011 | Glock | 22 | | 100 | 80 |
| 03/18/2011 | Glock | 22 | | 100 | 80 |

b6 -1
b7C -1

## E. Deadly Force Training

(U//~~FOUO~~) As a SWAT team member and SQ-4 Agent, SA [redacted] participated in multiple operations, which included controlled drug buys, arrests, and surveillances. Almost all occasions included the presentation of the Deadly Force Policy. CDC [redacted] advised FBI Deadly Force Policy Training was conducted on March 19, 2013 at the Albuquerque Field Office as part of Surveillance and Tactical Training provided to Albuquerque Squads Four and 17 as well as Task Force Officers (TFO) associated with the SSTF. CDC [redacted] provided the training. All members of Squad Four to include SA [redacted] were present for the training. In addition, on 06/04/2013, the day of the shooting, SA [redacted] conducted an operational briefing at the FBI Albuquerque Field Office for all personnel involved in the operation. In attendance was SA [redacted] The FBI Deadly Force Policy was briefed at that meeting.

b6 -1
b7C -1

## F. Use of Body Armor and Law Enforcement Identifiers

(U//~~FOUO~~) SA [redacted] was wearing a blue body armor vest with the word "POLICE" lettered across the front and back. TFO [redacted] was wearing a black buttoned shirt over his issued ballistic vest with "Albuquerque Police" on the upper right chest and Albuquerque Police badge emblem on the upper left chest. TFO [redacted] s shirt had "Police" in large block letters on the back.

b6 -1,4
b7C -1,4

## G. FBI Indices and National Crime Information Center (NCIC)

(U//~~FOUO~~) The National Crime Information Center (NCIC), criminal history check included multiple entries for [redacted] to include eight arrests for offenses including bribery, auto theft, aggravated assault with a deadly weapon, child abuse, possession of a firearm by a felon, sexual penetration in the first degree, robbery, extortion, false imprisonment, and kidnapping with a sexual offense. [redacted] has been convicted at least three times, most recently on March 28, 2012, for probation violation.

b6 -7
b7C -7

## H. Evidence Recovery and Laboratory Division Reports

(U//~~FOUO~~) At approximately 6:30p.m. on 06/04/2013, in the process of responding to the scene of an Agent-involved shooting, CDC [redacted], an Albuquerque Field Office Firearms Instructor, collected the following: H&K MP5 submachine gun, caliber 10mm, serial number [redacted] assigned to Special Agent (SA) [redacted] FBI; 22 rounds of 10mm service ammunition in one magazine removed from the H&K MP5 submachine gun, serial number [redacted] The H&K MP5 submachine gun and ammunition were recovered on June 04, 2013 at approximately 6:00 p.m. near [redacted] Albuquerque, New Mexico, from SA [redacted] secured by SSA [redacted] in his vehicle before being delivered to SA [redacted]

b6 -1,2
b7C -1,2

(U//~~FOUO~~) The scene of the shooting was secured and processed by AQ ERT. New Mexico State Police conducted a virtual shooting reconstruction to include the utilization of a

Leica scanner. The AQ ERT collected 3 spent cartridge casings in the vicinity of where SA [redacted] fired his weapon. Two projectiles were recovered from residences in the area of the shooting. One projectile was recovered at [redacted] and the other projectile at [redacted] b6 -1,2 b7C -1,2

(U//~~FOUO~~) Pursuant to a New Mexico State search warrant, APD conducted a review of the [redacted] driven by subject [redacted] There was one apparent bullet hole in the front bumper of the vehicle. Probable bullet residue was located on the vehicle. This residue was tested by APD with positive results. The bullet itself could not be located. The bullet trajectory seemed to be from the driver's side to the passenger side of the vehicle. b6 -7 b7C -7

(U//~~FOUO~~) Recovered evidence items requiring laboratory testing were as follows:

**Firearms/Toolmarks Testing**

| | | |
|---|---|---|
| 1B1 | Spent 10mm case - [redacted] | b6 -1,2 b7C -1,2 |
| 1B2 | Spent 10mm case - | |
| 1B3 | Spent 10mm case - | |
| 1B6 | Projectile - [redacted] | |
| 1B7 | Projectile - | |
| 1B14 | H&K MP5 submachine gun, caliber 10mm, serial number [redacted] | |
| 1B15 | Loaded H&K MP5 magazine | |

Results of Laboratory Examinations:

(U//~~FOUO~~) Specimen Q1 was a fragmented copper jacketed bullet. Specimen Q1 was identified as having been fired from the barrel of a Heckler & Koch rifle, Serial Number [redacted] with scope, sling, and flashlight (1B14, E5163818). b6 -1 b7C -1

(U//~~FOUO~~) Specimens Q3 through Q5 were 10mm Auto cartridge cases which bore the headstamp of Federal ammunition. Specimens Q3 through Q5 were identified as having been fired from the same Heckler & Koch rifle.

(U//~~FOUO~~) The 10mm Auto Heckler & Koch rifle, Model MP5/10 rifle functioned normally when tested in the Laboratory.

## I. Medical Report

**FBI Agents Involved in the Shooting:**

No injuries.

**Subjects:**

No injuries.

**Innocent Bystander Victims:**

N/A.

J. **Declination by the Civil Rights Division**

(U//~~FOUO~~) On 12/04/2013, [redacted] Special Legal Counsel, Civil Rights Division, U.S. Department of Justice, completed his review and opined the use of force did not constitute a seizure under the 4th Amendment and there was no information to suggest a willful 5th Amendment due process violation. Therefore, no federally protected right was violated and the matter did not warrant criminal investigation. b6 -3 b7C -3

K. **Local Prosecution Opinion**

(U//~~FOUO~~) On 11/26/2013, [redacted] Chief Deputy District Attorney for Bernalillo County Districts Attorney's Office completed her review of DA File # 2913-93671-1, involving Special Agent [redacted] and TFO [redacted] She concluded SA [redacted] fired his weapon in an attempt to protect the life and safety of Officer [redacted] which was justified by law in terms of any criminal charges. b6 -1,4 b7C -1,4

L. **INSPECTOR'S PROPOSED OBSERVATION:**

**INSPECTOR'S PROPOSED OBSERVATION:**

**PROPOSED OBSERVATION 1:** The case Agent lacked an exigent circumstance to justify a warrantless arrest.

**ANALYSIS 1:** The DIOG, Section 19.6.4 stated, "If an Agent has a reasonable belief that the subject will flee before a warrant can be obtained, or there is a substantial likelihood that the subject will dispose of evidence before a warrant can be obtained or there is increased danger to Agents or others if entry is delayed to obtain a warrant, exigent circumstances exist which may justify entry into premises to make a warrantless arrest or entry into third party premises without a search warrant to make an arrest."

SSA [redacted] and SA [redacted] decided to stop and arrest the subjects because the subjects had sold fake drugs (soap) to the undercover, and had demonstrated they were not likely to deal with the same undercover again. The decision was made to apprehend after the association of at least one subject with a home address and vehicle registration had been determined. While the subjects could have disposed of evidence, they had already been lost several times, and entered a residence once during the course of surveillance. At any one of these points, some portion of evidence, namely the cash from the buy-walk, could have been disposed of or otherwise hidden. The decision to arrest did not have any consequence to the preservation of evidence. b6 -1 b7C -1

While there was indication of intent to evade surveillance on the part of the subjects, there is no articulation of any law enforcement announcement, or any indication the subjects had any specific indication they were being followed by the police or the FBI.

There was no indication or suggestion the subjects posed a physical threat to Agents, Task Force Officers, or the Public. To the extent evasive efforts to cross through red lights and stop signs posed a threat to the general public, it was also the result of aggressive surveillance which failed to announce a law enforcement purpose.

**PROPOSED INSTRUCTION 1a:** SAC, Albuquerque, will ensure all Special Agent personnel have a reasonable basis for the exercise of warrantless arrests based upon exigency.

**PROPOSED INSTRUCTION 1b:** [redacted] b6 -1 b7C -1 b5 -1,2

**PROPOSED OBSERVATION 2:** Executive Management was not notified of a high risk operation, nor was an appropriate arrest plan formulated before the attempted arrest.

**ANALYSIS 2:** DIOG Section 19.3.1 stated, "Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest. Agents are authorized to make warrantless arrests for any federal crime (felony or misdemeanor) committed in their presence. Agents also have authority to make warrantless felony arrests for a crime not committed in the presence of the Agent if there is probable cause to believe the person to be arrested committed a federal felony. A warrantless arrest must only be made when sound judgment indicates obtaining a warrant would unduly burden the investigation or substantially increase the potential for danger or escape."

DIOG, Section 19.2.3 also states in part, "The [redacted] must be utilized whenever possible....Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees...." b7E -5

DIOG, Section 19.2.4 states in part, "An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan."

SA [redacted] probationary agent, Albuquerque Field Office, made an operational decision to stop and arrest the subjects. While there was some discussion requesting the engagement of marked police units, there was no discussion with participating Special Agents and Task Force Officers (TFOs) of a substantive arrest plan. SA [redacted] did not speak with his supervisor, SSA [redacted] to offer or discuss a "well considered arrest plan." Further, the law enforcement unit that eventually attempted to make the car stop was not equipped with emergency lights or siren [redacted] b7E -6 b6 -1 b7C -1

SSA [redacted] stated he supported the decision through his silence. While he did not make any statement on the radio during the surveillance, he believed all members of the surveillance would reasonably infer his support for the arrest decision based upon his previous b6 -1 b7C -1

express direction as well as the training he provided in March 2013. SSA [redacted] did not articulate an operational arrest plan through oral briefing either over the air, or in person, and remained silent throughout the effort to arrest. SSA [redacted] stated that he would have supported the decision, and ultimately acquiesced to the announcement. [redacted] b5 -1,2 b6 -1 b7C -1

Additionally, should the limited articulation of the decision to arrest be considered "the briefing of a plan," neither SSA [redacted], nor SA [redacted] communicated such plan to either ASAC. Further, no effort was made by either SSA [redacted] or SA [redacted] to obtain verbal approval or consultation from anyone prior to the announced decision. SSA [redacted] might reasonably permit tactical decisions to be subject to his after the fact authorization, but there is a critical distinction between making a decision to arrest and having a plan. b6 -1 b7C -1

When SSA [redacted] heard the decision to arrest, he elected not to address the issue with the SAC or USAO. SA [redacted] did not disclose the reason for the arrest, so SSA [redacted]'s decision was not supported by the same information. As the warrantless arrest progressed, SSA [redacted] had time to call and reconcile the ongoing operational effort with the chain of command but failed to do so. b6 -1 b7C -1

**PROPOSED INSTRUCTION 2a:** SAC, Albuquerque should ensure executive management notification and authority is obtained prior to potential high risk operations.

**PROPOSED INSTRUCTION 2b:** SAC, Albuquerque should ensure an FBI Arrest Plan Form, or oral briefing which addresses the five topics required to be included in written plans, be utilized whenever possible prior to an arrest.

**PROPOSED RECOMMENDATION 2c:** [redacted] b5 -1,2

**PROPOSED RECOMMENDATION 2d:** SAC, Albuquerque should ensure Supervisors recognize their responsibility to provide unambiguous leadership and clear approval for action when warranted.

**PROPOSED OBSERVATION 3:** SA [redacted] failed to qualify [redacted] on the weapon used in the operation. b5 -1,2 b6 -1 b7C -1

**ANALYSIS 3:** The MIOG, Section 12-10.2.4 stated, "SAs must qualify with each assigned shoulder weapon at least once per year. Agents are encouraged to train with weapons they regularly carry at every training session. SAs with assigned shoulder weapons MUST use those specific weapons when qualifying. Agents not assigned a specific shoulder weapon must, at a minimum, demonstrate proficiency with the shotgun and MP5 at least once per year on an approved qualification course or combat course as specified in the Annual Field Firearms Program."



NYT-533

[redacted] The date of the shooting incident was June 4, 2013. b5 -1,2

**PROPOSED INSTRUCTION 3:** SAC, Albuquerque will ensure all Special Agent personnel qualify at least once per year with each assigned shoulder weapon.

**PROPOSED OBSERVATION 4:** All participants in the operation did not attend the pre-operational briefing.

**ANALYSIS 4:** DIOG, Section 19.2.3 states in part, [redacted] must be utilized whenever possible....Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees...." b7E -5

APD [redacted] supported the operation, but did not attend the pre-operational briefing. b7E -1,6

**PROPOSED RECOMMENATION 4:** SAC, Albuquerque will ensure all personnel involved in operational activity participate in all pre-operational briefings.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) SHOOTING INCIDENT ALBUQUERQUE FIELD OFFICE 06/04/2013 **Date:** 06/12/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1270914-D (U) AQ SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 05/21/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 06/10/2013, prepared by Inspector Gregory T. Bretzing. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Shooting Incident Report, dated 06/10/2013
2. (U//~~FOUO~~) E-mail from DOJ Attorney documenting dissenting opinion.

**Details:**

(U//FOUO) On 05/21/2014, the SIRG convened to review a shooting incident which occurred on 06/04/2013, involving Albuquerque Field

Title: (U//~~FOUO~~) SHOOTING INCIDENT ALBUQUERQUE FIELD OFFICE 06/04/2013
Re: 297-HQ-A1270914-D, 06/12/2014

Office (AFO) Special Agent (SA) [redacted] and Task Force Officer (TFO) [redacted] TFO [redacted] and SA [redacted] were involved in a drug buy/walk operation and a subsequent attempted traffic stop of a vehicle driven by subject [redacted]. The original plan called for the buy/walk to occur at about 4:00 p.m., followed by a traffic stop to identify the individual(s) who AFO anticipated would sell drugs to an Undercover TFO. The plan did not call for an arrest. Surveillance team members were given specific assignments. Both SA [redacted] and TFO [redacted] were tasked to conduct surveillance only. An additional unmarked surveillance unit with lights and siren capabilities was assigned as the traffic stop unit. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) FBI, TFO surveillance units and Albuquerque Police Department (APD) [redacted] were positioned to monitor the buy. The buy was executed by [redacted] an associate of another subject later identified as [redacted] After [redacted] instructed an undercover officer from APD to meet [redacted] at a [redacted]'s parking lot, the transaction occurred inside [redacted] parked at this location. b6 -1,7 b7C -1,7 b7E -1,6

(U//~~FOUO~~) Following the drug buy/walk, surveillance personnel lost the [redacted] when it left the buy location. APD personnel ran the [redacted]'s license plate information and obtained an address associated with a female subject, [redacted] a known associate of [redacted]. At the associated address, [redacted] Albuquerque, NM, [redacted] observed a [redacted] departing the residence, [redacted] surveillance observed individuals matching the subjects' descriptions sitting inside the vehicle. [redacted] surveillance lost the [redacted] to determine the vehicle location. When the air unit reacquired the [redacted], case Agent SA [redacted] announced the decision to stop and arrest the subjects over the radio. Prior to making this decision, SA [redacted] learned the drugs purchased earlier in the day were a fake substance. b6 -1,2,7 b7C -1,2,7 b7E -1,6

(U//~~FOUO~~) [redacted] surveillance to the vicinity of b7E -1,6



NYT-536

Title: (U//~~FOUO~~) SHOOTING INCIDENT ALBUQUERQUE FIELD OFFICE 06/04/2013
Re: 297-HQ-A1270914-D, 06/12/2014

[redacted] TFO [redacted] drove his task force vehicle with SA [redacted] in the passenger seat to this location. TFO [redacted] momentarily stopped his vehicle when confronted by the [redacted] driving toward them at a high rate of speed. At approximately 5:45 p.m., SA [redacted] exited the vehicle with his MP5 and took position near his vehicle. SA [redacted] fired his weapon three times toward the driver, [redacted] as [redacted]'s vehicle approached. SA [redacted] feared [redacted] was attempting to drive his vehicle into their vehicle with the intent to cause death or serious bodily injury. Two shots fired impacted neighboring homes, and one struck the subject's vehicle. [redacted] fled the scene in his vehicle and was arrested shortly thereafter by APD officers. [redacted] fled the area without being captured by police. No injuries were suffered by SA [redacted] TFO [redacted] subject [redacted] or civilians.

b6 -1,2,4,7
b7C -1,2,4,7

**SIRG Deliberations:**

(U//~~FOUO~~) A presentation of the known facts of the Agent-involved shooting, as detailed above, was made to the SIRG by INSD Team Leader (TL) [redacted] via a Power Point presentation. The Power Point included photographs of the scene, an ERT diagram of the scene, a diagram of the firearm trajectory as it related to the shooting scene, and statements made by those participating in the operation.

b6 -1
b7C -1

(U//~~FOUO~~) The DOJ Deadly Force Policy provides a core principle that Agents "*may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.*"

(U//~~FOUO~~) The SIRG voted regarding the application of deadly force. Ten of 12 voting members determined the use of deadly force by SA [redacted] was in compliance with the DOJ Deadly Force Policy. The majority determined SA [redacted] could have reasonably believed the use of deadly force was necessary because the subject made no effort to slow down or avoid striking the vehicle TFO [redacted] was sitting in.

b6 -1,4
b7C -1,4

b6 -1,4
b7C -1,4

The subject did not deviate from his course until SA [redacted] fired three rounds. In his statement, SA [redacted] said, "I believed that the subject utilizing his vehicle posed an imminent danger of serious bodily harm or death to TFO [redacted]." Even though the vehicle swerved slightly to avoid a head on collision, the subject's vehicle still struck the driver's side door of the vehicle TFO [redacted] was sitting in.

(U//~~FOUO~~) One of the voting members abstained from voting on this particular shooting incident. Another voting member, DOJ Attorney #1, dissented, expressing the belief the application of deadly force in this instance was not in compliance with the DOJ's Deadly Force Policy. The dissenting member requested and was provided the opportunity to document the factors for his belief the application of DOJ's Deadly Force Policy was violated.

(U//~~FOUO~~) DOJ Attorney #1 documented his dissenting opinion via an E-mail sent to Deputy Assistant Director (DAD) Mark A. Morgan on 05/20/2014. In this document, DOJ Attorney #1 outlined why he believed there was no exigent circumstance or immediate threat in this shooting incident which would justify the Agent using deadly force without identification or warning. DOJ Attorney #1 concluded:

*"As there were no exigent circumstances which at that point justified the Agent's immediate threat of deadly force without identification and warning, in my view the Agent's subsequent use of deadly force violated the Department's Deadly Force Policy. That the Agent's failure to adequately warn of his authority and intent to use deadly force was not reasonable under these circumstances is also reflected in the subject calling 911, staying on the phone for several minutes, expressing fear that he was being shot at and then relief when his car came to a stop and AQ police intervened. In reaching this conclusion I understand that others conclude that the only relevant time period is the instant before the Agent fired his weapon. I respectfully disagree here, because here the Agent training his weapon on the subject car without reasonably identifying his authority and purpose in a manner that could*

*reasonably be expected to be understood by the subject precipitated the subject accelerating, ducking behind the dashboard and attempting to drive around the vehicle in which the Agent was riding."*

(U//~~FOUO~~) SIRG Office of General Counsel (OGC) voting member, concurred the use of deadly force by SA [redacted], in this incident was in compliance with the DOJ Deadly Force Policy. OGC's opinion on this decision is outline below:

b6 -1
b7C -1

(U//~~FOUO~~) The DOJ Deadly Force Policy provides a core principle that Agents *"may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person."*

(U//~~FOUO~~) The United States Supreme Court has explained that *"the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application."* Graham v. Connor, 490 U.S.390, 396 (1989). The Court advised that *"proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."* Id. The Court also stated that reasonableness *"must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight"* and that the *"calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation."* Id. at 396-97. The ultimate question is *"whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation."* Id. at 397.

(U//~~FOUO~~) SA [redacted]'s belief that the subject posed an imminent danger of death or serious physical injury to Task Force Officer (TFO) [redacted] was reasonable based upon the facts in the record. In his signed sworn statement, SA [redacted] advised that he and TFO [redacted] were conducting surveillance on the subject's vehicle(s) after SA [redacted] had heard over the radio that the drug transaction had occurred and the subject's vehicle had left the parking lot. While conducting surveillance, SA [redacted] advised that he put on his vest to *"clearly mark me as a law enforcement officer."* He advised that the ballistic vest had "POLICE" written in large white letters on the front and back of the vest.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) SA [redacted] stated the decision was then made to detain the subject and not let him walk, as had been planned previously. SA [redacted] and TFO [redacted] determined that they could safely conduct the traffic stop of the subject's vehicle if they both exited their vehicle on either side. SA [redacted]'s description of the events of the shooting incident as he perceived them was as follows:

b6 -1,4
b7C -1,4

*(U//~~FOUO~~) "I was expecting TFO [redacted] to exit the vehicle at the same time I did but he seemed to be having difficulty. At this point I saw and heard the driver of the [redacted] gun his vehicle and head straight for our vehicle at a high rate of speed. As he approached our vehicle, I quickly scanned the street and saw no one outside. In addition, I saw an unoccupied car parked on the east side of the street just south from our vehicle which could act as a backstop for any rounds that I shot. I saw the vehicle speeding toward us. I also saw the male driver duck down behind his steering wheel and aim his vehicle directly at us, continuing at a high rate of speed."*

b6 -1,7
b7C -1,7

(U//~~FOUO~~) *"TFO [redacted] had still not exited the vehicle and appeared to have his left leg on the ground outside of the vehicle with the back door open. I found out later that he had not removed his seat belt. I believed that the subject utilizing his vehicle posed an imminent danger of serious bodily harm or death to TFO [redacted] I disengaged*

b6 -4
b7C -4

*my weapon's safety moving the selector to the semi-automatic fire position and fired two shots in quick succession at the driver's side door followed by a third round at the driver as the vehicle passed our vehicle. I was attempting to stop the driver, thus stopping the car and ending the threat to TFO* [redacted] *I did not fire any more rounds because I was concerned about cross fire with my partner. I knew the 10 mm rounds would penetrate the body panels of the vehicle and hit the driver. I fired at the driver because I believed deadly force was necessary because the subject in his vehicle speeding towards us posed an imminent threat of death or serious physical injury to my partner TFO* [redacted] *."* b6 -4 b7C -4

(U//~~FOUO~~) *"At the last moment, TFO* [redacted] *was able to pull his leg back into our vehicle and escaped serious injury. The subject vehicle hit both our vehicle as well as the parked car as it sped by us. The vehicle continued down* [redacted] *at a high rate of speed and fled the scene."* b6 -2,4 b7C -2,4

(U//~~FOUO~~) TFO [redacted]'s statement corroborates SA [redacted]'s version of the facts. TFO [redacted] advised that he attempted to exit the vehicle but was restrained by his seat belt and had one foot out the door. He observed SA [redacted] exit the vehicle and *"heard the* [redacted] *engine being revved."* He then observed the [redacted] accelerating. He and SA [redacted] were attempting to exit their vehicle to execute the arrest of the subject because *"they could no longer safely back-up or evade."* TFO [redacted] observed the subject duck down behind the vehicle console and continue "straight toward front center" of their vehicle. His statement also indicated that *"[t]he rapid approach of the* [redacted] *forced TFO* [redacted] *to pull his foot back into the car, and draw his frame as tightly as possible, bracing for impact."* TFO [redacted] could not see the driver of the [redacted] until it was within one or two car lengths in front of their vehicle. He heard shots fired and observed the [redacted] swerve right *"immedi ately before directly colliding with the front center of [their vehicle]."* TFO [redacted] stated he *"feared for his life as the* b6 -1,4,7 b7C -1,4,7

*subject's* [redacted] *moved directly toward his position, and [he] could not exit the vehicle or otherwise take action to remove himself from the impending* [redacted] *s path."* He stated that he only managed to further pull his body toward the center console of his vehicle *"just prior to impact,"* and that the [redacted] struck the vehicle's door, forcing it closed, and drove TFO [redacted] s body *"up onto the center console inside [their vehicle]."* TFO [redacted] stated that the [redacted] continued down the street without appearing to slow down. b6 -4,7 b7C -4,7

(U//~~FOUO~~) The subject was also interviewed, and his statement corroborates the facts of the incident as described by both SA [redacted] and TFO [redacted] The subject advised that he saw the Agents' vehicle blocking the street with both front doors open and observed the muzzles of two rifles coming out of the vehicle. The subject did not realize, however, that they were law enforcement officers and instead believed that they were persons who the subject had just ripped off in the drug deal who were coming to kill him because the subject gave them fake drugs. The subject called 911 to advise that his life was in danger. The subject stated he then ducked behind the steering wheel and attempted to escape. Although he stated that he was not trying to hit the Agents' vehicle, he confirmed that he was accelerating towards their general position and estimated his speed to be between 40-50 mph as he attempted to pass by the other vehicle. He heard the shots fired at him and continued to flee in his vehicle. b6 -1,4 b7C -1,4

(U//~~FOUO~~) Based upon the facts related by all individuals involved in the incident, including the subject, it is undisputed that the subject gunned his engine and accelerated his vehicle towards the law enforcement officers at a speed of 40-50mph while trying to flee. TFO [redacted] was trapped partially outside the vehicle due to his seat belt and managed to pull his body inside the vehicle only just prior to impact by the subject's vehicle, which struck TFO [redacted] s vehicle door and drove his body up onto the center console of the officers' vehicle. TFO [redacted] heard the shots fired as he was trying to pull b6 -4 b7C -4

his body away when the subject's vehicle was within one to two car lengths away. SA [redacted] confirms that the three shots were fired at the subject as the subject's vehicle was passing their vehicle in an attempt to stop the threat to TFO [redacted]. These undisputed facts amply support a reasonable belief by SA [redacted] that the subject posed an imminent threat of serious physical injury or death to TFO [redacted].

b6 -1,4
b7C -1,4

(U//~~FOUO~~) DOJ Attorney #1 argues that because the vehicle in which the Agent was riding did not have emergency equipment (i.e., flashing lights) and the Agent assumed a shooting stance with a long gun that would presumably conceal his vest's law enforcement lettering, that the DOJ Deadly Force Policy was violated because there was not a reasonable announcement of authority and purpose to the driver of the oncoming car that the failure to comply would be met with the use of deadly force. The fundamental flaw in this argument is that it examines the facts from the perspective of the subject and not from the perspective of the reasonable Agent, who believed that he was effecting an arrest, that he was wearing a ballistic vest that identified himself as a law enforcement officer, and that the subject who was attempting to flee posed an imminent danger of death or serious physical injury to his partner, who was trapped halfway out of a car that was directly in the path of the subject's rapidly approaching vehicle. DOJ Attorney #1 is essentially arguing that the Agent who was faced with this split-second decision in a highly tense and rapidly evolving situation should have been thinking about whether the subject could read the letters on his vest and not whether the subject posed an imminent danger to himself or his partner such that he should use deadly force.

(U//~~FOUO~~) The DOJ Deadly Force Policy provides that a verbal warning to submit to the authority of the officer must be given prior to the use of deadly force "[i]f feasible and if to do so would not increase the danger to the officer or others." DOJ Attorney #1 suggests that because the subject's car was "approximately two football fields away" that there was plenty of time to give a warning in addition to the markings on the ballistic vest that may not have been adequately

visible to the subject. Even assuming that the initial approximate distance of two football fields away when the subject gunned his engine and accelerated towards the Agents was correct, that would amount to only 240 yards/720 feet, which a vehicle being driven at a speed of 40-50mph would have completed in approximately 9.8 to 12 seconds. DOJ Attorney #1 opines that the Agent could have safely "stood in the middle of the street, displaying the law enforcement lettering on his vest, and perhaps his badge, raised his hand and indicated his authority and intent to have the vehicle stop." In so opining, DOJ Attorney #1 disregarded the collective opinion of the experienced law enforcement officers on the SIRG that this would not have been a safe option for the Agent under the circumstances of a vehicle approaching at a high rate of speed and the danger to his partner, whose body was partially exposed outside their vehicle. The undisputed record adequately demonstrates that the use of additional verbal warnings was not feasible and would likely have increased the danger to TFO [redacted] and possibly even SA [redacted] if he assumed a position in front of the rapidly approaching vehicle with his hand extended and his weapon lowered, which DOJ Attorney #1 suggests was a reasonable option. **b6 -1,4 b7C -1,4**

(U//~~FOUO~~) DOJ Attorney #1 also argues that another safe option would have been to simply let the subject's car pass by and wait for a marked unit to assist with the arrest. In theory, it would always be a safe option to simply not try to arrest a subject if a marked unit is unavailable to flash lights at the subject. From a law enforcement perspective, this argument is not practical as marked units are not always available, nor does the DOJ Deadly Force Policy require that law enforcement officers not execute arrests in the absence of a marked unit. This also does not present a safe alternative for an Agent who has already started to execute the arrest believing that the Agent's law enforcement markings on his vest were sufficient identifiers, and the situation escalated in seconds because the subject was attempting to flee.

(U//~~FOUO~~) DOJ Attorney #1 also argues that the DOJ Deadly Force Policy was violated because the street was lined by houses that were

relatively close to each other and to the street and that two of the Agent's bullets struck the homes, which DOJ Attorney #1 believed "effectively served as backstops for any stray rounds." SA [redacted] did, however, consider the risks to the public, as he advised in his statement that he *"quickly scanned the street and saw no one outside"* a nd that he *"saw an unoccupied car parked on the east side of the street just south from our vehicle which could act as a backstop for any rounds that I shot."* While SA [redacted] missed his target on two shots and had also failed to qualify recently on the gun that he was carrying, those facts speak to his marksmanship and the importance of attending training in accordance with Bureau policy, which can be adequately addressed through observations and recommendations in the SIRG's findings. These facts do not reflect that SA [redacted] failed to consider the risks to the public and that those risks so outweighed the use of deadly force to protect his partner, who was in imminent danger of serious physical injury or death, that the DOJ Deadly Force Policy itself was violated.

b6 -1
b7C -1

**SIRG Observations**

(U//~~FOUO~~) On 05/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG voted regarding the application of deadly force. Ten of 12 voting members determined the use of deadly force by SA [redacted] was in compliance with the DOJ Deadly Force Policy. The majority determined SA [redacted] could have reasonably believed the use of deadly force was necessary and the vehicle presented an imminent danger to TFO [redacted] when SA [redacted] fired the shots. As a majority opinion, it was determined SA [redacted] was in compliance with the DOJ Deadly Force Policy.

b6 -1,4
b7C -1,4

One of the voting members abstained from voting. Another voting member dissented, expressing the belief the application of deadly force in this instance was not in compliance with the DOJ's Deadly Force Policy. The dissenting member requested and was provided the

opportunity to document the factors for his belief the application of DOJ's Deadly Force Policy was violated.

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

**Observation 1:** The Case Agent lacked an exigent circumstance to justify a warrantless arrest.

**Analysis 1:** The DIOG, Section 19.3.1 stated, *"Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest. Agents are authorized to make a warrantless arrests for any federal crime (felony or misdemeanor) committed in their presence. Agents also have authority to make warrantless felony arrests for a crime not committed in the presence of the Agent if there is probable cause to believe the person to be arrested committed a federal felony. A warrantless arrest must only be made when sound judgment indicates obtaining a warrant would unduly burden the investigation or substantially increase the potential for danger or escape."*

SSA [redacted] and SA [redacted] decided to stop and arrest the subjects because the subjects had sold fake drugs (soap) to the undercover and had demonstrated they were not likely to deal with the same undercover again. The decision was made to apprehend after the association of at least one subject with a home address and vehicle registration had been determined. While the subjects could have disposed of evidence, they had already been lost several times and entered a residence once during the course of surveillance. At any one of these points, some portion of evidence, namely the cash from the buy-walk, could have been disposed of or otherwise hidden. Given the aforementioned, there was no exigent preservation of evidence issue which would have necessitated an exigent arrest. Further, APD [redacted] had re-established visual contact with the subject vehicle precluding any exigent justification to arrest prior to the arrival of appropriately equipped marked units.

b6 -1
b7C -1
b7E -1,6

While there was indication of intent to evade surveillance on the part of the subjects, there was no articulation of any law enforcement announcement, or any indication the subjects had any specific indication they were being followed by the Police or the FBI.

There was no indication or suggestion the subjects posed a physical threat to Agents, Task Force Officers, or the Public. To the extent evasive efforts to drive through red lights and stop signs posed a threat to the general public, it was also the result of aggressive surveillance which failed to announce the law enforcement purpose.

**Instruction 1:** SAC, Albuquerque will ensure all Special Agent personnel have a reasonable basis for the exercise of warrantless arrests based upon exigency.

**Observation 2:** Executive Management was not notified of a high-risk operation, nor was an appropriate arrest plan formulated before the attempted arrest.

**Analysis 2:** DIOG Section 19.3.1 stated, " *Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest."*

DIOG, Section 19.2.3 also stated in part, *"The* [redacted] *Form must be utilized whenever possible.…Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees…."* b7E -5

DIOG, Section 19.2.4 stated in part, *"An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan."*

SA [redacted] a Probationary Agent, Albuquerque Field Office, made b6 -1 b7C -1

an operational decision to stop and arrest the subjects. While there was some discussion requesting the engagement of marked police units, there was no discussion with participating Special Agents and Task Force Officers (TFOs) of a substantive arrest plan. SA [redacted] did not speak with his supervisor, SSA [redacted] to offer or discuss a "well considered arrest plan." Absent any direction from SA [redacted] or SSA [redacted] and lacking any specific contingency planning that could have been included in a well considered arrest plan, SA [redacted] and TFO [redacted] attempted to make this arrest with a vehicle not equipped with emergency lights or siren. b6 -1,4 b7C -1,4

SSA [redacted] stated he supported the decision through his silence. While he did not make any statement on the radio during the surveillance, he believed all members of the surveillance would reasonably infer his support for the arrest decision based upon his previous expressed direction as well as the training he provided in March 2013. SSA [redacted] did not articulate an operational arrest plan through oral briefing either over the air, or in person, and remained silent throughout the effort to arrest. SSA [redacted] stated he would have supported the decision, and ultimately acquiesced to the announcement. b6 -1 b7C -1

Additionally, should the limited articulation of the decision to arrest be considered "the briefing of a plan," neither SSA [redacted] nor SA [redacted] communicated such a plan to either the SAC or ASAC. INSD assessed since there was no exigency (see Observation #1) for a warrantless arrest, SSA [redacted] could have notified the ASAC and SA [redacted] could have communicated the circumstances of the situation to the USAO and sought authority for a probable cause arrest. No effort was made by either SSA [redacted] or SA [redacted] to obtain verbal approval or consultation from anyone prior to the announced decision. SSA [redacted] might reasonably permit tactical decisions to be subject to his after the fact authorization, but there was a critical distinction between making a decision to arrest and having a plan. b6 -1 b7C -1

When SSA [redacted] heard the decision to arrest he elected not to b6 -1 b7C -1

address the issue with the SAC or USAO. SA [redacted] did not disclose the reason for the arrest, so SSA [redacted]'s decision was not supported by the same information. As the warrantless arrest progressed, SSA [redacted] had time to call and reconcile the ongoing operational effort with the chain of command but failed to do so. b6 -1 b7C -1

**Instruction 2a:** SAC, Albuquerque will ensure executive management notification and authority is obtained prior to potential high-risk operations.

**Instruction 2b:** SAC, Albuquerque will ensure an FBI Arrest Plan Form, or oral briefing which addresses the five topics required to be included in written plans, be utilized whenever possible prior to an arrest.

**Recommendation 2:** SAC, Albuquerque should ensure Supervisors recognize their responsibility to provide unambiguous leadership and clear approval for action when warranted.

**Observation 3:** SA [redacted] failed to qualify with the weapon used in the operation. b6 -1 b7C -1

**Analysis 3:** The MIOG, Section 12-10.2.4 stated, *"SAs must qualify with each assigned shoulder weapon at least once per year. Agents are encouraged to train with weapons they regularly carry at every training session. SAs with assigned shoulder weapons MUST use those specific weapons when qualifying. Agents not assigned a specific shoulder weapon must, at a minimum, demonstrate proficiency with the shotgun and MP5 at least once per year on an approved qualification course or combat course as specified in the Annual Field Firearms Program."*

SA [redacted] was issued the MP5 rifle he used in the shooting incident on 06/13/2012. SA [redacted]'s first documented qualification score on this weapon was not until 10/13/2013. The date of the shooting incident was 06/04/2013. b6 -1 b7C -1

**Instruction 3:** SAC, Albuquerque will ensure all Special Agents qualify

at least once per year with each assigned shoulder weapon.

**Observation 4:** All participants in the operation did not attend the pre-operational briefing.

**Analysis 4:** SA [redacted] Case Agent and UC-handling Agent, prepared an operations order for the proposed buy/walk operation. The operations order was signed on 06/03/2013 by SSA [redacted], the Squad 5 SSA, and by SSA [redacted], the Squad 4 SSA who was the Acting ASAC. At approximately 2:00 p.m., on 06/04/2013, SA [redacted] conducted an operational briefing at the FBI Albuquerque Field Office for all personnel involved in the operation. In attendance at this operational briefing were Squad 4 FBI Agents and Task Force Officers (TFOs), Las Cruces Police Department TFOs, and Albuquerque Police Department (APD) Gang Unit members. APD [redacted] supported the operation, but did not attend the operational briefing. b6 -1 b7C -1 b7E -1,6

(U//~~FOUO~~) At the briefing, the planned undercover drug purchase followed by a traffic stop to identify the subjects was briefed by SA [redacted] The operation was planned for approximately 3:00 pm the same day. The FBI's Deadly Force Policy was read by SA [redacted] SA [redacted] instructed TFOs to follow their own deadly force policy. All personnel participating in the operation knew their roles and responsibilities. Questions were solicited, but no questions were asked. b6 -1 b7C -1

**Recommendation 4:** SAC, Albuquerque should ensure all individuals expected to participate in a scheduled operation attends the operational briefing.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The

following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), (INSD); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Violent Criminal Threats Section, Criminal Investigative Division; SC Roger A. Coe, East Asia Section, Counterintelligence Division; Unit Chief (UC) [redacted] FTU, TD; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG). In addition to the voting members in attendance, DOJ SIRG member [redacted] was unable to attend but reviewed the Shooting Incident Review Team report and provided his vote in writing prior to the SIRG. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors Trent R. Teyema, Shawn W. Stroud, Paul D. Delacourt, and R. Justin Tolomeo, OI, INSD; Team Leaders [redacted] OI, INSD; UC [redacted] FTU, TD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

b6 -1,3
b7C -1,3

**Procedures for Responding to the Observations**

(U//~~FOUO~~) SAC, Albuquerque is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further

action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, Albuquerque is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow-up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MAPA [redacted]

b6 -1
b7C -1

[redacted]

◆◆



NYT-552

[redacted] b6 -1,4 b7C -1,4

**From:** [redacted]@da2nd.state.nm.us]
**Sent:** Tuesday, November 26, 2013 6:50 PM
**To:** [redacted]
**Cc:**
**Subject:** Requested update on a non-injury FBI Agent-Involved Shooting

Dear Agent [redacted]

I have completed my review of DA File # 2013-03671-1, involving Special Agent [redacted] and TFO [redacted] at [redacted] which occurred on June 4, 2013. As you are aware, I examined this case strictly for any criminal violations which might have been committed by SA [redacted] when he discharged his weapon three times towards the suspect's vehicle which was being driven in an assaultive manner towards SA [redacted] and his partner TFO [redacted] At the time when SA [redacted] fired his weapon his partner, TFO [redacted] was stuck inside their vehicle and Agent [redacted] stated that he was fearful for Officer [redacted]'s life and safety under these circumstances. These circumstances were confirmed in TFO [redacted]'s statement to investigators. The vehicle occupied by TFO [redacted] was hit by the suspect's vehicle along with another, unrelated nearby vehicle. Although there was some property damage from these shots, it is very fortunate that no one, including any innocent third parties, were injured. b6 -1,2,4 b7C -1,2,4

I have concluded that SA [redacted] fired his weapon in an attempt to protect the life and safety of another, namely Officer [redacted] which is justified by law in terms of any criminal charges in this case. I will yet review my conclusion with the District Attorney within the next week or so. If she agrees with my recommendation, I will send you a formal letter and close this case without further action. If she wishes to me conduct any further investigation of this matter I will let you know right away. b6 -1,4 b7C -1,4

If you have any additional questions please contact me at [redacted] b6 -4 b7C -4

Sincerely yours,

[redacted]
Chief Deputy District Attorney
Second Judicial District

This message has been scanned for malware by SurfControl plc. www.surfcontrol.com
<http://www.surfcontrol.com/>

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT BOSTON DIVISION 06/29/2012 **Date:** 08/13/2013

**To:** DA-INSPECTION FRONT OFFICE

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1270955-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting that occurred on 06/29/2012, involving Special Agent (SA) [redacted] of the Boston Division. During the attempted arrest of a drug supplier, SA [redacted] fired two rounds from his Bureau-issued Glock Model 22, .40 caliber pistol. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. One Observation and associated Instruction was adopted by the SIRG for the Boston Division. b6 -1 b7C -1

**Administrative Notes:** (U) Reference report of Assistant Special Agent in Charge [redacted] dated 07/03/2012. b6 -1 b7C -1

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/29/2012, members of the FBI's Western Massachusetts Gang Task Force (WMGTF) assisted the Holyoke Police Department (HPD) Narcotics Unit and the Vermont State Police (VSP) in a narcotics investigation.

Title: (U) SHOOTING INCIDENT BOSTON DIVISION 06/29/2012
Re: 297-HQ-A1270955-D, 08/13/2013

On the morning of 06/29/2012 Supervisory Senior Resident Agent (SSRA) went to the Springfield Resident Agency (SRA) to address administrative issues. Upon arriving at the SRA, Special Federal Officer (SFO), Lieutenant (Lt.) approached SSRA to discuss details of the operation which was scheduled to occur later that afternoon. SSRA was advised the HPD planned After being briefed on the proposed operation, SSRA approved SA and other members of the WMGTF to participate in the operation and arrest. SSRA advised the purpose of providing support to this investigation was to enhance intelligence collection and develop sources in furtherance of the WMGTF's mission. SSRA advised he did not request a written operations order knowing the HPD was the lead agency. He was aware of the HPD policy which did not require written operations orders, only verbal briefings.

b6 -1,4
b7C -1,4
b7A -1
b7D -1
b7E -1

At approximately 1:00 p.m., participants attended a pre-operational briefing provided by HPD Detective was present He provided a photo of his criminal history, and possible vehicle description. Arrest team members were provided information detailing prior connection to a as well as the need to assess him as Detective stated the subject would be arrested prior to any controlled purchase taking place. The plan to arrest was the primary means of communication for the operation. Members of the task force, including SA had trained together on this technique during a 2009 vehicle operations training course.

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7D -1
b7E -1

SA knew he had approximately two hours from the time of

b6 -1
b7C -1

the briefing before the operation would take place. He advised Detective [redacted] he and SFO [redacted] were going to meet a source and it was possible they would be unavailable for the operation. Upon completion of his meeting with the source, SA [redacted] heard Detective [redacted] advise over the radio the operation would take place in the [redacted] parking lot of the [redacted]

b6 -1,4
b7C -1,4
b7A -1

SA [redacted] called Detective [redacted] and advised he and SFO [redacted] were in the vicinity of the [redacted] and would participate in the operation. Detective [redacted] reaffirmed to SA [redacted] the plan was to arrest [redacted] upon his arrival, and they would box him in with their vehicles to effect the arrest.

b6 -1,4
b7C -1,4
b7A -1

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7D -1
b7E -1

As SA [redacted] and SFO [redacted] entered the [redacted] SA [redacted] observed Massachusetts State Police (MSP) Sergeant [redacted] parked in the [redacted] lot near the [redacted] SA [redacted] and SFO [redacted] were parked in the front right corner of the [redacted] parking lot. SFO [redacted] contacted the West Springfield Police Department (WSPD) to provide details of the operation. The WSPD responded and advised SFO [redacted] detectives from their department would be responding to assist in the operation. SA [redacted] relayed the information to the other team members. At this point, Detective [redacted] advised [redacted] was approximately five minutes away.

b6 -1,7
b7C -1,7

While waiting for [redacted] SA [redacted] contacted the arrest team and made arrangements for arrest team vehicle placement.

Detective [redacted] advised participants that [redacted] would be arriving any minute and stated [redacted] Immediately after Detective [redacted]'s communication, HPD Detective [redacted] communicated [redacted] had arrived in a [redacted] Upon [redacted]' arrival, [redacted]

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7D -1
b7E -1

Title: (U) SHOOTING INCIDENT BOSTON DIVISION 06/29/2012
Re: 297-HQ-A1270955-D, 08/13/2013

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7D -1

drove through the parking lot, heading towards the SA and SFO positioned themselves in a parking space facing the drove in front of the made eye contact with SA and SFO made a left hand turn, and traveled across the parking lot back towards the Detective signaled the team to effect the arrest. SA and SFO took a position approximately four feet away from rear bumper to block him in and activated the vehicle emergency lights. Detective pulled his vehicle to driver's side and SFO Sgt. stopped his vehicle in front of

b6 -1,4,7
b7C -1,4,7

Subsequent to the blocking of SA and SFO exited their vehicle. SA moved along the passenger side of vehicle shouting "Stop, Police" with his firearm drawn. immediately drove his vehicle forward and struck SFO 's vehicle. SA continued yelling "Stop, Police" and put his vehicle in reverse, moved backwards and struck SFO s vehicle. SA was approximately three feet away from vehicle and SFO was positioned to the rear. SA looked into vehicle and observed him rapidly turning the steering wheel to the left and heard the engine revving loudly and the tires spinning. looked directly at SA which made him believe the front end of vehicle was going to either strike him or SFO

b6 -1,4,7
b7C -1,4,7

As moved in reverse, the front end of his vehicle swung directly toward SA Fearing for his and SFO 's safety, SA fired his Glock 22, Serial # once, and then a second time as vehicle struck SFO s vehicle a second time. In an interview with the Shooting Incident Review Team (SIRT), SFO Lt. indicated he also feared for his life. moved forward again and drove past SFO 's vehicle, traveling over a median strip and onto the road between the towards the exit. SA began running after vehicle, believing he may have been struck by one or both rounds and would be unable to continue driving.

DEA Group Supervisor (GS) [redacted] called out a "no pursuit" order to his personnel and subsequently stopped to pick up SA [redacted] As they traveled a short distance, SA [redacted] called SSRA [redacted] twice and left messages advising of the incident. SA [redacted] also called Relief Supervisor SA [redacted] but the call was directed to voice mail and he did not leave a message. b6 -1,3 b7C -1,3

During the operation, all law enforcement officers executing the arrest were wearing identifying clothing; however, SA [redacted] and SFO [redacted] were not wearing ballistic protection. b6 -1 b7C -1

[redacted] evaded Agents and officers; however, he was arrested at 4:26 p.m., later that day while attempting to conduct a [redacted] b6 -7 b7C -7 b7A -1

No personal injuries were incurred as a result of SA [redacted] discharging his weapon. b6 -1 b7C -1

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Gregory D. Cox, Global Section, Counterintelligence Division; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Defensive Systems Unit, TD; and SA [redacted] Squad CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Gregory T. Bretzing, Christopher W. Davis, and Ronald Twersky, OI, INSD; Team Leaders [redacted] b6 -1,3 b7C -1,3

and [redacted], OI, INSD; SSA [redacted] Defensive Systems Unit, TD; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst (MPA) [redacted] Inspection Analysis Unit, INSD; and MPAs [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and 4) provide recommendations for administrative action if deemed necessary.

The discussion of this incident resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in the shooting incident. The SIRG determined the use of deadly force by SA [redacted] was justified and within policy. b6 -1 b7C -1

**INSPECTOR'S OBSERVATION:**

**Observation 1:** SA [redacted] was not wearing his FBI issued Ballistic Protective Undergarment (BPU) during the arrest operation. b6 -1 b7C -1

**Analysis 1:** SA [redacted] was not wearing ballistic protection during this operation. SA [redacted] was briefed the details of the operational plan hours prior to the operation, yet failed to wear any ballistic protection during the operation. According to FBI policy found in the Manual of Investigative Operations and Guidelines (MIOG) Part 2, Sections 12-13.1 and 12-13.2, the [redacted] b7E -5

[redacted] b7E -5

[redacted] Every indication was that this arrest could "reasonably" involve a violent altercation. Under such circumstances, it is imperative Executive Managers and SSAs in the Boston Field Office ensure all personnel wear BPUs in accordance with the MIOG.

**Instruction 1**: SAC, Boston will ensure all Special Agents are issued FBI approved BPUs, and utilize said protective devices during all planned arrest operations.

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/ Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The review process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if the Instruction has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, Boston is required to provide detailed responses addressing the Instruction in this EC, pages 6 and 7, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand alone response. The Observation and

related Instruction is to be recited verbatim from the inspection EC, followed by the division's detailed response (it is not necessary to repeat the analysis section of the Observation in the response). If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please e-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1

♦♦

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 08/19/2015
Report of: Inspector Vadim Thomas Office: FBIHQ – INSD
Case ID#: 297I-HQ-A6362011
Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT;
DENVER FIELD OFFICE;
05/08/2015.

Investigative Period: 05/08/2015 – 08/18/2015

## I. Executive Summary

(U//~~FOUO~~) On 05/08/2015, at 4:15 p.m., Denver FBI SWAT and members of the Denver Field Office Rocky Mountain Safe Streets Task Force (RMSSTF) were involved in a shooting incident while attempting to apprehend Jesus Emmanuel Avila. [redacted] b7A -1

(U//~~FOUO~~) [redacted] b7E -4 b3 -1 b7A -1

On 05/06/2015, RMSSTF investigators utilized the collected items and the [redacted] to draft affidavits for a federal arrest warrant for Avila, as well as a federal court order for a [redacted] and a federal search warrant to initiate [redacted] Additionally, a SWAT Operations Order was prepared and a SWAT Warning Order was issued. On [redacted] the aforementioned federal warrants and order were signed. The SWAT Operations Order was approved contingent upon the successful location and positive identification of Avila.

(U//~~FOUO~~) On 05/08/2015 [redacted] the RMSSTF established surveillance at the Essex House Motel, 5390 Santa Fe Drive, Littleton, Colorado based on [redacted] visual confirmation of Avila at the motel. Upon deployment to the area of the Essex House Motel, Denver SWAT b7E -4



NYT-562

determined a primary and secondary tactical plan. The primary plan was to call Avila out and the secondary plan was to breach and hold. When Denver SWAT operators were in place, a call was placed to Avila's motel room. Avila answered the telephone and was advised there was a warrant for his arrest. Avila was also instructed to exit the room and to follow the instructions of law enforcement personnel. Avila agreed, but after a period of time, did not exit the room. Additional unsuccessful attempts were made to telephonically contact Avila. Thereafter, Denver SWAT operators began shouting commands for Avila to exit the room. Denver SWAT operators then observed movement in the window area of Avila's room. Shortly thereafter, the on-scene commander authorized the SWAT team to breach and hold. Along with six Denver SWAT operators, SA [redacted] maneuvered into position and executed the breach. Upon doing so, two shots were fired by Avila and a third shot followed seconds later. SA [redacted] was struck in the lower left knee area by one of the first two shots fired and was evacuated from the scene. Inasmuch as the door shut immediately after the breach, Denver SWAT operators retreated, without returning fire, to areas of cover and awaited further instruction. After approximately 90 minutes with no movement in the room or contact with Avila, [redacted] into Avila's room. [redacted] it was determined Avila was incapacitated from an apparent self-inflicted gunshot wound. As a precaution, a K-9 was released into the room to assess a response from Avila. After observing no response, Denver SWAT entered the room, and secured the area and Avila. No Denver Field Office personnel or other law enforcement personnel fired a weapon during this incident. SA [redacted] was transported to the hospital with a non-life threatening bullet wound below his left knee and was expected to make a full recovery after approximately four to six months of physical therapy.

b6 -1,7
b7C -1,7
b7E -1

(U//~~FOUO~~) The Denver Evidence Response Team processed the scene. Three 9mm shell casings were recovered as well as a loaded Kel-Tec, PF-9, 9mm Luger Pistol. Also recovered was a Sprint LG cellular telephone. The screen image was locked on the webpage "Firearms: Shooting yourself; Information on suicide by using a gun."

(U//~~FOUO~~) On 05/12/2015, an autopsy was conducted on Avila. Preliminary results determined the method of death to be a suicide and the cause of death to be a self-inflicted gunshot wound to the head.

## II. Incident Details

### a. Substantive Case Files and Background Information

(U//~~FOUO~~) Prior to the shooting incident, the following substantive 91 case was opened:

Title: [redacted]

b7A -1

File number: [redacted]

Case Agents: Task Force Officer (TFO) [redacted]

TFO [redacted]

b6 -4
b7C -4
b7A -1

(U//~~FOUO~~) As a result of the Agent-Involved Shooting (AIS), the Denver Field Office opened the following Assault on a Federal Officer Investigation:

Title: JESUS EMMANUEL AVILA;
SA [redacted] (VICTIM);
ASSAULTING, KILLING OR ATTEMPTING TO KILL A FEDERAL OFFICER;
05/08/2015

b6 -1
b7C -1

File number: 89B-DN-6366154
Case Agent: SA [redacted]

**b. Listing of Personnel Involved in the Shooting Incident**

1. A/SAC [redacted] (SAC)
2. ASAC [redacted] (ASAC)
3. SSA [redacted] (On scene commander)
4. SA [redacted] (FBI Denver SWAT Senior Team Leader, Team Two)
5. SA [redacted] (FBI Denver SWAT Team Leader, Team Two)
6. SA [redacted] (FBI Denver SWAT Team One Breacher/Victim)
7. SA [redacted] (FBI Denver SWAT Team One Cover)
8. SA [redacted] (FBI Denver SWAT Team One Ballistic Shield)
9. SA [redacted] (FBI Denver SWAT Team Two Cover)
10. SA [redacted] (FBI Denver SWAT Team Two Shield)
11. TFO [redacted] (Denver Police Department Crisis Negotiator)
12. SA [redacted] (FBI Denver SWAT Operational medic/ERT Leader)

b6 -1,4
b7C -1,4

**c. Case Review and Operational Briefings**

(U//~~FOUO~~) From 02/19/2015 to 05/04/2015, investigation determined Jesus Emmanuel Avila committed or attempted to commit nine bank robberies in the Denver Metropolitan area. During each robbery, Avila produced a demand note requesting money and threatened a weapon. Avila never displayed a weapon during the robberies.

(U//~~FOUO~~) On 03/04/2015, the Denver Field Office, Rocky Mountain Safe Streets Task Force (RMSSTF) opened an investigation [redacted] predicated on victim/witness accounts of [redacted]

b7A -1

(U//~~FOUO~~) On 05/06/2015, RMSSTF TFO [redacted] learned of a report taken by the Lakewood Police Department, dated 04/29/2015. [redacted]

b6 -4
b7C -4
b7A -1

[redacted]

b7E -4
b7A -1

(U//~~FOUO~~) From 05/06/2015 to 05/08/2015, RMSSTF members searched FBI databases and Avila's social media accounts in an attempt to determine his whereabouts. Additionally, they conducted surveillance of [redacted] and her residence located at [redacted] Colorado. However, they were not able to locate Avila.

b6 -2
b7C -2

(U//~~FOUO~~) On [redacted] the Denver Field Office obtained a federal arrest warrant for Avila, as well as a federal court order for a [redacted] and a federal search warrant to [redacted] The warrants were signed by the Honorable Michael E. Hegarty, U.S. Magistrate Judge for the District of Colorado. Additionally, a SWAT Operations Order was approved contingent upon the successful location and positive identification of Avila.

b7E -4
b3 -1

(U//~~FOUO~~) On 05/07/2015, The Denver Field Office prepared an FBI Law Enforcement Operation Order for the arrest of Avila at [redacted] residence. The Operation Order was signed by Acting Special Agent in Charge (A/SAC) [redacted] Denver SWAT Senior Team Leader (STL) [redacted] briefed the plan and advised Avila [redacted] was considered armed and dangerous. STL [redacted] also advised of an incident which occurred on 03/20/2015 between the Denver Police Department and Avila, in which Avila was found asleep in a vehicle and became extremely combative with responding officers. Avila was instructed to exit the vehicle and, after a verbal confrontation with the responding officers, Avila was tased twice as he was forcibly removed from the vehicle by the responding officers. A subsequent search of the vehicle recovered a .380 caliber handgun. Avila was incarcerated in the Denver City Jail and released on 04/14/2015.

b6 -1,2
b7C -1,2
b7A -1

(U//~~FOUO~~) On 05/08/2015, pursuant to a [redacted] STL [redacted] was advised Avila was [redacted] at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. Prior to the execution of the standing Operational Order from 05/07/2015, an operational briefing occurred at a staging area located at [redacted] Avila was positively identified at the Essex House Motel by RMSSTF TFOs [redacted] and [redacted] STL [redacted] received verbal approval from A/SAC [redacted] to execute the standing Operations Order at the Essex House Motel. During both operational briefings, FBI Denver SWAT team operators were advised of Avila's criminal history, the tactical plans, and read the Department of Justice (DOJ) Deadly Force Policy.

b6 -1,4
b7C -1,4
b7E -1,4



NYT-565

**d. Events Leading Up to the Shooting**

(U//~~FOUO~~) On 05/08/2015, pursuant to [redacted] SA [redacted] at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado at approximately 3:10 p.m.

b6 -1,4
b7C -1,4
b7E -4

(U//~~FOUO~~) SSA [redacted] RMSSTF Supervisor, advised A/SAC [redacted] of the [redacted] A/SAC [redacted] ordered SWAT to deploy and, after being briefed on the operational and contingency plans, A/SAC [redacted] approved the arrest plan and designated SSA [redacted] the On-scene commander.

b6 -1
b7C -1
b7E -4

(U//~~FOUO~~) SSA [redacted] mobilized RMSSTF personnel to the Essex House Motel and established surveillance. SSA [redacted] proceeded to a staging location near the intersection of [redacted] At approximately, 3:14 p.m., TFOs [redacted] positively identified Avila as he walked through the motel parking lot in the direction of an adjacent strip mall. SSA [redacted] advised A/SAC [redacted] and RMSSTF personnel he wanted to arrest Avila in the Essex House Motel parking lot upon his return. At approximately 3:18 p.m., A/SAC [redacted] authorized the arrest; however, SSA [redacted] determined there were not enough RMSSTF personnel present to safely effect the arrest. Avila returned to the motel and entered Room 235.

b6 -1,4
b7C -1,4
b7E -1

(U//~~FOUO~~) At approximately 3:25 p.m., SSA [redacted] briefed FBI Denver SWAT team operators at the staging location of the primary tactical option, which was to call out Avila utilizing the team's hostage negotiator. SSA [redacted] also briefed the alternate tactical option, [redacted] FBI Denver SWAT TL [redacted] gave the final operational briefing. The Operation Order and photograph of the subject were reviewed. All SWAT team operators were aware of the tactical plan and contingencies and the DOJ Deadly Force Policy was read by TL [redacted] At approximately 3:45 p.m., the SWAT team operators departed the staging area to the south side of the Essex House Motel and took their positions.

b6 -1
b7C -1
b7E -1

**e. Shooting Incident Details**

(U//~~FOUO~~) On 05/08/2015, at approximately 3:50 p.m., TFO [redacted] a certified FBI Hostage Negotiator, proceeded to the manager's office of the Essex House Motel. The office manger connected TFO [redacted] to room 235. Avila answered the room telephone and TFO [redacted] identified himself as law enforcement and advised Avila there was a warrant for his arrest. TFO [redacted] also advised Avila the motel was surrounded by law enforcement and to come out of the room and surrender to them. Avila responded in English, "ok, I am coming out." Avila did not hang up the room telephone and TFO [redacted] overheard Avila talking to someone in English, presumably on his cellular telephone. TFO [redacted] hung up the office telephone and

b6 -4
b7C -4

advised the team, via the RMSSTF radio channel, Avila had agreed to come out of the room. After approximately 10 minutes, Avila did not exit the room. TFO made additional unsuccessful attempts to call Avila on his room and cellular telephone numbers. At approximately 4:10 p.m., Denver SWAT operators, positioned outside of Avila's room, attempted to verbally call Avila out of the room for approximately five minutes. During the call out, SA Denver SWAT operator, observed the curtain move in the window area of Avila's room and saw who he believed to be Avila. At approximately 4:15 p.m., STL gave the order to "breach and hold" the room. SA Denver SWAT operator, moved into position and executed the breach. As the door swung open, SA observed Avila standing directly in front of him. Avila immediately fired two shots; one struck SA below the left knee area and the other, the ceiling inside the room, in the vicinity of the door frame. SA did not return fire and was evacuated to the Casualty Collection Point by SAs A third shot was heard from the room seconds later. Due to the force of the breach, the door bounced off the interior concrete wall and shut almost immediately after the breach. Denver SWAT operators retreated without returning fire, entered vacant and occupied hotel rooms on opposite sides of room 235 for cover, and awaited further instructions.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) Shorty after the shooting, A/SAC assumed On-Scene Command. At approximately 5:00 p.m., the LPD established an Incident Command Post. After approximately 90 minutes with no movement in the room or contact with Avila, a plan was briefed by FBI Denver and LPD SWAT into Avila's room to assess his condition. At approximately 5:52 p.m., it was determined Avila was incapacitated from an apparent self-inflicted gunshot wound to the head. At approximately 6:28 p.m., an LPD K-9 was introduced into Avila's room. The K-9 dragged Avila out of the chair and onto the floor. Avila was unresponsive and the K-9 was called out of the room by its handler. Denver SWAT entered and cleared the room. No other occupants were in the room. A loaded handgun was observed approximately six inches from Avila's body. SA kicked the handgun away from Avila's body, under a chair, and Avila was secured. SA Denver SWAT Operational Medic, entered the room and observed Avila and his injuries. SA determined Avila was deceased.

b6 -1
b7C -1
b7E -1

(U//~~FOUO~~) No Denver Field Office personnel or other law enforcement personnel fired a weapon during this incident. SA was transported to the hospital with a non-life threatening bullet wound below his left knee and was expected to make a full recovery.

b6 -1
b7C -1

**f. Post Shooting Details**

(U//~~FOUO~~) On 05/08/2015, at approximately 7:00 p.m., the Denver Evidence Response Team (ERT) began to process the scene and concluded at approximately 1:50 a.m. on 05/09/2015. Three 9mm shell casings were recovered as well as a loaded Kel-Tec, PF-9, 9mm Luger Pistol. Also recovered was a Sprint LG cellular telephone. The screen image was locked on the webpage "Firearms: Shooting yourself; Information on suicide by using a gun."

(U//~~FOUO~~) On 05/08/2015, at approximately 10:30 p.m., Avila's body was recovered by the Arapahoe County Coroner's Office.

(U//~~FOUO~~) The autopsy of Avila was conducted on 05/11/2015 by Coroner [redacted] [redacted] M.D., Arapahoe County Office of the Coroner. It was determined Avila sustained a perforating gunshot wound to the front forehead at contact range. The manner of death was classified as a suicide. b6 -4 b7C -4

(U//~~FOUO~~) On 05/08/2015, at approximately 7:30 p.m., SA [redacted] obtained a cellular telephone from Detective [redacted] LPD. The cellular telephone belonged to [redacted] who witnessed the shooting incident from the hotel parking lot, videotaped the incident on his cellular telephone. Detective [redacted] obtained the cellular telephone from [redacted] at approximately 5:30 p.m. on 05/08/2015. The telephone number, serial number, and IMEI for the Samsung Galaxy III cellular telephone [redacted] provided to Detective [redacted] were: [redacted] and [redacted] respectively. b6 -1,4,8 b7C -1,4,8

(U//~~FOUO~~) During the SIRT investigation, 10 Signed Sworn Statements and 24 external and internal interviews were conducted. Interview results were consistent and corroborated the factual accounting of the shooting incident as well as the cellular telephone camera footage. On 05/13/2015, SA [redacted] was released from the hospital and was expected to make a full recovery following four to six months of physical therapy. b6 -1 b7C -1

**g. Accounting of Shots Fired**

(U//~~FOUO~~) No Denver Field Office personnel or other law enforcement personnel fired a weapon during this incident.

(U//~~FOUO~~) Denver ERT recovered three 9mm shell casings from the shooting scene. One shell casing was located inside room 235 on the floor next to the front door. A second shell casing was located inside room 235 on the floor next to the 9mm Luger Kel-Tec Pistol. The final shell casing was located inside room 235 on a television shelf.

(U//~~FOUO~~) The Denver ERT recovered two 9mm bullets. One was recovered in the South ceiling area of room 235, which was consistent with where Avila was believed to have been sitting when he initiated the self-inflicted gunshot. Another was recovered in the North ceiling area of room 235, which was consistent with one of the two shots Avila fired as SA [redacted] executed the breach. The final bullet was never recovered. The bullet entered SA [redacted]'s lower left knee area and exited through his calf. Denver ERT conducted a search North of the immediate area for the bullet impact, but the bullet or evidence of the bullet's impact was not located or observed. b6 -1 b7C -1

**h. Subject Information**

Name: Jesus Emmanuel Avila
Position: N/A
Sex: Male
Race: White/Hispanic
Height: 5'11"
Weight: 150

Hair: Brown
Eyes: Brown
DOB: 01/26/1996
SSAN: 522-99-3294
FBI #: 182564EH

(U//~~FOUO~~) Avila's criminal history included arrests for felony burglary, felony damage to property, misdemeanor assault, and misdemeanor resisting arrest.

(U//~~FOUO~~) At the time of the NCIC query, there was an active warrant for Avila. The warrant was issued by the Honorable Michale E. Hegarty, U.S. Magistrate Judge for the District of Colorado on 05/07/2015, for Bank Robbery.

**i. Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) All seven members of the Denver SWAT tactical team were wearing their FBI-issued ballistic helmet as well as their standard issue Level IV SWAT body armor with trauma plates and FBI identification emblazoned on the front and back of the vest.

**j. Forensic Summary**

(U//~~FOUO~~) On 05/08/2015, at approximately 7:00 p.m., the Denver ERT began processing the scene of the AIS incident at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. SA [redacted] ERT TL, provided a Forensic Summary Casebook of the shooting incident. Items recovered from room 235 included three 9mm shell casings, a loaded Kel-Tec, PF-9, 9mm Luger Pistol, two 9mm bullets, a Sprint LG cellular telephone, and $266 in US currency. A total of 26 items were collected. Denver ERT concluded processing the scene at approximately 1:50 a.m. on 05/09/2015. b6 -1 b7C -1

(U//~~FOUO~~) On 05/08/2015, the Denver ERT conducted 360 spherical imaging of room 235 at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. Denver ERT identified two holes, two impacts and two trajectories. The trajectories appeared to come from the location where Avila was believed to have been standing when room 235 was breached and where Avila was believed to have been sitting when he initiated the self-inflicted gunshot.

(U//~~FOUO~~) An inventory of all evidentiary items recovered from the scene and the vehicle were as follows:

| | |
|---|---|
| 1B1 | Cartridge case – on floor next to front door. |
| 1B2 | American Eagle Outfitter receipt – on floor, south side of bed |
| 1B3 | Kel-Tec pistol, Model PF-9mm Luger, serial number SR160 – on floor next to deceased |
| 1B4 | Kyocera cellular telephone (black) – on table |
| 1B5 | Cartridge case – on floor next to Item 3 pistol |
| 1B6 | LG cellular telephone (Sprint) white – on table |
| 1B7 | Black vest – on floor, south side of bed next to nightstand |



NYT-569 -

| | |
|---|---|
| 1B8 | Dark hooded sweatshirt – on bed |
| 1B9 | Black shirt – on floor behind chair |
| 1B10 | $265 in US Currency – in wallet on table |
| 1B11 | Cartridge Case – on television shelf |
| 1B12 | 2 black and yellow Stanley screwdrivers - on north nightstand |
| 1B13 | 1 black and yellow Stanley screwdriver – on south nightstand |
| 1B14 | Metal lock pick – pocket of Item 7 vest |
| 1B15 | $1 in US Currency – on north nightstand |
| 1B16 | Blue button-up shirt – on floor next to bed |
| 1B 17 | Dark jeans – on floor next to bed |
| 1B18 | Magazine containing 3 cartridges and 1 cartridge removed from chamber – from Item 3 pistol |
| 1B19 | Green organic matter labeled marijuana – table and black backpack |
| 1B20 | Tools – under bed |
| 1B21 | White plastic wedge – north nightstand |
| 1B22 | White plastic wedge – Black backpack |
| 1B23 | Bullet – ceiling on north end of room, associated with trajectory 1 |
| 1B24 | Bullet – ceiling on south end of room, associated with trajectory 2 |
| 1B25 | Brown leather wallet, social security card in the name of Jesus Emmanuel Avila (522-99-3294), Essex House Motel receipt, South Suburban taxi card (blank) – room 235 |
| 1B26 | Black sweat pants, 2 black socks, 2 black shoes, 2 black socks, black sweat pants, 2 black tank tops, blue jeans (light), black back pack, 7 black socks – room 235 |

**k. Medical Summary**

FBI Agent involved in the shooting:

(U//~~FOUO~~) On 05/08/2015, at approximately 4:15 p.m., SA [redacted] was shot by Avila as he breached room 235 at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. At approximately 4:20 p.m., SA [redacted] was transported to the Swedish Medical Center where he underwent surgery for a non-life threatening bullet wound below his left knee. SA [redacted] was released from the hospital on 05/13/2014. b6 -1 b7C -1

Subject:

(U//~~FOUO~~) On 05/08/2015, at approximately 6:30 p.m., Denver SWAT members made entry into room 235 at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. Avila was unresponsive and appeared to suffer from a self-inflicted gunshot wound to the head. SA [redacted] Denver SWAT Operational Medic, entered the room and observed Avila and his injuries. SA [redacted] determined Avila was deceased. At approximately 10:30 p.m., Avila's body was recovered by the Arapahoe County Coroner's Office. b6 -1 b7C -1

(U//~~FOUO~~) An autopsy of Avila was conducted on 05/11/2015 by Coroner [redacted] M.D., Arapahoe County Office of the Coroner. It was determined Avila sustained a perforating gunshot wound to the front forehead at contact range. The manner of death was classified as a suicide. b6 -4 b7C -4

## III. Shooting Incident Review Team Details

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Vadim D. Thomas
Inspector Kathryn Peterson
Team Leader (TL) [redacted] b6 -1 b7C -1
TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP

**b. The FBI Denver Evidence Response Team (ERT) Personnel:**

ERT TL: [redacted] b6 -1 b7C -1
ERT: [redacted] (Photo Log)
ERT: [redacted] (Sketcher)
ERT: [redacted] (Evidence)
ERT: [redacted] (Evidence)
ERT: [redacted] (Evidence)
Photographer: [redacted] (360 Spherical)
Photographer: [redacted]
ERT TL: [redacted] (Autopsy)
ERT: [redacted] (Autopsy)

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On 05/08/2015, INSD Assistant Director Nancy McNamara was notified via the FBI's Strategic Information and Operations Center of the AIS. Inspector Vadim D. Thomas spoke with Denver Field Office ASAC [redacted] to arrange logistics prior to the SIRT's arrival in Denver. b6 -1 b7C -1

(U//~~FOUO~~) On 05/09/2015, the SIRT traveled to Denver. Upon arrival, Inspectors Thomas and Kathryn Peterson met with Denver EM, A/SAC [redacted] as well as ASACs [redacted]

(U//~~FOUO~~) On 05/10/2015, Inspectors Thomas and Peterson met A/SAC [redacted] and ASACs [redacted] to formerly explain the SIRT process and protocols. During the meeting, the Denver Field Office showed the SIRT a cellular telephone video of the incident. The video was taken by [redacted] a private citizen. Inspector Thomas also met with the involved FBI b6 -1,8 b7C -1,8



NYT-571

Agents to explain the SIRT process and protocols. The Denver Field Office submitted a FD-1015, Executive Situation Report.

(U//~~FOUO~~) On 05/11/2015, the SIRT viewed the shooting scene at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. Additionally, Inspector Thomas spoke with [redacted] First Assistant, United States Attorney (FAUSA), United States Attorney's Office (USAO), Denver, Colorado. FAUSA [redacted] advised the USAO was aware of the circumstances surrounding the 05/08/2015 AIS and declined any prosecution. b6 -3 b7C -3

(U//~~FOUO~~) On 05/12/2015, Inspector Thomas spoke with Chief Doug Stevens of the Littleton Police Department (LPD). Chief Stevens advised the LPD would assist the FBI should the FBI request assistance, but LPD had no investigative interest in the AIS which occurred on 05/08/2015. Additionally, Chief Stevens advised LPD would not seek any prosecution with the 18th Judicial District Attorney's Office. Inspector Thomas also spoke with Chief Deputy District Attorney [redacted] for the 18th Judicial District of Colorado. Chief Deputy [redacted] advised the 18th Judicial District of Colorado had no interest in investigating or prosecuting anyone related to the 05/08/2015 AIS incident. b6 -4 b7C -4

(U//~~FOUO~~) The SIRT conducted 34 interviews, of which twenty-three were of Denver Field Office personnel and nine were of external law enforcement. Ten of the 23 Denver Field Office interviews were Signed Sworn Statements (SSS) obtained from SAs [redacted] The Agents interviewed via SSS signed an FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident). The remaining interviews were documented via FD-302s. b6 -1 b7C -1

(U//~~FOUO~~) On 05/13/2015, Inspector Thomas provided an exit brief to A/SAC [redacted] ASACs [redacted] as well as Assistant United States Attorney, [redacted] United States Attorney's Office for the District of Colorado, Major Crimes Division. A/SAC [redacted] was also provided with a copy of the SIRT Report. b6 -1,3 b7C -1,3

## V. Administrative

### a. Firearms Training

(U//~~FOUO~~) On 05/12/2015, SA [redacted] Principal Firearms Instructor (PFI), Denver Field Office, provided copies of Firearms Information, Registration and Shooter Tracking (FIRST) reports pertaining to SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] and SA [redacted] The qualifications scores were for the period of 12/04/2013 through 05/04/2015. The aforementioned SAs were all current and in compliance with firearms qualification requirements. b6 -1 b7C -1

### b. Deadly Force Training

(U//~~FOUO~~) In November of 2014, the Denver Field Office provided FBI Deadly Force Policy Training during mandatory quarterly legal training briefings. The trainings were

conducted by Chief Division Counsel (CDC) [redacted] and memorialized in case identification number 333B-DN-69506, serial 54. FBI Deadly Force Policy Training was also conducted in November 2013 by CDC [redacted] during Denver Field Office mandatory quarterly legal training briefings. The trainings were memorialized in case identification number 333-DN-69506, serial 42. SAs [redacted] completed mandatory annual Deadly Force Training in FYs 2012, 2013, and 2014, with the exception of SA [redacted] in FY 2013. b6 -1 b7C -1

(U//~~FOUO~~) On 05/13/2015, STL [redacted] provided Denver Field Office SWAT training records pursuant to the SIRT's review of the AIS on 05/08/2015 at the Essex House Motel, 5390 South Santa Fe Drive, Littleton, Colorado. A review of the records provided indicated all members of the FBI Denver SWAT, including the seven SWAT members involved in the AIS incident on 05/08/2015, were Basic SWAT certified. b6 -1 b7C -1

**c. DOJ Civil Rights Division Prosecutorial Decision**

(U//~~FOUO~~) On 05/28/2015, via email, Deputy Chief [redacted] DOJ, Civil Rights Division, Criminal Section, provided Inspector Thomas a prosecutorial declination for FBI Agents involved in the AIS on 05/08/2015. In the email, Deputy Chief [redacted] advised, upon review of the Inspection Division Executive Summary, the Civil Rights Division, Criminal Section, declined prosecution of the matter. b6 -3 b7C -3

(U//~~FOUO~~) On 05/11/2015, [redacted] FAUSA, USAO, Denver, Colorado forwarded, via email, a prosecutive declination to Inspector Thomas. FAUSA [redacted] advised the USAO was aware of the circumstances surrounding the 05/08/2015 AIS and declined any prosecution.

**d. Local Prosecutorial Decision**

(U//~~FOUO~~) On 05/12/2015, [redacted] Chief Deputy District Attorney, 18th Judicial District, Denver, Colorado forwarded, via email, a prosecutive declination to Inspector Thomas. Chief Deputy [redacted] advised the 18th Judicial District of Colorado had no interest in investigating or prosecuting anyone related to the 05/08/2015 AIS incident. b6 -3 b7C -3

**VI. Inspector's Draft Observations:** There were no observations noted.

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED//~~FOUO~~

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident Report **Date:** 03/03/2015

**From:** BALTIMORE
BA-CI-1
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297L-HQ-A5884319 (U) Baltimore Animal Shooting

**Synopsis:** (U//~~FOUO~~) To report results of a review of an animal shooting incident involving SA [redacted] which occurred December 26, 2014 b6 -1 b7C -1

**Package Copy:** (U//~~FOUO~~) The following original documents are being placed in FD-340 envelopes and mailed to Inspection Division:
1.) Original Signed Sworn Statement (SSS) of SA [redacted] dated January 2, 2015, maintained in a FD-340 envelope
2.) Original FD-927 signed by SA [redacted] dated December 31, 2014, maintained in a FD-340 envelope
3.) FD-340s containing original interview notes and records
4.) FD-340s containing a sketch and CD with digital photos of the scene

**Details:**

(U//~~FOUO~~) On December 26, 2014, SA [redacted] discharged two rounds from his FBI-approved personally owned weapon Glock 26 at a Great Dane which charged at him and attacked the miniature schnauzer he was walking. The shooting incident review was delegated to the Baltimore field office (BA) by the Chief Inspector on December 26, 2014. Following are the results of the shooting incident review, which included a SSS from SA [redacted] BA Evidence Response Team (ERT) processing the scene, and coordination with the Anne Arundel County Police Department (AACPD). b6 -1 b7C -1

UNCLASSIFIED//~~FOUO~~

Title: (U//~~FOUO~~) Shooting Incident Report
Re: 297L-HQ-A5884319, 03/03/2015

(U//~~FOUO~~) On the morning of December 26, 2014, SA [redacted] was walking [redacted]'s miniature schnauzer on a trail near his [redacted]'s residence at [redacted] Maryland [redacted] At approximately 11:15 AM, SA [redacted] and the miniature schnauzer approached a footbridge on the trail, and at the time SA [redacted] noticed a woman, [redacted] with a large dog, a Great Dane, on the bridge walking toward him. [redacted] requested SA [redacted] to wait for her and the Great Dane to exit the bridge before he proceeded any further. SA [redacted] stood to the rightmost part of the path near the entrance to the bridge with the schnauzer on a leash. The leash was held in SA [redacted]'s left hand and looped around his left wrist. b6 -1,2 b7C -1,2

(U//~~FOUO~~) Before [redacted] could exit the bridge and while she and the Great Dane were approximately 15 feet from where SA [redacted] stood, the Great Dane lunged at the schnauzer and SA [redacted] The Great Dane, which had been on a leash, dragged [redacted] off her feet and broke free from her, causing her to fall and lie on the floor of the bridge. The Great Dane charged towards the schnauzer and SA [redacted] and immediately began attacking the schnauzer by biting it. While the schnauzer was being attacked, it remained on the leash which was still held in SA [redacted]'s left hand and attached to his left wrist. SA [redacted] stepped back off the path onto the grass and turned his body to the left in an attempt to pull the schnauzer away from the attacking dog. The Great Dane continued to attack the schnauzer. The attack lasted a few, short seconds. b6 -1,2 b7C -1,2

(U//~~FOUO~~) Due to the aggressive and unpredictable nature of the attack, SA [redacted] feared for his safety because he believed any motion on his part, or any attempt to physically stop the attack, would result in the Great Dane turning its attack onto him. SA [redacted] is [redacted] tall and weighs [redacted] lbs. While standing on its four legs, the Great Dane's back was level with SA [redacted]'s hips and it weighed approximately 180 lbs. b6 -1 b7C -1

(U//~~FOUO~~) Fearing for his safety, SA [redacted] drew his FBI-approved personally owned weapon from an inside the waistband holster and fired

two rounds. Using his right hand, SA [redacted] used a single handed grip with the pistol pointed in a downward direction away from the walking path toward the Great Dane which stood approximately one foot from SA [redacted] After SA [redacted] fired two rounds, the Great Dane released its bite of the schnauzer and walked back towards [redacted] who was still lying on the floor of the bridge. SA [redacted] holstered his weapon, retreated backwards onto the walking path and identified himself as a law enforcement officer. b6 -1,2 b7C -1,2

(U//~~FOUO~~) SA [redacted] called 911 from his FBI-issued mobile phone and identified himself as a FBI Special Agent to the dispatcher while AACPD officers were en route to the scene. At 11:20 AM, AACPD officers arrived on scene and SA [redacted] identified himself. With AACPD officers on scene, SA [redacted] called his acting supervisor, A/SSA [redacted] of the Newark Field Office (NK) to report the incident. Soon thereafter, SA [redacted] received calls from NK Chief Division Counsel [redacted] NK Assistant Special Agent in Charge (ASAC) [redacted] and BA ASAC [redacted] b6 -1 b7C -1

(U//~~FOUO~~) In the presence of AACPD, SA [redacted] removed his magazine from his pistol and counted the ammunition remaining. The round count of 10 confirmed he had fired two rounds of ammunition. Prior to the shooting, the magazine, which had a capacity for 11 rounds, had been full and the weapon had been topped off with a round in the chamber accounting for 12 rounds of ammunition. Upon inspection after the shooting, the magazine contained nine rounds, and the chamber of the weapon contained one round. SA [redacted] surrendered his weapon, magazine, and all ammunition to ASAC [redacted] at the scene, and was issued a replacement weapon, magazine, and ammunition. b6 -1 b7C -1

(U//~~FOUO~~) Pictures of the scene were taken by AACPD and a sketch was completed by BA ERT. Two spent shell casings were recovered at the scene by BA ERT and no spent rounds were recovered at the scene. A post mortem exam was performed on the Great Dane by a veterinarian from Anne Arundel County Animal Control. The veterinarian report noted the Great Dane had two bullet holes in the skin on the dog's right side

approximately mid thorax and one on the left side, also mid thorax. The Great Dane died as a result of "life ending bleeding" from a bullet which entered through the right side of the Great Dane and punctured the vena cava at its entry point into the heart. No bullets were located in the Great Dane's body and a radiographic examination was unavailable.

(U//~~FOUO~~) On December 30, 2014, one spent round which was lodged in the schnauzer was recovered by SSA [redacted] at the Emergency Veterinarian Clinic, 32 Mellor Avenue, Catonsville, Maryland 21228. The weapon, magazine, ammunition, two spent shell casings, and one spent round were delivered to the Defensive Systems Unit by BA SA [redacted] on February 27, 2015. b6 -1 b7C -1

(U//~~FOUO~~) On January 8, 2015, Detective [redacted] of the AACPD advised the local prosecutor, [redacted] from Maryland's State's Attorney's Office, is not likely to pursue charges against SA [redacted] but is withholding final determination until a review of the SSS which SA [redacted] provided to the FBI is completed. AACPD has closed their investigation of the shooting incident. On January 28, 2015, the SSS was provided to AACPD with a FBI Letterhead Memorandum for nondisclosure of the SSS. On February 4, 2015, BA CDC [redacted] made notification of the Shooting Incident to [redacted] First Assistant U.S. Attorney's Office of Maryland. On February 26, 2015, AACPD Detective [redacted] and Assistant State's Attorney [redacted] met with the owner of the deceased Great Dane and advised the owner no charges are being filed against SA [redacted] for his involvement in the animal shooting. b6 -1,3,4 b7C -1,3,4

(U//~~FOUO~~) The following reports and applicable FD-302s were completed and uploaded via Sentinel to the captioned file. The original notes and records for all interviews were packaged in FD-340 envelopes and sent to Inspection Division.

1. FD-1085, Shooting Incident Report, electronically submitted, scanned and serialized on January 12, 2015.
2. FD-302 of PFI [redacted] regarding firearms/training records b6 -1 b7C -1

Title: (U//~~FOUO~~) Shooting Incident Report
Re: 297L-HQ-A5884319, 03/03/2015

for SA [redacted] for the 24-month period before the shooting incident. b6 -1,2,4 b7C -1,2,4

3. FD-302 of NK Assistant Division Counsel [redacted] regarding Deadly Force Policy training.
4. FD-302 for an interview of witness [redacted]
5. FD-1057 Electronic Communication which contained the weather records for [redacted], Maryland on December 26, 2014.
6. FD-302 for contact with AACPD Detective [redacted] who provided the AACPD Report and witness statements of the incident.
7. FD-302 of Public Affairs Specialist [redacted] regarding the media reports of the shooting incident.
8. FD-302 for contact with AACPD Detective [redacted] who provided the Anne Arundel County Animal Control Post Mortem report of the Great Dane.

(U//~~FOUO~~) Baltimore's review of the shooting incident involving SA [redacted] found no substantive discrepancies between SA [redacted]'s account of the shooting, the information obtained from witness interviews, and the AACPD report of the incident. The results of the investigation have been coordinated with BA CDC [redacted] b6 -1 b7C -1

♦♦

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Baltimore Animal Shooting Incident 12/26/2014

**Date:** 04/09/2015

**CC:** [redacted]

b6 -1
b7C -1

NK-SAC (SAC)

[redacted]

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** David Paul Gelios
TWERSKY RONALD
A/AD TWERSKY RONALD

**Drafted By:** [redacted]

b6 -1
b7C -1

**Case ID #:** 297L-HQ-A5884319 (U) Baltimore Animal Shooting

**DOCUMENT RESTRICTED TO CASE PARTICIPANTS**

This document contains information that is restricted to case participants.

**Synopsis:** (U//~~FOUO~~) Following the Shooting Incident Review Group (SIRG) meeting held on 03/17/2015, this communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with respect to the captioned shooting incident.

**Administrative Notes:** (U//~~FOUO~~) Reference Shooting Incident Report (FD-1085) submitted electronically on 01/02/2015 by SSA [redacted] [redacted] Baltimore Field Office.

b6 -1
b7C -1

**Details:**

(U//~~FOUO~~) On 12/26/2014, at approximately 11:15 a.m., SA [redacted] [redacted] from the Newark Field Office was involved in a shooting incident in [redacted] Maryland. SA [redacted] was TDY

to Quantico as a Firearms Instructor and visiting family members in Maryland during the federal holiday on Friday, 12/26/2014. Soon after arriving at his [redacted]'s residence, SA [redacted] offered to walk his [redacted]'s Miniature Schnauzer dog. During the course of the walk, a Great Dane dog broke loose from its handler, lunged at SA [redacted] and attacked the Miniature Schnauzer. Fearing for his safety during the attack, SA [redacted] discharged two 9 mm rounds from his personally owned weapon (POW) Glock 26 into a Great Dane dog. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] immediately moved to a position of safety, administered medical assistance to the Schnauzer, offered the dog handler medical assistance to the Great Dane, and called 911 to report the shooting. The Great Dane expired from blood loss shortly after the two shots. SA [redacted] then contacted his chain of command in the Newark Field Office and in coordination with the Inspection Division, the shooting incident was delegated to the Baltimore Field Office on 12/26/2014. b6 -1 b7C -1

(U//~~FOUO~~) Baltimore's delegated Shooting Incident Review Team (SIRT) processed the scene of the shooting incident jointly with the Anne Arundel County Police Department. The weapon, magazine, ammunition, shell casings and one projectile were properly passed to Quantico for further analysis. SA [redacted] remained on-site until released upon completion of the local investigation. b6 -1 b7C -1

(U//~~FOUO~~) The Maryland State's Attorney's Office declined prosecution. The USAO advised no federal prosecutive opinion was necessary inasmuch as there was no applicable federal violation

**SIRG Observations:**

(U//~~FOUO~~) On 03/17/2015, the SIRG reviewed the Agent-involved shooting incident with the intent to:

Title: (U//~~FOUO~~) Baltimore Animal Shooting Incident 12/26/2014
Re: 297L-HQ-A5884319, 04/09/2015

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 12/26/2014, was in compliance with the Department of Justice's deadly force policy. b6 -1 b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no observations concerning this shooting incident.

3. **Provide recommendations for administrative action if deemed ne cessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector David P. Gelios, Office Of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section,Department of Justice (DOJ); [redacted] Criminal Section, DOJ; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office Of General Counsel; SSA [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division(TD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; SSA [redacted] Violent Crime and Gang Section; SSA [redacted] Defensive Systems Unit(DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; SSA [redacted] Evidence Response Team, Laboratory Division. The following non-voting members were also in attendance: Assistant Special Agent In b6 -1,3 b7C -1,3

Title: (U//~~FOUO~~) Baltimore Animal Shooting Incident 12/26/2014
Re: 297L-HQ-A5884319, 04/09/2015

Charge [redacted], Office Of Inspector General; UC [redacted] Firearms and Toolmarks Unit, Laboratory Division; Inspectors Trent R. Teyema, Vadim D. Thomas, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; UC, [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD; MAPA [redacted] Inspection Analysis Unit, and Special Assistant [redacted] OI, INSD.

b6 -1
b7C -1

♦♦

FD-263 (Rev. 10-18-2012)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ - INSD | FBIHQ | 04/04/2013 | 04/05/2013 – 04/08/2013 |

| TITLE OF CASE | REPORT MADE BY | TYPED BY |
|---|---|---|
| Shooting Inquiry<br>Report of Shooting Incident<br>Cincinnati Field Office/Dayton Resident Agency<br>04/04/2013 | **IIC Dena Elaine Choucair** | **dcd** |
| | **CHARACTER OF CASE**<br>Shooting Incident Review | |

REFERENCES:

Telephone call on 04/04/2013 to the Chief Inspector, Inspection Division from Acting SAC [redacted] b6 -1 b7C -1

| APPROVED | ASSISTANT DIRECTOR | DO NOT WRITE IN SPACES BELOW |
|---|---|---|
| COPIES MADE:<br>1 - Inspection (Attn: SIRT)<br>1 – INSD (297-HQ-A1271286-D | | |

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

**Notations**

A

**COVER PAGE**

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Date: 07/30/2013

Report of: IIC Dena Elaine Choucair Office: FBIHQ-INSD

Case ID#: 297-HQ-A1271286-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
CINCINNATI FIELD OFFICE/DAYTON RESIDENT AGENCY
04/04/2013

Investigative Period: 04/05/2013 – 04/08/2013

---

## A. SYNOPSIS

(U//~~FOUO~~) On April 4, 2013, at approximately 3:05pm, FBI Special Agents [redacted] SAs [redacted] were conducting a surveillance on a Southern Ohio Safe Streets Task Force (SOSSTF) investigation. [redacted] During the surveillance the Agents observed multiple hand to hand drug deals by the subjects from their vehicle, a [redacted] The Agents followed the subjects' vehicle to a drive-thru beverage store known as the Beverage Palace located at 8980 Kingsridge Drive, Dayton, Ohio. As this was an enclosed area, the Agents felt this would be the safest opportunity to apprehend the subjects [redacted] as Agents [redacted] exited the front vehicle, the subjects attempted to escape by reversing out of the drive-thru and crashing into SA [redacted]'s vehicle. The subjects then accelerated forward ramming SAs [redacted]'s vehicle. SA [redacted] narrowly escaped being hit by the subjects' vehicle and believed his partner at the rear, SA [redacted] had already been struck by the vehicle. SA [redacted] feared for his safety and those around him. As the subjects' vehicle continued to move, SA [redacted] fired four rounds from his FBI SWAT Springfield handgun at the threat. The driver of the subject vehicle, Jermaine Clemente Coleman Jr., was shot and died of multiple gunshot wounds while en-route to the hospital. [redacted] was shot once in the shoulder and [redacted] was uninjured. The scene was processed by Cincinnati ERT, Pittsburgh ERT (total station) and members of the LSRT. Several bags of drug capsules, later identified as heroin, were found inside the vehicle, but no weapons were found in the vehicle or on the subjects.

b6 -1,7
b7C -1,7
b7A -1
b7E -1

b6 -7
b7C -7

## B. DETAILS

(U//~~FOUO~~) On 04/04/2013, Agents from the Cincinnati Field Office, Dayton RA were participating in a surveillance supporting the SOSSTF. The surveillance targeted [redacted] whose participants were known to distribute heroin in the Dayton, Ohio AOR and who were prone to violence. Law enforcement in Dayton, Ohio is subject to a "no-pursuit" policy. Gang members in the AOR are aware of this policy and exploit it on a regular basis to evade arrest or detention. b7A -1

(U//~~FOUO~~) The surveillance was initiated [redacted] Ohio. Participating in the surveillance were Agents [redacted] (SOSSTF Coordinator), [redacted] and [redacted] Also participating were SOSSTF TFOs, [redacted] and Dayton Police Department Detectives [redacted] The goal of the surveillance was to [redacted] Both were known to have outstanding state arrest warrants for violent crimes. On 4/03/2013, the day before the shooting incident, [redacted] had evaded police as they attempted to arrest him. The morning surveillance on 04/04/2013 was to re-locate [redacted] The surveillance lasted from [redacted] with negative results, so the team members separated to perform other duties. b6 -1,4,7 b7C -1,4,7 b7D -6

(U//~~FOUO~~) At approximately 2:30 pm, SAs [redacted] driving a [redacted] with SA [redacted] as his passenger, drove to the area near the Dayton Mall. SA [redacted] driving a [redacted] with SA [redacted] as his passenger, had received intelligence from a CHS, managed by Detective [redacted] indicating [redacted] were selling drugs in the area. Using the intelligence from the CHS, SA [redacted] identified a [redacted] occupied by [redacted] with a third male, subsequently identified as Jermaine Clemente Coleman Jr., driving in the parking lot of the Penn Station Restaurant, 8927 Kingsridge Drive, Dayton, Ohio. SA [redacted] witnessed three hand-to-hand drug transactions occur from the vehicle. At approximately 3:00 pm, the [redacted] departed the parking lot, North on Kingsridge Drive and pulled into the parking lot of the Beverage Palace at 8900 Kingsridge Drive, Dayton, Ohio. The Beverage Palace was a convenience store with drive-thru service whereby vehicles enter at the rear of the building, drive through a garage width tunnel and order requested items from an employee who delivers the items to the vehicle. The vehicle then exits through the front of the store facing Kingsridge Drive. b6 -1,7 b7C -1,7 b7E -6

(U//~~FOUO~~) SA [redacted] drove into the Beverage Palace parking lot to determine if he could witness additional drug transactions and discovered the [redacted] had entered the drive-thru portion of the Beverage Palace. SAs [redacted] had brief radio communication whereby they determined they would [redacted] and effect an arrest. [redacted] As soon as SA [redacted] drove into the drive-thru, Coleman immediately reversed direction and rapidly accelerated into SA [redacted]'s vehicle which had followed the [redacted] into the drive-thru. At the time of impact, SA [redacted] was in the process of exiting the vehicle and was hit in the upper b6 -1,7 b7C -1,7 b7E -1

torso by the door at impact. Coleman then put the [redacted] in drive and rapidly accelerated towards SA [redacted]'s vehicle. b6 -1,7 b7C -1,7

(U//~~FOUO~~) SA [redacted], while exiting SA [redacted]'s vehicle saw the [redacted] strike SA [redacted]'s vehicle and the door strike SA [redacted]. As the [redacted] drove towards SA [redacted]'s vehicle, SA [redacted] yelled "FBI, FBI, get down!" Thinking SA [redacted] was seriously injured and fearing serious bodily injury to himself and injury to SA [redacted], SA [redacted] fired a shot at the [redacted] which deflected off the door frame. SA [redacted] recognized he may have been engaged in a cross-fire situation with Agents behind the [redacted] and moved closer to the [redacted]. SA [redacted] noticed the passenger ([redacted]) reach under his seat and around the passenger side door and believed he was reaching for a weapon. SA [redacted] then noticed Coleman turn to look over his right shoulder, as if intending to drive backwards toward SA [redacted]'s vehicle again. Fearing the vehicle would cause additional serious bodily injury to SAs [redacted], SA [redacted] fired two rounds through the front windshield of the [redacted]. SA [redacted] observed one of the rounds impact Coleman in the side but it did not stop his actions. SA [redacted] determined the windshield had deflected his rounds and moved towards the open driver side window and fired one round at Coleman through the open window. This round struck Coleman in the back and the vehicle stopped moving. SA [redacted] assessed the immediate threat to be over as [redacted] had stopped moving and the vehicle came to a stop. SA [redacted] fired a total of four rounds during the incident. b6 -1,7 b7C -1,7

(U//~~FOUO~~) SA [redacted] pulled Coleman out of the vehicle and placed him in the prone position behind the vehicle. [redacted] had exited the vehicle and were responding to commands by the other Agents. TFO [redacted] arrived on scene approximately 30 seconds after the shooting incident and assisted in securing the subjects and providing medical assistance to Coleman. [redacted] was handcuffed, searched, and determined to be uninjured. [redacted] was handcuffed, searched, and determined to have been shot in the left shoulder. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) Approximately three minutes and 20 seconds after the shooting incident SA [redacted] arrived on scene and provided medical attention to [redacted]. SA [redacted] is a trained FBI medic. At about this time, officers from the Miami Township Police Department also arrived on scene. b6 -1,7 b7C -1,7

(U//~~FOUO~~) Approximately six minutes and 15 seconds after the shooting incident, Emergency Medical Services personnel arrived on scene to treat Coleman and [redacted]. Coleman was transported to the hospital by ambulance approximately eight minutes and 10 seconds after the shooting incident. [redacted] was transported to the hospital by ambulance approximately nine minutes and 45 seconds after the shooting incident. Coleman was declared dead the hospital approximately 36 minutes after the shooting incident. [redacted] was treated for his wound and detained on federal charges of assault on a federal officer and heroin distribution. [redacted] was also detained on federal charges of assault on a federal officer and heroin distribution. b6 -7 b7C -7

## C. SUBSTANTIVE CASE FILES

(U//~~FOUO~~) The following substantive matter was under investigation at the time of the shooting incident on 04/04/2013:

[redacted] b7A -1

(U//~~FOUO~~) After the shooting incident, the following substantive case was opened:

JERMAINE CLEMENTE COLEMAN, JR (DECEASED); b6 -7 b7C -7 b7A -1

[redacted]

et al

[redacted]

## D. ENCLOSURES

(U//~~FOUO~~) All enclosures have been made part of this report and are identified in the Appendix.

## E. ADMINISTRATIVE

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Dena Elaine Choucair
Inspector-in-Place (IIP) Trent R. Teyema
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP

## F. SHOOTING INCIDENT REVIEW PROTOCOL

(U//~~FOUO~~) All members of the SIRT reviewed the FBI produced videotape entitled, "The Rain after the Storm – Shooting Incident Investigations," and the INSD Shooting Review Protocol.

(U//~~FOUO~~) On 04/04/2013, IIC Choucair communicated with Cincinnati A/SAC [redacted] b6 -1
[redacted] to arrange logistics for the SIRT. SSRA [redacted] Dayton RA (DRA) served b7C -1
as the point of contact for the SIRT.

(U//~~FOUO~~) On 04/05/2013, IIC Choucair, IIP Teyema, AI/TLs [redacted] and AIIP [redacted] flew from Washington, DC to Cincinnati, Ohio where they were met by SSA [redacted] and SA [redacted] and transported to the DRA.

(U//~~FOUO~~) IIC Choucair provided a preliminary briefing to A/SAC [redacted], SSRA [redacted] SSA [redacted] and CDC [redacted] to discuss INSD SIRT shooting incident protocol. During this briefing, AIIPs [redacted] arrived at the DRA. After this briefing, SSRA [redacted] briefed the SIRT on the shooting incident of 04/04/2013. There was an opportunity for dialogue between the SIRT and the involved personnel to address concerns, provide clarification, and answer questions prior to the investigation commencing. The SIRT was then taken to the shooting scene where they were met by AIIP [redacted] and viewed the scene while it was being processed by Cincinnati ERT and personnel from the Laboratory Shooting Reconstruction Team (LSRT).

b6 -1
b7C -1

(U//~~FOUO~~) During the SIRT investigation, four Signed Sworn Statements (SSS) were taken from SA [redacted] directly involved in the shooting, and the three Agents present at the shooting, SAs [redacted] All Agents were represented by [redacted] Esq. Other interviews, events, and observations were documented via FD-302s. All interviewed FBI personnel were allowed to read the FD-302 summarizing their interview to confirm the accuracy of the information provided. The SSS and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all those interviewed.

b6 -1,2
b7C -1,2

(U//~~FOUO~~) On 04/08/2013, IIC Choucair and IIP Teyema met with the Assistant U.S. Attorneys [redacted] to brief them on results of the SIRT investigation. IIC Choucair and IIP Teyema had personally informed [redacted] of the Prosecuting Attorney's Office for Montgomery County, Ohio about the shooting incident and spoke with her again telephonically. [redacted] advised her office would not review the shooting incident, and would not pursue any state charges pertaining to the incident. [redacted] only provided a verbal declination but nothing written, as to do so would require presenting the matter to a Grand Jury.

b6 -3,4
b7C -3,4

(U//~~FOUO~~) On 04/09/2013, an exit brief was provided by IIC Choucair to A/SAC [redacted] SSRA [redacted] SSA [redacted] A/ASAC [redacted] and CDC [redacted]

b6 -1
b7C -1

## G. PERSONNEL INVOLVED IN THE SHOOTING

FBI

SA [redacted] (fired weapon)
SA [redacted]
SA
SA
SA

b6 -1
b7C -1

TFOs

[redacted] – Montgomery County Sheriff's Office
[redacted] – Dayton Police Department

b6 -4
b7C -4

## H. FIREARMS TRAINING

(U//~~FOUO~~) FBI Cincinnati provided qualification records for SA [redacted] A review of the records indicated he was current on his firearms qualification certification. b6 -1 b7C -1

## I. DEADLY FORCE TRAINING

(U//~~FOUO~~) Documentation provided by the Cincinnati Field Office indicated SA [redacted] received training on the FBI Deadly Force Policy from the previous CDC, [redacted] on 03/07/2012. During a SIRT interview, current CDC [redacted] indicated the Cincinnati Field Office Principal Firearms Instructor read the deadly force policy to all Agents prior to conducting each firearms session.

(U//~~FOUO~~) SA [redacted] advised in his SSS he last read the FBI Deadly Force training on 03/28/2013 prior to a planned arrest operation in which he participated.

## J. USE OF BODY ARMOR AND LAW ENFORCEMENT IDENTIFIERS

(U//~~FOUO~~) The SIRT team determined through interviews, and by viewing the surveillance video of the shooting incident, the four Agents involved were all wearing ballistic body armor, however proper FBI or law enforcement identifiers were not appropriately displayed on the vests.

(U//~~FOUO~~) Agent SSS and witness interviews indicated Agents did identify themselves as FBI prior to engaging the subjects in the shooting.

## K. FBI INDICIES AND NATIONAL CRIME INFORMATION CENTER (NCIC)

(U//~~FOUO~~) The SIRT was provided with the results of the National Crime Information Center warrant and arrest record check for Coleman, [redacted] which indicated active state arrest warrants at the time of the incident: b6 -7 b7C -7

1) Jermaine Clemente Coleman Jr. – Improperly discharging a firearm at or into a habitation.

2) [redacted] – Vehicular Assault

3) [redacted] – Possession of Heroin

## L. ERT AND LABORATORY DIVISION REPORTS

(U//~~FOUO~~) The scene of the shooting was secured and processed by CI ERT and the LSRT to include the use of total station, 360 degree spherical photography and laser scanning of the site.

(U//~~FOUO~~) Recovered evidence items requiring laboratory testing were as follows (evidence was maintained in [redacted]): b6 -1 b7C -1 b7A -1

1B5 - .45 cal Springfield Pistol, S/N [redacted]

1B6 - One Magazine, McCormick Custom LLC, containing three .45cal rounds and one round recovered from chamber
1B16 - One bullet fragment
1B29 - Two bullet fragments
1B65 - Bullet and Foam
1B70 - Shell casing
1B74 - Shell casing
1B83 - Shell casing
1B84 - Shell casing
1B88 – Projectiles recovered from hospital

(U) Operational Projects Unit, Laboratory Division (LD) provided INSD with a compact disk containing three dimensional imaging of the shooting scene as well as embedded spherical photography and video captured from the Beverage Palace security system.

(U) Additionally the Firearms/Toolmark Unit, LD provided INSD with a shooting reconstruction and firearms testing reports which are included in Tab IX of this report.

## M. MEDICAL REPORT

(U//~~FOUO~~) On April 5, 2013, FBI SA [redacted] observed an autopsy performed of Jermaine Clemente Coleman Jr. at the Montgomery County Coroner's Office, 361 West Third Street, Dayton, Ohio, 45402. The autopsy was performed by Doctor (Dr.) [redacted] and his assistants. b6 -1,4 b7C -1,4

(U//~~FOUO~~) SA [redacted] arrived and entered the examination room at approximately 8:34 a.m. Coleman was on the table and being assessed by Dr. [redacted] During the course of the autopsy, Dr. [redacted] identified two bullet wounds on Coleman's back and recovered two bullets from inside Coleman's body.

(U//~~FOUO~~) Dr. [redacted] advised one of the bullets entered Coleman's body in the upper center back, just below the neck line. It traveled in a left to right direction and was recovered a few inches to the right of the wound, just below the skin. The other bullet entered Coleman's body in the upper left back, near the left shoulder. It traveled in a left to right direction and was recovered from or near the right pectoral muscle. The bullet traveled through the left upper second rib, left upper lung, and braciocephalic (BC) trunk of the heart. It bruised the right upper lung and stopped between the first and second right ribs. Dr. [redacted] indicated damage sustained to the lungs and BC trunk were the most significant and lead to death. X-rays were taken and did not identify any additional bullets or bullet fragments inside Coleman's body. Fingerprints were taken of Coleman, which positively identified him. Toxicology tests revealed acute marijuana intoxication and the presence of chlorpheniramine and hydrocodone. b6 -4 b7C -4

## N. CIVIL RIGHTS DIVISION

(U//~~FOUO~~) On 04/06/2013, IIC Choucair contacted [redacted] Special Legal Counsel, DOJ and briefed him on the shooting incident. b6 -1,3 b7C -1,3

(U//~~FOUO~~) On 04/17/2013, IIC Choucair, AI/TL [redacted] and AI/TL [redacted] briefed [redacted] at his office, 601 D Street, NW, Washington, DC and provided him with a binder containing pertinent documentation identified by the SIRT regarding this incident.

(U//~~FOUO~~) On 07/19/2013, [redacted] provided IIC Choucair with an email message indicating no federal criminal investigation would be sought in this matter. b6 -3 b7C -3

## O. LOCAL PROSECUTIVE OPINION

(U//~~FOUO~~) On 04/08/2013, IIC Choucair made contact telephonically with Attorney [redacted] of the Prosecuting Attorney's Office for Montgomery County, Ohio who provided a verbal declination and advised her office would not review the shooting incident as the US Attorney's Office had filed charges against [redacted] for Assault on a Federal Officer. b6 -4,7 b7C -4,7

## P. INSPECTOR'S OBSERVATIONS

(U//~~FOUO~~) The following observations were noted:

(U//~~FOUO~~) **Observation 1**: The arrest scenario resulting in the shooting incident did not have an approved operations plan and participants did not display visible FBI markings.

(U//~~FOUO~~) **Analysis 1**: A review of substantive case [redacted] and Agent interviews determined operations plans associated with arrests for this investigation were used inconsistently. It was further learned through interviews and signed sworn statements not all of the Agents engaged in this incident understood if they were on a surveillance mission or an arrest operation. The Case Agent also failed to obtain executive management authorization to conduct the arrest. b7A -1

(U//~~FOUO~~) DIOG Section 19.3.1 provides policy guidance as it pertains to warrantless arrests for federal crimes:

*(U) Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest. Agents are authorized to make warrantless arrests for any federal crime (felony or misdemeanor) committed in their presence. Agents also have authority to make warrantless felony arrests for a crime not committed in the presence of the Agent if there is probable cause to believe the person to be arrested committed a federal felony. A warrantless arrest must only be made when sound judgment indicates obtaining a warrant would unduly burden the investigation or substantially increase the potential for danger or escape.*

(U//~~FOUO~~) From a safety perspective the use of lights and sirens and visible markings on ballistic vests or other outer coverings increases the safety to Agents as it alerts subjects, bystanders or other law enforcement of an ongoing investigation.

(U//~~FOUO~~) A review of video surveillance obtained at the shooting scene indicated two employees of the Beverage Palace were inside the store at the time of the incident. It is incumbent upon FBI Agents to consider the safety of innocent bystanders in any operation. The presence of the store clerks should have warranted additional safety considerations.

(U//~~FOUO~~) **Recommendation 1.1**: SAC, Cincinnati should ensure operations plans are written and approved prior to arrests.

(U//~~FOUO~~) **Recommendation 1.2**: SAC, Cincinnati should ensure Agents display visible FBI markings on ballistic vests and outer garments.

(U//~~FOUO~~) **Observation 2.1**: Cincinnati Field Office, Dayton RA, improperly utilized investigation [redacted] to target [redacted] b6 -7 b7C -7 b7A -1

(U//~~FOUO~~) **Observation 2.2**: Cincinnati Field Office executive management did not provide sufficient oversight regarding the [redacted] investigation or its planned operations.

(U//~~FOUO~~) **Analysis 2**: Substantive case [redacted] was opened as a predicated [redacted] The investigation of the [redacted] was listed as a subfile under the [redacted] case. The only affiliation between the [redacted] identified in the case file was one serial indicating [redacted] had the phone numbers of [redacted] located in his cell phone. b6 -7 b7C -7 b7A -1

(U//~~FOUO~~) [redacted] reiterated in [redacted] states the following:

b7A -1 b7E -5

*(U//~~FOUO~~)* [redacted]

(U//~~FOUO~~) A review of [redacted] indicated [redacted] had only a tangential connection to the main subjects of the investigation and was an unrelated [redacted] thus a separate [redacted] or criminal investigation should have been opened to investigate this [redacted] b7A -1

(U//~~FOUO~~) **Recommendation 2.1**: [redacted]

b5 -1,2 b7A -1

(U//~~FOUO~~) **Recommendation 2.2**: [redacted]

(U//~~FOUO~~) **Observation 3**: Cincinnati Field Office does not have a Shooting Annex incorporated as part of its Critical Incident Response Plan.

(U//~~FOUO~~) **Analysis 3**: A review by the SIRT indicated the Cincinnati Field Office did not have a Shooting Annex as part of its Critical Incident Response Program. This was verified by the CDC and the Critical Incident Response PCOR.

(U//~~FOUO~~) The Cincinnati Field Office, to include the Dayton RA, has been involved in three Agent shootings since 2007 and one non-Agent shooting involving a TFO on an FBI task force. For this reason, the Cincinnati Field Office may benefit from a Shooting Annex to its Critical Incident Response Plan to assist the office in the deployment of resources following any subsequent Agent involved shooting incidents.

(U//~~FOUO~~) **Recommendation 3**: SAC, Cincinnati should consider preparing a Shooting Annex to the Cincinnati Field Office Critical Incident Response Plan.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Cincinnati Field Office **Date:** 04/23/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271286-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 07/30/2013, prepared by former Inspector Dena Elaine Choucair. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Details:**

On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 04/04/2013, involving Cincinnati Field Office Special Agent (SA) [redacted] SA [redacted] was participating in a surveillance with the Southern Ohio Safe Streets Task Force (SOSSTF). The surveillance team consisted of Agents [redacted] (SOSSTF Coordinator), [redacted] TFOs [redacted] along with Dayton Police Detectives [redacted] also participated. The SOSSTF attempted to locate and identify vehicles associated with two subjects, [redacted] who were wanted on local arrest warrants. b6 -1,4,7 b7C -1,4,7

A review of the file, [redacted] along with interviews of agents, revealed there was no operations plan to undertake any enforcement action on 04/04/2013. Additionally, the review showed inconsistent use of operations plans throughout the investigation. The file also indicated the [redacted] matter did not target [redacted]. The predicated investigation targeted [redacted]

b7A -1
b6 -7
b7C -7

Based on CHS information, Agents responded to the area of the Dayton Mall where they observed a [redacted] occupied by [redacted] A third male, later identified as Jermaine Clemente Coleman Jr., was driving the [redacted] During the surveillance, the Agents observed multiple hand to hand drug transactions from the [redacted] The Agents then followed the subjects' vehicle to a drive-thru beverage store, the Beverage Palace, located at 8980 Kingsridge Drive, Dayton, Ohio. Agents [redacted] agreed, via radio communications, on a plan to arrest the subjects when their vehicle entered the enclosed drive-thru area of the Beverage Palace. Agents [redacted] intended to use their vehicles to contain the subjects' vehicle while in the drive-thru to facilitate the arrest.

b6 -1,7
b7C -1,7

Once the subject vehicle entered the drive-thru, the Agents quickly positioned their vehicles to block the Beverage Palace entrance and exit. Agents [redacted] positioned their vehicle to block the exit and Agents [redacted] positioned their vehicle to block the entrance. While Agents [redacted] exited their vehicle, the subjects attempted to escape by reversing and crashing into SA [redacted] vehicle. The subjects then accelerated forward ramming SAs [redacted] vehicle. SA [redacted] narrowly escaped being hit by the vehicle and believed SA [redacted] had already been injured. SA [redacted] fired four rounds from his FBI SWAT Springfield handgun at the driver of the vehicle. The driver, Jermaine Clemente Coleman Jr., was shot and died of two gunshot wounds while en-route to the hospital. [redacted]

b6 -1,7
b7C -1,7

[redacted] was shot once in the shoulder and [redacted] was uninjured. b6 -7 b7C -7

**SIRG Observations**

On 02/21/2014, The SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 04/04/2013 was in compliance with the Department of Justice's Deadly Force Policy. b6 -1 b7C -1

2. **Provide the Director with an evaluative analysis, observations,and recommendations for corrective actions from an operational standpoint.** The SIRG made the following observation and recommendation concerning the operational techniques used by SA [redacted] during this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) **Observation 1:** Agents did not have an approved operations plan.

(U//~~FOUO~~) **Analysis 1:** INSD review determined no operations plan existed for the enforcement action which resulted in the shooting on 04/04/2013. A review of substantive case [redacted] and Agent interviews determined operations plans were used inconsistently for arrests. Agent interviews and signed sworn statements revealed not all Agents engaged in this incident anticipated taking enforcement action during the surveillance. The decision to arrest the subjects was based on observations of suspected drug transactions coupled with the existence of local arrest warrants. No authorization was sought or obtained from the SSRA or Cincinnati EM to take enforcement action. b7A -1

(U//~~FOUO~~) DIOG Section 19.3.1 provides policy guidance as it pertains to warrantless arrests for federal crimes:

*(U) Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest. Agents are authorized to make warrantless arrests for any federal crime (felony or misdemeanor) committed in their presence. Agents also have authority to make warrantless felony arrests for a crime not committed in the presence of the Agent if there is probable cause to believe the person to be arrested committed a federal felony. A warrantless arrest must only be made when sound judgment indicates obtaining a warrant would unduly burden the investigation or substantially increase the potential for danger or escape.*

(U//~~FOUO~~) Review of video surveillance obtained at the shooting scene, as well witnesses interviews, indicated two employees of the Beverage Palace were inside the store at the time of the incident. It is incumbent upon FBI Agents to consider the safety of innocent bystanders in any operation. The presence of the store clerks should have warranted additional safety considerations which would have been addressed if an operations order was completed.

(U//~~FOUO~~) **Recommendation 1:** SAC, Cincinnati should ensure arrest operations include a written operations plan when practical and have appropriate management approval prior to execution.

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made the following observation regarding safety issues:

(U//~~FOUO~~) **Observation 2:** Participants in the arrest operation did not display visible FBI markings.

(U//~~FOUO~~) **Analysis 2:** From a safety perspective, the use of lights, sirens, and visible markings on ballistic vests or other outer coverings increases the safety to Agents as it alerts subjects, bystanders, or other law enforcement of an ongoing investigation.

(U//~~FOUO~~) A review of video surveillance and interviews revealed some Agents did not display visible FBI markings on outer

garments. The vehicles involved did not activate available emergency lighting. One vehicle involved in the operation was not equipped with any type of emergency lighting package.

(U//~~FOUO~~) **Recommendation 2a:** SAC, Cincinnati should ensure, when operationally practical, Agents display visible FBI markings on ballistic vests and outer garments during enforcement activity.

(U//~~FOUO~~) **Recommendation 2b:** SAC, Cincinnati should ensure vehicles involved in enforcement activity are equipped with and display emergency lighting.

4. **Provide recommendations for Administrative action if deemed necessary.** The SIRG made the following observation regarding Administrative issues:

(U//~~FOUO~~) **Observation 3:** Cincinnati Field Office, Dayton RA, improperly utilized investigation [redacted] to target [redacted] [redacted]

b6 -1
b7C -7
b7A -7

(U//~~FOUO~~) **Analysis 3:** Substantive case [redacted] was opened as a predicated [redacted] investigation on a [redacted] [redacted]. The investigation of the [redacted] was listed as a sub-file under the [redacted] case. The only affiliation between the [redacted] identified in the case file was one serial indicating [redacted] had the phone numbers of [redacted] [redacted] located in his cell phone.

(U//~~FOUO~~) [redacted] reiterated in [redacted] stated the following:

b7A -1
b7E -5

*(U//~~FOUO~~)* [redacted]

[redacted] b7A -1 b7E -5

(U//~~FOUO~~) A review of [redacted] indicated [redacted] had only a tangential connection to the main subjects of the investigation and was an unrelated [redacted] thus a separate [redacted] (or other appropriate classification), investigation should have been opened to investigate this criminal enterprise.

(U//~~FOUO~~) **Recommendation 3:** SAC, Cincinnati should review SOSSTF matters, including [redacted], to ensure proper predication has been established and documented for additional targets not originally identified in the initial investigative matter. b7A -1

(U//~~FOUO~~) **Observation 4:** Cincinnati Field Office does not have a Shooting Incident Annex incorporated as part of its Critical Incident Response Plan (CIRP).

(U//~~FOUO~~) **Analysis 4:** A review by the SIRT indicated the Cincinnati Field Office did not have a Shooting Incident Annex as part of its Critical Incident Response Program. This was verified by the CDC and the Critical Incident Response PCOR.

(U//~~FOUO~~) The Cincinnati Field Office, to include the Dayton RA, has been involved in three Agent shootings since 2007 and one non-Agent shooting involving a TFO on an FBI task force. For this reason, the Cincinnati Field Office would benefit from the preparation of a Shooting Incident Annex to its CIRP to assist the office in the deployment of resources following any subsequent Agent involved shooting incidents.

(U//~~FOUO~~) **Recommendation 4:** SAC, Cincinnati should prepare a Shooting Incident Annex to the Cincinnati Field Office CIRP.

Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the

meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors David Paul Gelios, R. Justin Tolomeo, Howard Marshall, Paul Delacourt, Trent R. Teyema and Shawn W. Stroud, OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, Tactical Section, CIRG; Assistant Director Michael Prout and DAD Blair Deem,OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD

b6 -1,3
b7C -1,3

b6 -1,3
b7C -1,3

**Procedures for Responding to the Observation**

SAC Cincinnati is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further

action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement. SAC Cincinnati is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted].

b6 -1
b7C -1

♦♦

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 07/26/2013

Report of: IIC Dena Elaine Choucair Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271510-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
INDIANAPOLIS FIELD OFFICE
05/10/2013

Investigative Period: 05/10/2013 – 05/14/2013

Reference: (U) Telephone call on 05/10/2013 from Indianapolis ASAC [redacted] to Chief Inspector Robert J. Shields. b6 -1 b7C -1

---

**Synopsis**

(U) On 05/10/2013, the Indianapolis Safe Streets Task Force (SSTF), via a state-authorized [redacted] was monitoring the activity of a white Chevrolet Monte Carlo owned by William McKnight. The Monte Carlo was identified in a FBI bank robbery investigation (91A-IP-2723197) as potentially used by subjects in a bank robbery which occurred on 04/26/2013. Six FBI Special Agents (SAs) and four Task Force Officers from the Indianapolis Metropolitan Police Department were following the Monte Carlo which contained two males (later identified as William McKnight and [redacted]), and one female (later identified as [redacted]. b6 -7 b7C -7 b7E -6

(U) During the morning, the Monte Carlo made multiple stops at banks throughout the Indianapolis area, with the female entering the banks and returning to the vehicle after approximately three to eleven minutes. At approximately 10:53 am, the two males exited the Monte Carlo and surveillance identified them as they were about to enter the State Bank of Lizton, located in Plainfield, Indiana. They were wearing hooded sweatshirts and gloves. The surveillance team suspected a bank robbery was about to occur, but waited for the suspects to exit the bank to avoid a potential hostage or barricade situation. A few minutes later, the males ran from the bank. One male was seen carrying a handgun as both males entered the Monte Carlo. As the Monte Carlo departed the area, the SSTF called for marked police units to conduct a vehicle stop believing the males had just robbed the bank. Before marked units could arrive, the Monte Carlo appeared to identify the surveillance and drove into a residential area at a high rate of speed. A few minutes later, with SSTF vehicles following, the Monte Carlo stopped and the two males exited the vehicle. SA [redacted] and SA [redacted] driving separate vehicles, encountered one of the males, William McKnight, age 43, on Springcrest Street, Plainfield, Indiana. McKnight pointed a gun at SA [redacted] moved towards him, refused to comply b6 -1 b7C -1



NYT-602

with commands, and attempted to secure a tactical advantage behind the engine block of SA [redacted]'s vehicle. Due to the imminent threat and fear for his life, SA [redacted] fired his FBI issued Glock 22 seven times. Due to the imminent threat and fear for his and SA [redacted]'s life, SA [redacted] fired his FBI issued Glock 22 six times. McKnight was struck six times and died at the scene.

b6 -1
b7C -1

(U) The other male, [redacted] age [redacted] and the female, [redacted] age [redacted] were arrested nearby by other members of the SSTF and Plainfield Police Department.

b6 -7
b7C -7

(U) The shooting scene was processed by the Indianapolis Evidence Response Team (ERT), Detroit ERT and members of the Laboratory Shooting Reconstruction Team (LSRT). Thirteen .40 caliber shell casings were recovered which were consistent with .40 caliber ammunition used in SA [redacted]s and SA [redacted]s weapons. Nine projectiles were recovered, including four located in McKnight's body. A .45 caliber Hi Point handgun was found next to the body of McKnight; the weapon had not been fired.

b6 -1
b7C -1

**Details**

(U) On the mornings of 04/24/2013 and 04/26/2013, bank robberies occurred in the Indianapolis, Indiana area. Immediately following the bank robbery on 04/26/3013, a witness at a nearby store identified two suspicious individuals. The individuals got into a white Chevrolet Monte Carlo and the witness identified the license plate number. Investigation determined the vehicle was registered to William McKnight, 1656 N. Livingston Avenue, Indianapolis, Indiana, 46222.

(U) FBI SA [redacted] and TFO [redacted] Indianapolis Safe Streets Task Force (SSTF), were assigned the bank robbery investigation (FBI Case Number 91A-IP-2723197). SA [redacted] was the Indianapolis Field Office Bank Robbery Coordinator and TFO [redacted] was the Assistant Bank Robbery Coordinator. On 05/02/2013, TFO [redacted] obtained a state-authorized [redacted] for the white Monte Carlo which was installed [redacted] During the week of [redacted] SA [redacted] and TFO [redacted] conducted daily surveillance of McKnight's residence during the morning. The timing of the surveillance was based on the time the 04/24/2013 and 04/26/2013 bank robberies had been committed. Throughout the week, McKnight's movement outside of work had been limited.

b6 -1,4
b7C -1,4
b7E -6

(U) On the morning of Friday, 05/10/2013, SA [redacted] was notified via BlackBerry the [redacted] SA [redacted] contacted FBI SOS [redacted] at approximately 8:00 am and directed him to begin tracking the movements of the Monte Carlo in real-time. SA [redacted] then initiated surveillance with other members of the Indianapolis Safe Streets Task Force (SSTF). SA [redacted] considered it unlikely McKnight would engage in a bank robbery that day, as the 04/24/2013 and 04/26/2013 robberies had yielded approximately $30,000. SA [redacted]'s experience was bank robbers did not typically engage in additional robberies in the immediate aftermath of such success.

b6 -1
b7C -1
b7E -6

(U) Throughout the morning, various members of the SSTF joined the surveillance. The Monte Carlo stopped at multiple banks on the southern outskirts of Indianapolis and, later in the

morning, in eastern Hendricks County, Indiana. At each bank, a [redacted] female, identified as [redacted] exited the vehicle and entered the bank for a period of three to eleven minutes. Physical surveillance also identified two [redacted] males, later identified as William McKnight and [redacted] in the Monte Carlo. Throughout the surveillance, SA [redacted] directed the team to maintain a very loose surveillance, to allow optimal intelligence to be derived without alerting the subjects. He maintained a surveillance log of the team's observations as he received them over the radio.

b6 -1,7
b7C -1,7

(U) At approximately 10:29 am, the Monte Carlo drove through the parking lot of the Huntington Bank at the intersection of Quaker Boulevard and Stafford Road, Plainfield, Indiana. Members of the surveillance team parked at various locations around the area. By this time, the surveillance team included six FBI SAs and four TFOs. The female entered the Huntington Bank and subsequently returned to the Monte Carlo. The Monte Carlo left the area and drove away toward a residential area west of the bank. The surveillance team remained in the area of the Huntington bank to avoid detection by the Monte Carlo in the residential area, allowing the [redacted]

b7E -6

(U) At approximately 10:45 am, SOS [redacted] advised the surveillance team [redacted] the subject vehicle entering Elm Street in a residential area west of the Huntington Bank. SA [redacted] directed teams to stay back from the residential area and allow the [redacted]

b6 -1
b7C -1
b7E -6

(U) At 10:48 am, SOS [redacted] advised by radio the Monte Carlo was heading east on Stafford Road back toward the Huntington Bank and then turned back west toward Elm Street. Shortly thereafter, TFO [redacted] radioed he saw two guys with gloves and hooded sweatshirts walking in the direction of the Huntington Bank, but did not know if they had exited the Monte Carlo, and asked if anyone else saw them. There was no response from surveillance team members. At approximately 10:53 am, the two males entered the State Bank of Lizton, which was located just west of the Huntington Bank, at 2100 Stafford Road. At the same time, SA [redacted] and TFO [redacted] each radioed they had witnessed a woman crouching behind a car outside of the State Bank of Lizton. Based on the sequence of events, the surveillance team determined a bank robbery was likely in progress. Team members donned tactical ballistic vests, including SA [redacted] and SA [redacted]

b6 -1,4
b7C -1,4

(U) A few minutes later, the males ran from the bank. TFO [redacted] and TFO [redacted] saw one male carrying a handgun as both males entered the Monte Carlo parked at Elm Street. TFO [redacted] and TFO [redacted] each radioed the observation to the other surveillance team members.

b6 -4
b7C -4

(U) SA [redacted] directed all team members to switch their radios to the countywide frequency and requested a dispatcher to monitor the channel to facilitate assistance from Hendricks County and Plainfield Police Departments. SA [redacted] radioed to the surveillance team his plan to have a marked police unit conduct a traffic stop once the Monte Carlo had reached an area away from the bank. As Bank Robbery Coordinator, it was SA [redacted] s standing policy to not engage subjects at or near a bank to avoid potential hostage or barricade situations.

b6 -1
b7C -1

(U) SA [redacted] drove west on Stafford Road from the direction of the State Bank of Lizton. As he approached Elm Street, he saw the Monte Carlo on Elm Street waiting to turn west onto Stafford Road. As he passed Elm Street, the Monte Carlo turned onto Stafford Road immediately behind him. Three other surveillance team vehicles driven by SA [redacted], SA [redacted] and TFO [redacted] followed directly behind the Monte Carlo. As the team drove west on Stafford Road, the Monte Carlo appeared to identify the surveillance and accelerated into the center lane, passing SA [redacted] and another vehicle. The Monte Carlo then turned sharply left into a residential area south of Stafford Road on Brookside Lane. The surveillance team followed the Monte Carlo as it traveled through the residential area at high speeds, making sharp turns to avoid pursuit. SA [redacted] radioed the Monte Carlo's location, direction of travel, and cross streets, as the team followed it through the residential area. SA [redacted] and SA [redacted] activated their emergency lights. During the pursuit, the surveillance team lost sight of the Monte Carlo and continued through the neighborhood to conduct a search for it and the subjects.

b6 -1,4
b7C -1,4

(U) As SA [redacted] turned right (east) onto Springcrest Street from Almond Drive, he saw the Monte Carlo parked on the right side of the road, with only the two left tires on the road. SA [redacted] drove towards the vehicle and as he approached, a male, later identified as McKnight, rolled out of the passenger side of the vehicle with some momentum. A handgun also came out of the Monte Carlo and landed on the ground between McKnight and SA [redacted]. McKnight stumbled and fell before regaining his footing and picked up the handgun. SA [redacted] stopped and exited his vehicle, drew his gun and took a position close to his driver-side door, using his vehicle for cover. SA [redacted] arrived and stopped his car directly behind SA [redacted] as the Monte Carlo sped off eastbound on Springcrest Street. SA [redacted] who was driving behind SA [redacted] drove past SA [redacted] and SA [redacted] in pursuit of the Monte Carlo. TFO [redacted] stopped his vehicle directly behind SA [redacted]. SA [redacted] remained focused on the immediate threat posed by McKnight, aimed his weapon at McKnight and issued verbal commands "FBI, drop the gun" several times. McKnight raised the handgun and pointed it in SA [redacted]'s direction. SA [redacted] and TFO [redacted] also issued verbal commands for McKnight to drop the gun and show them his hands. McKnight continued moving toward SA [redacted] and his vehicle. SA [redacted] continued repeating the command for McKnight to drop the gun, but recognizing the increasing threat to himself, and believing McKnight was attempting to gain a tactical advantage behind his vehicle engine block, SA [redacted] fired several rounds at McKnight. After SA [redacted]'s first volley, the subject remained on his feet and turned left. SA [redacted] who had exited his vehicle and aimed his handgun at McKnight from the driver side of his vehicle, saw the threat McKnight posed to SA [redacted] and fired six rounds at McKnight. SA [redacted] also fired a second volley of rounds at McKnight, firing a total of seven rounds. McKnight fell to the ground and rolled toward the bottom of the ditch with his head away from SA [redacted] and SA [redacted].

b6 -1,4
b7C -1,4

(U) TFO [redacted] ran up to SA [redacted] and took a position to the left of SA [redacted] covering McKnight with his gun. McKnight had rolled into the ditch, coming to rest on his side. McKnight's handgun was separated from him. SA [redacted] approached the subject and saw he was seriously injured and incapacitated. SA [redacted] told McKnight to hold on. No one handcuffed McKnight given McKnight's incapacitated condition. TFO [redacted] radioed "shots fired" and SA [redacted] requested medical assistance while TFO [redacted] covered McKnight with his gun.

b6 -1,4
b7C -1,4

(U) SA [redacted] went to the corner of Almond Drive and Springcrest Street to determine their location to radio for an ambulance. SA [redacted] radioed over the countywide channel, shots had been fired, a subject was down and an ambulance was needed. He returned to McKnight where TFO [redacted] was encouraging the subject to hold on. Countywide dispatch advised an ambulance was en route. b6 -1,4 b7C -1,4

(U) SA [redacted] telephoned the Indianapolis Field Office main switchboard, identified himself, told them he had been involved in a shooting and requested they make appropriate internal FBI notifications. SA [redacted] radioed for the status of the ambulance and was told an ambulance was on the way. The subject was wheezing and his eyes were rolled back in his head. b6 -1,4 b7C -1,4

(U) Uniformed officers and TFO [redacted] arrived at the scene and conducted a search for the second subject. The second subject was apprehended one block to the west of the shooting location a short time later.

(U) Two fire medics subsequently arrived with a gurney. The medics rolled McKnight over and checked his pulse. They determined McKnight was dead. McKnight was then covered with a sheet. Shortly thereafter, Acting Supervisory Special Agent [redacted] and later, Assistant Special Agent In-Charge (ASAC) [redacted] arrived and took charge of the scene. b6 -1 b7C -1

(U) The Plainfield Police Department maintained security for the shooting scene until 05/11/2013. Indianapolis ERT, Detroit ERT and members of the Laboratory Shooting Reconstruction Team (LSRT) processed the scene. Thirteen .40 caliber shell casings were recovered which were consistent with the .40 caliber ammunition used in SA [redacted] s and SA [redacted] 's weapons. Nine projectiles were recovered, including four located in McKnight's body. A .45 caliber Hi Point handgun was found next to the body of McKnight; the weapon had not been fired. The Hendrick's County Coroner removed McKnight's body and the ERT processed the scene for evidence. The security perimeter was maintained until the scene was released by IP ERT and the LSRT on the evening of 05/11/2013. b6 -1 b7C -1

**Substantive Case Files**

(U) 91A-IP-2723197
(U) [redacted] b7A -1

**Enclosures**

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

(U) The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector In-Charge (IIC) Dena Elaine Choucair
Inspector In-Place (IIP) Roger A. Coe



NYT-606

Assistant Inspector/Team Leader (TL) [redacted] b6 -1
TL [redacted] b7C -1
Assistant Inspector In-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP

FBI Laboratory Shooting Response Team:

SSA [redacted] Evidence Response Team (ERT) Unit b6 -1
Physical Scientist (PS) [redacted] Firearms/Toolmarks Unit b7C -1
PS [redacted] Firearms/Toolmarks Unit
Photographer [redacted] Operational Projects Unit
SA [redacted] Indianapolis ERT Senior Team Leader
SA [redacted] Detroit ERT Total Station
SA [redacted] Detroit ERT Total Station

B. **Shooting Incident Review Protocol**

(U) All members of the SIRT reviewed the FBI produced videotape entitled, "The Rain After the Storm - Shooting Incident Investigations".

(U) On 05/10/2013, IIC Choucair communicated with Indianapolis Division Special Agent in Charge (SAC), Robert Allan Jones, to arrange logistics prior to arriving in Indianapolis, Indiana. Members of the SIRT arrived during the evening of 05/10/2013 and the morning of 05/11/2013. On 05/11/2013, IIC Choucair met with all SIRT personnel and outlined SIRT protocols. IIC Choucair then met with SAC Jones, ASAC [redacted] ASAC [redacted] b6 -1
and CDC [redacted] to explain the protocol of the shooting inquiry. SAC Jones assigned b7C -1
ASAC [redacted] and ASAC [redacted] to serve as the Points of Contact for the SIRT during the investigation period. Later that day, IIC Chocair met with FBI personnel and TFOs involved in the shooting incident and explained INSD and SIRT protocols. During each of the meetings there was an opportunity for dialogue regarding concerns, clarification, or questions prior to the investigation commencing. Over the next four days, SIRT went to the scene of the shooting to visually examine the site, and conducted interviews of FBI and TFO personnel. In addition, they reviewed evidence collected by ERT, supporting documentation and audio and video recordings.

(U) Signed Sworn Statements (SSS) were taken from four FBI SAs and one TFO who were directly involved in the shooting or related events. Two of the SAs were represented by counsel. They were:

SA [redacted] represented by [redacted] b6 -1,2
SA [redacted] represented by [redacted] b7C -1,2

Copies of SSSs were provided to those interviewees who requested them. Other interviews, events and observations were documented in FD-302s. The FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting) were executed by all SAs who provided SSSs. All SSSs and interviews of witnesses were conducted voluntarily.

(U) On 05/14/2013, Inspector Choucair and SAC Jones met with Patricia A. Baldwin, Prosecuting Attorney (PA) for the 55th Circuit for the State of Indiana and briefed her on the

facts of the shooting incident. PA Baldwin stated her office would issue a letter of declination relative to SA [redacted] and SA [redacted] and their actions during the shooting incident. b6 -1 b7C -1

(U) On 05/15/2013, an exit briefing was provided by IIC Choucair to SAC Jones.

C. **Personnel Involved in the Shooting**

- SA [redacted] (Glock 22 Serial Number [redacted]
- SA [redacted] (Glock 22 Serial Number [redacted]; b6 -1,4 b7C -1,4
- TFO [redacted] (arrived on scene during the shooting);
- A/SSA [redacted] (arrived on scene at the conclusion of the shooting);
- SA [redacted] (arrived on scene at the conclusion of the shooting).

D. **Firearms Training**

(U) Indianapolis Division provided qualifications records for SAs [redacted] A review of the records reflected the following: b6 -1 b7C -1

(U) SA [redacted] s most recent qualification with his FBI-issued Glock 22, Serial Number [redacted] was on 03/19/2013.

(U) SA [redacted] 's most recent qualification with his FBI-issued Glock 22, Serial Number [redacted] was on 04/26/2013.

E. **Deadly Force Training**

(U) The IP CDC provided DOJ/FBI Deadly Force Policy training to members of Squad C-5, including SAs [redacted] on 02/27/2013. The training incorporated Firearms Training Simulator scenarios. b6 -1 b7C -1

(U) SA [redacted] also reviewed the FBI Deadly Force Policy during a briefing related to the execution of a search warrant on 04/21/2013 and again on either 04/24/2013 or 04/25/2013.

(U) No operational plan was prepared for the surveillance activities on 05/10/2013.

F. **Use of Body Armor and Law Enforcement Identifiers**

(U) SA [redacted] and SA [redacted] were wearing tactical ballistic vests. SA [redacted] s vest had an FBI placard on the front and back. SA [redacted] had an FBI placard on the back of his vest, but not on the front. SA [redacted] believed it must have come off while putting on his vest in the vehicle during the surveillance. b6 -1 b7C -1

G. **FBI Indices and National Crime Information Center (NCIC)**

(U) On 05/11/2013, ASAC [redacted] provided National Crime Information Center (NCIC) criminal history reports for William McKnight, [redacted] The criminal history reports included: b6 -1,7 b7C -1,7

(U) William McKnight, also known as (aka) Deandre Lewis, aka William Randolph, aka Deandre McKnight, black male, date of birth: 08/14/1969, Social Security Account Number: 324-66-9170, FBI number 714035KA1, address: 1656 N. Livingston Avenue, Indianapolis, Indiana. NCIC print out for William McKnight contained a notation of probation or supervised release and multiple arrest entries to include arrests for multiple burglaries, armed robberies, aggravated robbery, resisting arrest and prison sentences of 13 years in 1994 and seven years in 2008.

(U) [redacted] NCIC print out for [redacted] disclosed a notation of probation or supervised release and an arrest on [redacted] for stolen property, theft, robbery and armed robbery. [redacted] was convicted and sentenced to six years in prison for the [redacted] armed robbery charge. [redacted]'s record also disclosed the arrest on [redacted] for theft and armed robbery. b6 -7 b7C -7

(U) [redacted] NCIC print out for [redacted] disclosed a lifetime personal protection firearms permit. [redacted] record also disclosed the arrest on [redacted] for aiding armed robbery. b6 -7 b7C -7

## H. ERT Report

(U) On 06/12/2013, Assistant Inspector [redacted] received via FBI internal mail two compact disks from [redacted] FBI Laboratory Division, Operational Projects Unit, telephone number [redacted] containing an Interactive Diagram related to the Plainfield, Indiana shooting incident on 05/10/2013. The disks contained a diagram of the shooting scene with interactive links to photos of evidence markers and spherical images. b6 -1 b7C -1

## I. FBI Lab Report

(U) On 01/06/2014, Assistant Inspector [redacted] received the FBI Laboratory Report for the Plainfield, Indiana shooting incident on 05/10/2013. The report was prepared by [redacted] FBI Laboratory Division, Firearms and Toolmarks Unit, telephone number [redacted] and documented the analysis of the items received on 05/29/2013. The report included the firearm examination and searches of the National Integrated Ballistics Information Network (NIBIN). b6 -1 b7C -1

## J. Medical Reports

(U) On 05/10/2013, Dr. [redacted] Hendricks County, Indiana, Coroner performed an autopsy on William McKnight. The autopsy determined McKnight was hit up to six times with at least one or two rounds exiting and re-entering his body. The wounds were located in his right check, right shoulder, left chest, left lower back, right forearm, and left upper arm. There were four bullets recovered from the body that were each an expanded large caliber copper jacketed hollow-point bullet. One of the bullets caused a hemorrhage and an b6 -4 b7C -4

approximately 200 milliliter left hemothorax. Another bullet caused focal lacerations of the left kidney and partial transection of the spinal cord. The autopsy listed the cause of death as "Multiple Gunshot Wounds."

K. **Declination by the Civil Rights Division**

(U) On 10/29/2013, Inspector Dena Choucair received via E-mail a declination letter from [redacted] U.S. Department of Justice, Civil Rights Section, Washington, DC. The letter stated there was insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by two FBI agents near Indianapolis, Indiana, on 05/10/2013, that resulted in the death of William McKnight.

b6 -3
b7C -3

L. **Local Prosecutive Opinion**

(U) On 05/28/2013, Inspector Dena Choucair received via U.S. mail a declination letter from Hendricks County, Indiana, Prosecuting Attorney Patricia Ann Baldwin, 6 South Jefferson Street, Danville, Indiana 46122; telephone [redacted] The letter referenced Special Agent (SA) [redacted] and SA [redacted] and stated as Prosecuting Attorney of the 55th Judicial District, Hendricks County, State of Indiana, Baldwin declined to prosecute any criminal activity that may have arisen out of the incident on 05/10/2013 surrounding the robbery at the State Bank of Lizton in Plainfield, Indiana, and the subsequent fleeing, capturing and shooting of a suspect.

b6 -1,4
b7C -1,4

M. **Inspector's Observations**

(U) No observations.

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 03/13/2013

Report of: IIC Christopher W. Davis Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271697-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
KNOXVILLE FIELD OFFICE
03/06/2013

Investigative Period: 03/06/2013 – 03/11/2013

Reference: Telephone call on 03/06/2013 from SAC Kenneth E. Moore to Chief Inspector Robert J. Shields Jr., and Knoxville FD-1015, Executive Situation Report to the Director dated 03/06/2013.

---

**Synopsis**

On 03/04/2013, a criminal complaint and federal arrest warrant were issued against Scott Edward Evans for Distribution of Child Pornography and Receipt of Child Pornography. A search warrant was also issued for Evans' residence, 2332 Stapleton Road, New Market, Tennessee, in order to obtain evidence related to an ongoing child pornography investigation. Evans had no prior criminal history but did possess a valid handgun permit.

Agents and Task Force Officers (TFOs) assigned to the Knoxville (KX) Johnson City Resident Agency (JCRA), along with other local law enforcement officers, planned to execute the arrest and search warrants on 03/06/2013. At approximately 7:30 AM, the Case Agent, Special Agent (SA) [redacted] met with the search and arrest team to brief the Operations Plan and FBI Deadly Force Policy. Following the briefing, team members drove to Evans' residence in law enforcement vehicles with emergency lights activated. All team members wore clearly identifiable law enforcement clothing and protective equipment. The entry team advanced to the front door of Evans' residence, knocked, and clearly announced the presence of law enforcement. After waiting a reasonable amount of time with no response, Agents forced entry and cleared the residence. While Agents detained [redacted] in the living room, five additional Agents proceeded to a rear bedroom where Evans was located. The Agents observed Evans holding a holstered handgun pointed at his head. Evans ignored repeated demands to drop his weapon, which remained in its holster. Evans unholstered the handgun, exposing the trigger, at which point FBI SA [redacted] fired three .223 rounds from his Colt M4 rifle. All three rounds struck Evans and emergency personnel were summoned. Evans was determined to be deceased at the scene by two paramedics, who

b6 -1,2
b7C -1,2



NYT-611

responded in less than 10 minutes.

The shooting scene was processed by KX ERT and the Laboratory Division. All on-scene work, total station, and spherical photography were completed. Evans' Ruger handgun, cocked and loaded with six .357 rounds, was recovered from Evans' hand. Dozens of other weapons were located in Evans' residence, to include handguns, rifles and one crossbow. One of the rifles was reported stolen. At the time of the operation, [redacted] were in the residence. They were detained at the scene and released after [redacted] interviewed by FBI KX. b6 -2 b7C -2

**Details**

On 02/13/2013, Knoxville received a lead from the Violent Crimes Against Children Major Case Coordination Unit (formerly the Innocent Images Operations Unit) entitled "SCOTT EDWARD EVANS, aka jones32100@yahoo.com and jones00115@yahoo.com." An [redacted] revealed Evans had been receiving and distributing child pornography on-line. Knoxville received a digital video disk containing numerous images of child pornography obtained from the search of Evans' Yahoo! Incorporated e-mail account, jones32100@yahoo.com. The United States Attorney's Office, Eastern District of Tennessee, Greeneville, Tennessee, committed to prosecuting captioned matter and a case was subsequently opened. b7D -2

On 03/04/2013, a criminal complaint and federal arrest warrant were issued against Evans for Distribution of Child Pornography and Receipt of Child Pornography. A search warrant was also issued for Evans' residence, 2332 Stapleton Road, New Market, Tennessee, in order to obtain evidence related to the ongoing child pornography investigation. Evans had no prior criminal history but did possess a valid handgun permit.

Agents and TFOs assigned to the JCRA of the Knoxville Field Office, along with other local law enforcement officers, planned to execute the arrest and search warrants on 03/06/2013. An Operations Plan was drafted by the Case Agent, SA [redacted] and approved on 03/04/2013 by Supervisory Senior Resident Agent (SSRA) [redacted] Assistant Special Agent in Charge (ASAC) [redacted], and Chief Division Counsel (CDC) [redacted] SA [redacted] thoroughly briefed the Operations Plan, which included the FBI Deadly Force Policy, to the search and arrest team on 03/05/2013. The briefing included [redacted] Although SA [redacted] was a Probationary Agent, she was assisted by multiple senior Agents in the JCRA, to include members of the Special Weapons and Tactics (SWAT) Team, and her Training Agent, SA [redacted] a former ASAC. The tactical portion of the operation briefing was conducted by a senior Agent in the JCRA, SA [redacted] a member of the SWAT Team. b6 -1 b7C -1 b7E -1

On the morning of 03/06/2013, the SA [redacted] met with the search and arrest team prior to execution of the warrants to brief the Operations Plan and FBI Deadly Force Policy. In addition to the personnel who were briefed on 03/05/2013, personnel from local agencies were present who had not participated in the briefing the previous day. Following the briefing, team members drove to Evans' residence in law enforcement vehicles with emergency lights b6 -1 b7C -1



NYT-612

activated. All team members wore clearly identifiable law enforcement clothing and protective equipment. The entry team advanced to the front door of Evans' residence, knocked, and clearly announced the presence of law enforcement. After waiting a reasonable amount of time with no response, Agents forced entry and cleared the residence. While Agents detained [redacted] in the living room, five additional Agents (SAs [redacted] proceeded to a rear bedroom where Evans was located. The Agents observed Evans holding a holstered handgun, pointed at his head. Evans ignored repeated demands to drop his weapon, which remained holstered. Evans made a sudden movement with the handgun, exposing the trigger, and SA [redacted] fired three .223 rounds from his Colt M4 rifle. Evans was struck three times and an ambulance was summoned. Evans was determined to be deceased at the scene by two paramedics, who responded in less than 10 minutes. A Ruger handgun, cocked and loaded with six .357 rounds, was found in Evans' hand.

b6 -1,2
b7C -1,2

The Knoxville Evidence Response Team (ERT) recovered three .223 casings from the top of Evans' bed. An autopsy was performed on 03/07/2013 and three bullets were recovered from the right upper back, right mid back, and right lower back of Evans. The provisional autopsy report, dated 03/11/2013, concluded there were three gunshot wounds with entrances in the left side of the neck, the left upper arm, and the left chest wall.

**Substantive Case Files**

Case ID: 305-KX-2743323 (initiated 03/04/2013)
Title: SCOTT EDWARD EVANS,
a.k.a. jones32100@yahoo.com, jones00115@yahoo.com;
INNOCENT IMAGES NATIONAL INITIATIVE

**Enclosures**

All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Christopher W. Davis
Assistant Inspector/Team Leader (AI/TL) [redacted]
AI/TL [redacted]
AI/TL
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1



NYT-613

B. **Shooting Incident Review Protocol**

On 03/06/2013, IIC Davis spoke with Knoxville SAC Kenneth E. Moore to arrange logistics prior to arriving in Knoxville. On 03/06/2013, the SIRT traveled to Knoxville. IIC Davis and the SIRT members met with Knoxville SAC Moore.

On 03/07/2013, IIC Davis met with the involved FBI SAs, TFOs, and management personnel to explain the review process and protocols. On 03/07/2013, IIC Davis and the AIs/TLs traveled to the shooting incident location, 2332 Stapleton Road, New Market, Tennessee.

One Signed Sworn Statement (SSS) was taken from the FBI Agent directly involved in the shooting, SA [redacted] Other interviews, events and observations were documented via FD-302s. All FBI and TFO personnel were allowed to read their FD-302 to confirm the accuracy of the information provided. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSS and interviews of witnesses were conducted voluntarily. b6 -1 b7C -1

An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all FBI personnel interviewed.

On 03/08/2013, IIC Davis conducted an out brief with SA [redacted] and his attorney and explained the ensuing steps of the SIRT process. b6 -1,4 b7C -1,4

On 03/11/2013, IIC Davis and the AIs/TLs met with Assistant District Attorney General [redacted] State of Tennessee, Cocke County Branch Office; State of Tennessee and briefed him on the details of the shooting incident.

On 03/11/2013, an exit brief was provided by IIC Davis and the AIs/TLs to SAC Moore.

C. **Personnel Involved in the Shooting**

*FBI*

SA [redacted] (fired weapon) b6 -1
SA [redacted] (Case Agent) b7C -1
SA [redacted]
SA
SA
SA
SA
SA
Photographer [redacted]

*These individuals witnessed the shooting



NYT-614

*Other Law Enforcement*

| | | |
|---|---|---|
| TFO | Washington County Sheriff's Office | b6 -4 |
| TFO | Johnson City Police Department | b7C -4 |
| Detective Investigator | Knoxville Police Department | |
| Detective | Morristown Police Department | |
| Detective Sergeant | Jefferson County Sheriff's Office | |
| Sergeant | Jefferson County Sheriff's Office | |
| Sergeant | Jefferson County Sheriff's Office | |

D. **Firearms Training**

FBI Knoxville provided qualifications records for SA A review of SA 's records reflected he was certified for the weapons he had during the operation. b6 -1 b7C -1

E. **Deadly Force Training**

The most recent deadly force policy training, which was required for all Knoxville FBI SAs, was conducted by CDC in November 2012 as part of Knoxville's fall 2012 legal training session. The training was memorialized via Electronic Communication (EC) dated 11/30/2012, (Legal Training Provided). Attendance records note the following attendees from Squad 7: SSRA SA SA SA SA SA and SA b6 -1 b7C -1 b7E -11

INSD determined SA prepared a written Operations Plan which was approved on 03/04/2013 by SSRA ASAC and CDC then briefed to all personnel involved in the operation. The DOJ/FBI Deadly Force Policy was written into the Operations Plan. b6 -1 b7C -1

F. **Use of Body Armor and Law Enforcement Identifiers**

All SA and law enforcement personnel involved in the operation wore ballistic body armor. FBI or law enforcement identifiers were worn, and personnel verbally identified themselves to the subject prior to engaging the subject in the shooting.

G. **Criminal History**

A National Crime Information Center (NCIC) warrant and arrest check for Scott E. Evans, DOB 03/27/1972, SSAN 411-35-3435, revealed Evans had no prior criminal history or active warrants on file—the arrest warrant FBI Knoxville had secured for Evans was not entered into NCIC.

H. **ERT Report**

The scene of the shooting was secured and processed by Knoxville ERT. Recovered evidence items requiring laboratory testing were as follows:

*Items recovered from 2332 Stapleton Road, New Market, Tennessee*:
Item 1 - M4
Item 2 - Two (2) magazines and .223 ammunition
Item 5 - Spent casing, .223
Item 6 - Ruger GP-100 revolver
Item 10 - Spent casing, .223
Item 12 - Spent casing, .223
Item 13 - Six (6) rounds, .357 ammunition
Item 14 - Forty-four (44) rounds, .357 ammunition

*Items recovered during autopsy*:
Item 18 - Projectile (bullet)
Item 19 - Projectile (bullet)
Item 20 - Projectile (bullet)

I. **FBI Lab Report**

The Laboratory Division, Firearms-Toolmarks Unit was requested to generate a shooting incident reconstruction report. The Operational Projects Unit was requested to prepare supporting demonstrative imagery and graphics of the scene.

J. **Medical Reports**

An autopsy was performed on subject Scott Evans on 03/07/2013 by the Jefferson County Medical Examiner. According to the Provisional Autopsy Report, three bullets were recovered from Evans' body. The first bullet entered the left side of the neck and was recovered from the right upper back. The second bullet entered the left upper arm and was recovered from the right mid-back. The third bullet entered the left chest wall and was recovered from the right lower back.

K. **Declination by the Civil Rights Division**

In an E-mail dated 04/09/2013, [redacted], Special Legal Counsel, DOJ, Civil Rights Division, determined no federal criminal investigation was warranted. b6 -1,3 b7C -1,3

L. **Local Prosecutive Opinion**

In a letter dated 03/14/2013, District Attorney General James B. Dunn declined local prosecution, stating the actions of SA [redacted] were reasonable and justified.

M. **Inspector's Observations**

No observations.

[redacted] b6 -1,3 b7C -1,3

**From:** Davis, Christopher W.
**Sent:** Tuesday, April 09, 2013 9:56 PM
**To:** Shields, Robert J.; [redacted]
**Subject:** Fw: Knoxville Shooting

All: Fyi...Attached below is [redacted]'s Declination.

CD
------Original Message------
To: [redacted] b6 -3 b7C -3
Cc: [redacted] (USATNE)
Cc: [redacted] (CRT)
Subject: Re: Knoxville Shooting
Sent: Apr 9, 2013 11:11 AM

Thanks [redacted]

CD

------Original Message------
From: [redacted] b6 -3 b7C -3
To: Christopherc Davis
Cc: [redacted] (USATNE)
Cc: [redacted] (CRT)
Subject: Knoxville Shooting
Sent: Apr 9, 2013 11:10 AM

Inspector Davis
FBI Inspection Division

Based upon the information in your Shooting Incident Report and consultation with the USAO in Knoxville, we have determined that the incident in which a Knoxville FBI agent was involved in a shooting during the execution of an arrest warrant in New Market, Tn, on 3/6/13, resulting in the death of Scott Evans, does not warrant federal criminal investigation. The district attorney for Sevierville, Tn concluded that there was no violation of Tennessee law. There is no evidence to support an investigation to determine whether the federal criminal civil rights statutes were violated.

Knoxville agents and TFOs were attempting to locate and arrest Evans and search his mobile home residence for evidence relevant to child pornography charges. After their knocking on the door was ignored, the SWAT team breached the front door, encountered and detained [redacted] b6 -2 b7C -2 in a front room, and located Evans in a bedroom. He was naked on a bed holding a .357 handgun in its holster to his head. Several agents surrounded him in a crowded room (the room contained other weapons) and identified themselves. They repeatedly commanded him to "drop the gun." He ignore the commands, moved around in the room, and eventually upholstered the handgun. As Evans removed the handgun from its holster, one of the agents fired three times, striking and mortally wounding him.

Under the circumstances, the expressed perception by the agents who were present in the bedroom that Evans presented a risk of deadly harm was reasonable. The witness accounts are consistent. Additionally, an agent was bitten by a dog during the action.

We are grateful that the shooter agent properly provided a voluntary account of the incident and, accordingly facilitated a fully informed decision. Please complete the administrative review of the matter.

[redacted]
Special Legal Counsel
[redacted]
cell [redacted]

Civil Rights Division
US Department of Justice
601 D Street, NW
Room [redacted]
Washington D.C. 20004

b6 -3
b7C -3

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 15-cv-09133

Total Deleted Page(s) = 2
Page 1 ~ Referral/Consult;
Page 2 ~ Referral/Consult;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 07/16/2013

Report of: IIC Shawn W. Stroud Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271699-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
LAS VEGAS FIELD OFFICE
05/21/2013

Investigative Period: 05/22/2013 – 05/28/2013

Reference: (U) Telephone call on 05/21/2013, from SIOC to A/AD Robert J. Shields Jr., and Las Vegas FD-1015, Executive Situation Report to the Director dated 05/22/2013.

---

**Synopsis**

(U//~~FOUO~~) On 05/21/2013, at approximately 8:45 p.m., FBI Las Vegas Division Special Weapons and Tactics (SWAT) Team Assistant Team Leader, SA [redacted] and members of the FBI Las Vegas SWAT team participated in an operation in support of case number 88A-LA-2876913, a Los Angeles Field Office fugitive investigation. The operation included the Las Vegas SWAT team executing an arrest warrant for fugitive subject [redacted] As the SWAT team attempted to make entry into [redacted] Las Vegas, Nevada, by striking the door with a breaching ram, [redacted] fired multiple .45 caliber rounds at the SWAT team through the apartment door and wall. After SA [redacted] and the SWAT team announced themselves, [redacted] fired additional rounds at the SWAT team through the door and wall. [redacted] was instructed to exit his apartment and go out onto his balcony. At this point, SA [redacted] saw the front door move and feared [redacted] was preparing to pull the door open and again shoot at the team. SA [redacted] used the trajectory of the rounds to estimate the location of [redacted] inside the apartment. SA [redacted] fired his M-4 carbine nine times at [redacted] Subsequently, [redacted] fired additional rounds through the balcony sliding glass door. Following unsuccessful negotiation efforts, [redacted] was deployed into the apartment and [redacted] shortly thereafter surrendered. [redacted] was uninjured and transported to the Clark County Jail.

b6 -1,7
b7C -1,7
b7E -1

**Details**

(U//~~FOUO~~) The San Bernardino Sheriff's Office (SBSO), San Bernadino, California, identified [redacted] as a suspect in a 03/11/2013 homicide where the victim was shot numerous times. On 05/08/2013, a California state warrant was issued for the arrest of [redacted] for the

b6 -7
b7C -7



NYT-619

murder. SBSO requested the assistance of FBI Los Angeles's Inland Regional Apprehension Team (IRAT) in apprehending [redacted] FBI Los Angeles opened an Unlawful Flight to Avoid Prosecution (UFAP) case and used search warrants and pen register orders on known suspect telephone numbers to identify the location of [redacted]

b6 -7
b7C -7

(U//~~FOUO~~) On 05/20/2013, the Las Vegas Field Office notified the IRAT an LVMPD informant provided [redacted] The informant indicated [redacted] was living in Las Vegas, Nevada. The IRAT requested assistance from the Las Vegas Field Office in locating and apprehending [redacted] A state Pen Register/Trap and Trace Order [redacted] was written and approved by 05/21/2013.

b6 -7
b7C -7
b7D -1

(U//~~FOUO~~) During the morning hours of 05/21/2013, Criminal Apprehension Team (CAT) and SWAT team member SA [redacted] notified CAT members of the possible arrest. SA [redacted] analyzed telephone records for [redacted] while Las Vegas CAT and SWAT team member SA [redacted] Based on the analysis, SA [redacted] and SA [redacted] narrowed [redacted] to one or two apartments in [redacted] Las Vegas, Nevada.

b6 -1,7
b7C -1,7
b7E -6

(U//~~FOUO~~) SA [redacted] a Las Vegas SWAT team and CAT member, contacted FBI Las Vegas SWAT Assistant Team Leader [redacted] at 11:00 a.m. to notify him of the possible arrest operation. SA [redacted] was informed the subject was known to make threats against law enforcement and had an extensive criminal history. He was further informed the subject was possibly in possession of a firearm. Due to these factors, the seriousness of the charges, and source information suggesting [redacted] barricaded his residence and would not be taken alive, SA [redacted] believed justification for the utilization of SWAT was met. SA [redacted] advised SA [redacted] to discuss SWAT utilization with and obtain concurrence from squad supervisor SSA [redacted]

b6 -1,7
b7C -1,7

(U//~~FOUO~~) At approximately 1:00 p.m., members of the CAT were briefed on the Operations Plan (Ops Plan) to arrest [redacted] During the briefing, SA [redacted] told CAT members [redacted] was known to barricade the door when he was in his residence, to be armed and dangerous, to wear disguises, and to change his telephone frequently. SA [redacted] assigned each CAT member their positions. He briefed the DOJ/FBI Deadly Force and the Deadly Force Policy under the Memorandum of Understanding. He also told the members of CAT a goal of their operation was to collect sufficient evidence regarding the location of [redacted] to obtain a state search warrant. The Las Vegas FBI SWAT team would then make the arrest.

b6 -1,7
b7C -1,7

(U//~~FOUO~~) After the briefing, CAT members, including SA [redacted] assumed their positions at the subject's possible location. For several hours, members of the CAT attempted to visually confirm if [redacted] was in one of the identified apartments. At one point, they saw [redacted] a woman associated with [redacted] leave [redacted] SA [redacted] asked the LVMPD Repeat Offender Program Task Force (ROP) for assistance with surveillance of [redacted] SA [redacted] also asked a [redacted]

b6 -1,2,7
b7C -1,2,7
b7E -1



NYT-620

(U//~~FOUO~~) At approximately 1:00 p.m., SA [redacted] began preparing an Ops Plan for a SWAT operation. SA [redacted] maintained telephonic contact with SA [redacted] regarding the possible location of the subject. SA [redacted] sent an E-mail to the SWAT team indicating there would be a SWAT briefing at the field office.

b6 -1
b7C -1

(U//~~FOUO~~) At approximately 1:30 p.m., SA [redacted] verbally briefed A/ASAC [redacted] Las Vegas Field Office SWAT Coordinator about the draft Ops Plan. Also present was SWAT Probationary Operator SA [redacted] SWAT Operator SA [redacted] and Tactical Operation Center (TOC) SA [redacted] At approximately 3:15 p.m., additional information was received from SA [redacted] indicating [redacted] was staying at the [redacted] apartment. SA [redacted] modified the Ops Plan to reflect a search and arrest scenario.

b6 -1,7
b7C -1,7

(U//~~FOUO~~) [redacted]s propensity for violence, intelligence he carried a firearm, and the high probability he would barricade, led SA [redacted] to employ a "no knock" arrest/search warrant execution strategy. SA [redacted] further planned [redacted] prior to warrant execution when the team was set. At that time, the breacher would strike the subject's door with the ram two times. If the door did not open, a shotgun breach against the lock would be utilized to gain entry.

b6 -1,7
b7C -1,7
b7E -1

(U//~~FOUO~~) At 4:00 p.m., A/ASAC [redacted] 15 SWAT operators, two paramedics, TOC personnel, and an Electronic Technician participating in the operation were briefed using an Operations Order PowerPoint presentation. FBI Las Vegas Senior Team Leader (STL) [redacted] and FBI Las Vegas SWAT operator SA [redacted] were in Reno, Nevada, at the time of the briefing. During the briefing, SA [redacted] covered the DOJ/FBI Deadly Force Policy. SA [redacted] outlined the subject's criminal history, threats against law enforcement, his practice to barricade his door and carry a firearm on him at all times. SA [redacted] showed pictures of the subject, route to the location, and briefed standard equipment to be used in the operation to include weapons, ballistic protection, and radios. Photographs of the location were obtained from SA [redacted] and SA [redacted] and used in the briefing. After the brief, operators went to the field office parking lot and conducted a rehearsal. Following the rehearsal, the operators were released and remained on call until additional information was received from the CAT regarding the location of the subject.

b6 -1
b7C -1

(U//~~FOUO~~) Around 7:00 p.m., SA [redacted] was notified [redacted] was seen at [redacted] Las Vegas, Nevada. SA [redacted] was further notified sufficient information was developed to obtain a state search warrant. SA [redacted] texted the SWAT team to meet at the field office. Updates from Sergeant [redacted] CAT supervisor, indicated no children were present in the apartment nor was [redacted] a female associated with the apartment.

b6 -1,2,4,7
b7C -1,2,4,7

(U//~~FOUO~~) At 8:07 p.m., SA [redacted] and ROP Detective [redacted] telephonically obtained a state search warrant from Las Vegas Township Justice Court Judge William Kephart to search [redacted] Las Vegas, Nevada.

b6 -1,4,7
b7C -1,4,7

(U//~~FOUO~~) While waiting for the warrant and arrival of the SWAT team, the surveillance team tightened the perimeter around the subject's building. They also brought in a canine in case [redacted] left the residence before they obtained the warrant. During this surveillance, the surveillance teams observed lights come on within the subject's apartment and saw an individual matching the subject's description briefly walk out onto the balcony. Aside from [redacted] no additional occupants were observed or were located in public records checks.

b6 -1,2
b7C -1,2

(U//~~FOUO~~) Upon arriving at the field office, SA [redacted] provided an update to SWAT team personnel. The SWAT team next moved to the staging area, the [redacted] Having returned from Reno, Nevada, STL [redacted] and SA [redacted] joined the team at the staging area. STL [redacted] directed SA [redacted] to retain command of the SWAT operation. The team arrived at the staging location at approximately 8:17 p.m. A/ASAC [redacted] and SSA [redacted] were also present at the staging area. All operators wore ballistic helmets and green ballistic vests with FBI visible in black letters on the front and back, and used [redacted]

b6 -1
b7C -1
b7E -1

(U//~~FOUO~~) The Ops Plan was discussed and rehearsed again at the staging area. Having spent time at the subject's apartment complex, SA [redacted] and SA [redacted] identified a wall partially obstructing use of the southeast side of the building. SA [redacted] modified the team's approach route in favor of a route around the south and west sides of the building where [redacted]'s view would be partially obstructed. The team would then proceed north along the western wall, and into the stairwell at the center of the building.

b6 -1,7
b7C -1,7

(U//~~FOUO~~) Following discussions and rehearsals at the staging area, all personnel conducted a radio check with the TOC. SWAT operators loaded into their vehicles and A/ASAC [redacted] provided authority to proceed to the suspect's location. At approximately 8:45 p.m., the SWAT team entered into the apartment complex and proceeded to the vehicle drop off point southeast of the suspect's building. The team exited their vehicles and approached the building as planned. Two operators took positions to cover the suspect's balcony. The six operators in the stack approached the stairs. The breaching element remained on the stairs while four operators went up the stairs to the landing and the target door. SA [redacted] carried the ballistic shield and was the first in the stack. SA [redacted] was second in the cover position. SA [redacted] was third and SA [redacted] was fourth. When the operators were in position, SA [redacted] stated "set" over the tactical channel. This was done to initiate [redacted] With the team in position, SA [redacted] gave the order to breach the door over the tactical channel. SA [redacted] approached and struck the suspect's door with the ram. The door opened about one inch and returned to the closed position. SA [redacted] could see the door jamb paint color was different from the trim color, but he could not see inside the suspect's apartment. Around the time SA [redacted] was preparing to strike the door a second time, gunfire started and rounds came through the suspect's door from the inside.

b6 -1
b7C -1
b7E -1

(U//~~FOUO~~) The breaching element retreated down the stairs. SA [redacted] SA [redacted] SA [redacted] and SA [redacted] moved to the northeast corner of the landing and packed themselves tightly behind the ballistic shield. This position minimized exposure to rounds fired from the apartment. SA [redacted] yelled "Police" and "FBI" three or four times to [redacted] so he would

b6 -1,7
b7C -1,7



NYT-622

know the Agents were not a rival gang or a criminal element attempting to steal from him. More shots were fired from within the apartment and rounds again came through the door. According to SA [redacted] the trajectory of the second burst of gun fire appeared to come closer to their position. SA [redacted] saw a large round skip across the landing towards the team. SA [redacted] again yelled "Police" and "FBI," and checked on the team. b6 -1 b7C -1

(U//~~FOUO~~) Wanting [redacted] to exit his apartment, but not feeling it was safe to have him exit via the front door, SA [redacted] instructed [redacted] to exit his apartment and go out onto his balcony, where he would be observed by the cover team. [redacted] was heard saying something from inside the apartment, but it was not comprehendible. [redacted] was also heard moving around inside the apartment. At this point, SA [redacted] saw the front door move. SA [redacted] was concerned [redacted] was preparing to pull the apartment door open, put his arm out the door, and shoot at the team. SA [redacted] felt an imminent threat of death or bodily harm for his team, the neighbors, and himself. SA [redacted] assessed from the trajectory of the rounds that [redacted] was likely located behind the knob side of the door. SA [redacted] placed a burst of nine rounds from his M-4 through knob side of the subject's door. The subject fired a third burst of gunfire, this time out the west-facing balcony sliding glass doors. b6 -1,7 b7C -1,7

(U//~~FOUO~~) SA [redacted] continued to issue commands to [redacted] through the door. [redacted] called out, "I'm hit." SA [redacted] noted his voice was casual. From SA [redacted] s experience, [redacted] s voice did not sound like someone who was injured or bleeding. b6 -1,7 b7C -1,7

(U//~~FOUO~~) An expandable ladder was placed up against the north end of the landing's east railing. SA [redacted] and SA [redacted] climbed over the railing and used the ladder to exit the landing. A second ladder was placed on the south end of the east railing, and a cover team ascended the ladder to cover the apartment door to facilitate the remaining team members' egress. SA [redacted] requested [redacted] FBI SWAT SA [redacted] and SA [redacted] and SA [redacted] withdrew from the landing via the northern ladder. Though a .45 caliber round struck SA [redacted] s ballistic vest during the suspect's third discharge of rounds, none of the SWAT operators were injured. A barricaded subject situation ensued. b6 -1,7 b7C -1,7 b7E -1

(U//~~FOUO~~) FBI and LVMPD negotiators attempted to convince [redacted] to surrender. After initial dialogue, [redacted] stopped communicating with negotiators and [redacted] plan was prepared. At approximately 12:03 a.m., on 05/22/2013, LVMPD and FBI SWAT personnel [redacted] At 12:30 a.m., [redacted] surrendered. After a medical evaluation, [redacted] was determined to be unharmed. He was handcuffed and transported to the Clark County jail. b6 -7 b7C -7 b7E -1

(U//~~FOUO~~) In his interview, Las Vegas Acting SAC [redacted] stated he arrived on scene after the subject was in custody. A/SAC [redacted] stated A/ASAC [redacted] the On Scene Commander, was responsible for the operation. In his interview, ASAC [redacted] stated when he could not reach A/SAC [redacted] he traveled to the operation site. This took place at approximately 11:00 p.m. b6 -1 b7C -1

(U//~~FOUO~~) Personnel participating in the SWAT operation included:



NYT-623

**FBI**

SA [redacted] (fired weapon) (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
Acting ASAC [redacted] (On-Scene Commander)
SSA [redacted] (Substantive Squad Supervisor)
STL [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (SWAT)
SA [redacted] (MEDIC)
SA [redacted] (Negotiator)
SA [redacted] (Negotiator)
SA [redacted] (TOC)
SA [redacted] (TOC)
ET [redacted] (ET Support)
[redacted] (Radio Operator)
Acting SAC [redacted] (Arrived on scene after subject in custody)
ASAC [redacted] (Arrived on scene sometime after 11:00pm)

b6 -1
b7C -1

b6 -1
b7C -1

**LVMPD**

Lieutenant [redacted]
Lieutenant
Sergeant
Detective
Sergeant
Detective
Detective
Detective
Detective
Detective
Detective
Detective
Detective
Detective

b6 -4
b7C -4

Detective [redacted]
Detective [redacted]
Detective [redacted]
K-9 Officer [redacted]
Paramedic [redacted]

b6 -4
b7C -4

(U//~~FOUO~~) [redacted] was described as:

b6 -7
b7C -7

Name: [redacted]
Sex:
Race:
Date of Birth:
Height:
Weight:
Eyes:
Hair:
SSAN:
FBI No.:

**Substantive Case Files:**

Case ID: 88A-LA-2876913
Title: [redacted]
Fugitive (A); UFAP - Murder
05/20/2013

b6 -7
b7C -7

Case ID: [redacted]
Title:

b6 -1,7
b7C -1,7
b7A -1

**ENCLOSURES:**

(U//~~FOUO~~) All enclosures were made part of this report and were identified in the enclosed table of contents.

**ADMINISTRATIVE:**

The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Shawn W. Stroud
Assistant Inspector/Team Leader (AI/TL) [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]

b6 -1
b7C -1

AIIP
AIIP
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:

SSA – Evidence Response Team Unit – Team Leader
– Firearms and Toolmarks Unit – Physical Scientist
– Firearms and Toolmarks Unit – Physical Science Technician
– Operational Projects Unit – Visual Information Specialist
– Operational Projects Unit – Photographer
– Los Angeles Field Office – ERT
– Los Angeles Field Office – ERT

b6 -1
b7C -1

Las Vegas Field Office Evidence Response Team Personnel:

SA – ERT Team Leader
– Evidence Technician
– Photographer
– Investigative Operations Analyst
– Intelligence Analyst
SA
SA
SA

b6 -1
b7C -1

**SHOOTING INCIDENT REVIEW PROTOCOL:**

(U//~~FOUO~~) All members of the SIRT reviewed the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 05/21/2013, IIC Stroud spoke with Las Vegas designated point of contact SSA to arrange logistics prior to arriving in Las Vegas. On 05/22/2013, the SIRT traveled to Las Vegas. Upon arriving, IIC Stroud and members of the SIRT traveled to the shooting scene which occurred in the Las Vegas, Nevada. Subsequently, IIC Stroud met with Las Vegas Field Office EM and SWAT personnel.

b6 -1,7
b7C -1,7

(U//~~FOUO~~) One Signed Sworn Statement (SSS) was taken from the FBI Agent directly involved in the shooting, SA and five SSSs were taken from other FBI Agents in the immediate proximity of the shooting, SA SA SA SA and SA Other interviews, events, and observations were documented via FD-302s.

b6 -1
b7C -1



NYT-626

Personnel were not mandated to review their FD-302s; however, those personnel who wanted to review their FD-302s were afforded the opportunity. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSSs and interviews of witnesses were conducted voluntarily. The LVMPD made involved personnel available to the SIRT. FD-302s of LVMPD interviews annotated personnel who voluntarily provided statements and personnel who were compelled by their department to provide statements.

(U//~~FOUO~~) An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all FBI personnel interviewed.

(U//~~FOUO~~) On 05/23/2013, IIC Stroud met with Clark County District Attorney's Office (CCDA) Chief Deputy District Attorney [redacted] and Chief Deputy District Attorney [redacted] to explain the ensuing steps of the SIRT process. On 05/28/2013, IIC Stroud met with CCDA Chief Deputy District Attorney [redacted] to brief him on the results of the shooting incident review.

b6 -3,4
b7C -3,4

(U//~~FOUO~~) On 05/23/2013, IIC Stroud telephonically contacted Special Legal Counsel [redacted] Civil Rights Division, DOJ, and advised him of the SIRT deployment to Las Vegas due to an Agent-involved shooting.

(U//~~FOUO~~) On 05/24/2013, IIC Stroud met with Assistant United States Attorney [redacted], Chief, Criminal Division, United States Attorney's Office (USAO), District of Nevada–Las Vegas, to explain the ensuing steps of the SIRT process. Subsequently, AUSA [redacted] followed up with Special Legal Counsel [redacted] and deferred to DOJ the use of force determination. AUSA [redacted] declined a briefing regarding the results of the shooting incident review.

b6 -3
b7C -3

(U//~~FOUO~~) On 05/28/2013, an exit brief was provided by IIC Stroud to A/SAC [redacted] and the CDC [redacted]

b6 -1
b7C -1

**LAS VEGAS FIELD OFFICE INVOLVED PERSONNEL:**

SA [redacted] (fired weapon)
SA [redacted]
SA
SA
SA
SA

**FIREARMS TRAINING:**

(U//~~FOUO~~) FBI Las Vegas provided qualifications records for SA [redacted] A review of the Agent's records reflected the following:

(U//~~FOUO~~) SA [redacted]s most recent qualification with his FBI-issued Colt M4A1, Serial Number [redacted] was on 04/03/2013. b6 -1 b7C -1

**DEADLY FORCE TRAINING:**

(U//~~FOUO~~) The last deadly force training, which was required for all Las Vegas FBI SAs, was provided by CDC [redacted] and SA [redacted] during the 04/12/2013 Shooting Incidents brief at the Las Vegas Field Office All Employee Conference. CDC [redacted] also provided an E-mail dated 03/13/2013, from CDC [redacted] to Las Vegas Agents and TFOs which provided notification of the DOJ/FBI Deadly Force Policy. Webcast training regarding the DOJ/FBI Deadly Force Policy was provided on 12/21/2012, for all Las Vegas Agents and TFOs. An E-mail, dated 12/17/2012, from SA [redacted] to Las Vegas Agents provided notification of changes to the FBI Less-Lethal Device Policy Implementation Guide to all Agents. An E-mail, dated 11/26/2012, from CDC [redacted] to Las Vegas Agents provided notification of mandatory legal training for all Agents and TFOs.

(U//~~FOUO~~) INSD determined SA [redacted] prepared a written Ops Plan on 05/21/2013. The Ops Plan was briefed to A/ASAC [redacted] and all personnel involved in the operation. The DOJ/FBI Deadly Force Policy was written into the plan. b6 -1 b7C -1

**USE OF BODY ARMOR AND LAW ENFORCEMENT IDENTIFIERS:**

(U//~~FOUO~~) All SA and TFO personnel involved in the operation wore ballistic body armor. FBI or law enforcement identifiers were worn. The operation involved use of the "no-knock" tactic. Documented risk factors justified use of the technique. Personnel verbally identified themselves to the subject prior to firing at the subject; however, [redacted] continued to fire at Agents. b6 -7 b7C -7

**CRIMINAL HISTORY:**

(U//~~FOUO~~) SSA [redacted] provided a printed copy of National Crime Information Center (NCIC) Wanted Notice # [redacted] dated 05/23/2013, for Homicide in San Bernadino, California, Case # [redacted] warrant dated 05/08/2013, for [redacted] Additionally, an NCIC Criminal History record check was run on [redacted] Date of Birth [redacted] SSAN [redacted] FBI number [redacted] which identified the following offenses: b6 -7 b7C -7 b7E -11

Burglary
Robbery
Force/Assault Deadly Weapon Not Firearm: Great Bodily Injury Likely
Assault Deadly Weapon
Fight/Challenge Fight Public Place
Willful Discharge of a Firearm-Negligent Manner
Carry Loaded Firearm: Public Place
Carry Concealed Weapon in Vehicle
Obstructs/Resists Public Officer/Etc

Threaten School/Public Officer/employee
Threaten Crime with Intent to Terrorize
Possess/Sell Switch-Blade Knife
Hit and Run: Death or Injury
Hit and Run: Property Damage
Grand Theft: Automobile
Possession/Purchase for Sale Narcotic/Controlled Substance
Receive/Etc Known Stolen Property
Participate in a Known Street Gang
Disorderly Conduct: Intoxicated Drug/Alcohol
Failure to Appear

(U//~~FOUO~~) On 05/23/2013, SSA [redacted] provided a printed copy of an Indices check for [redacted] The Indices check provided hits on two files, 88A-LA-2876913 and [redacted] [redacted]

b6 -1,7
b7C -1,7
b7A -1

**LABORATORY DIVISION REPORTS:**

(U//~~FOUO~~) The scene of the shooting was secured and processed by LV ERT, LA ERT, and the Laboratory Shooting Reconstruction Team to include use of Total Station.

(U//~~FOUO~~) Recovered evidence items requiring laboratory testing were as follows:

**Firearms/Toolmarks Testing**

1B1 Colt M4A1 bearing serial number [redacted]
1B2 Three (3) magazines and 65 rounds of ammunition.
1B3 One (1) slug.
1B4 One (1) bullet.
1B5 One (1) bullet retrieved from H-3.
1B6 One (1) slug.
1B7 One (1) firearms magazine.
1B8 One (1) slug.
1B19 12 bullets in a plastic bag.
1B20 One (1) 45 caliber casing, silver in color.
1B21 One (1) bullet.
1B24 One (1) 45 caliber casing, brass in color.
1B25 Four (4) 45 caliber casings, brass in color, and one (1) 45 caliber casing, silver in color.
1B26 16 Winchester 38 special bullets, silver and copper in color, in plastic bag.
1B28 Three (3) CS expended cartridges.
1B29 Metal fragment, silver and brass in color.
1B30 One (1) 45 caliber casing, brass in color.
1B33 Two (2) 45 caliber casings, brass in color, and one (1) 45 caliber casing, silver in color.
1B34 One (1) 45 caliber casing, brass in color, and one (1) 45 caliber casing, silver in color.

b6 -1
b7C -1



NYT-629

1B36 One (1) 45 caliber bullet, brass in color.
1B37 Kimber, stainless steel and black 45 caliber handgun, serial# [redacted] b6 -1
1B41 One (1) bullet. b7C -1
1B43 Four (4) bullets, copper in color, and one (1) bullet fragment.
1B44 One (1) 45 caliber casing, copper in color.
1B47 One (1) bullet, copper in color.

(U//~~FOUO~~) The Laboratory Division, Firearms-Toolmarks Unit, was requested to generate a shooting incident reconstruction report. The Operational Projects Unit was requested to prepare supporting demonstrative imagery and graphics of the scene.

J. **DECLINATION BY THE CIVIL RIGHTS DIVISION:**

(U//~~FOUO~~) Upon completion of the on-site inquiry, IIC Stroud coordinated SIRT investigative findings with [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division. On 05/24/2013, he was provided an incident summary. On 05/28/2013, Mr. [redacted] advised the circumstances of the Agent-involved shooting did not, "warrant a federal criminal investigation of this matter." b6 -3 b7C -3

K. **LOCAL PROSECUTIVE OPINION:**

(U//~~FOUO~~) On 05/28/2013, IIC Stroud met with CCDA Chief Deputy [redacted] to brief him on the results of the shooting incident review. By letter dated 05/29/2013, the Clark County DA stated the facts of this SIRT did not meet the criteria for formal review and he considered the matter closed. b6 -4 b7C -4

L. **INSPECTOR'S OBSERVATIONS:**

(U//~~FOUO~~) **SIRT Observation 1**: Las Vegas Field Office did not have crisis negotiator elements pre-staged.

(U//~~FOUO~~) **Analysis**: Based upon numerous interviews, it was determined crisis negotiators were not deployed on the 05/21/2013 incident until after SWAT encountered a barricaded subject.

(U//~~FOUO~~) Las Vegas Field Office had no formal policy on the deployment of crisis negotiation staff with SWAT deployments. However, per an all-Agent FBINET E-mail from SSA [redacted] SWAT Coordinator, on 01/24/2013, the following was established: b6 -1 b7C -1

> *"As a general rule a crisis negotiation team member WILL NOT stage with SWAT during their operations. The crisis negotiation team will be on standby and aware of the SWAT operation and will deploy if needed. There are circumstances when crisis negotiation team members will stage with SWAT, primarily, when there are articulable facts that indicate they should be present. Some facts include: the subject's involvement in a prior barricade situation; information the subject may be suicidal, has vowed not to be taken alive, or is prepared and waiting for police; intel that the area where the subject is*

*located is heavily fortified; or, any other information that the subject will likely not surrender even when confronted by SWAT."*

(U//~~FOUO~~) Intelligence from both the LA Field Office and a Confidential Human Source indicated [redacted] was known to barricade himself in places he was staying, he was known to carry a firearm, he was facing a substantial sentence for murder, and he had made statements he would never be taken alive. b6 -7 b7C -7

(U//~~FOUO~~) When crisis negotiators were requested during the 05/21/2013 incident, there was a substantial delay both in response and in coordination efforts between SWAT, FBI management, and FBI crisis negotiators. Additionally, there was a delay in coordination with the Las Vegas Metropolitan Police Department (LVMPD) negotiators.

(U//~~FOUO~~) **SIRT Recommendation 1**: A/SAC Las Vegas should ensure assessments of proposed SWAT operations are conducted, and FBI LV negotiators are pre-staged with SWAT.

(U//~~FOUO~~) **SIRT Observation 2:** Approval of the Las Vegas SWAT Operations Order, dated 05/21/2013, was not clearly articulated by the Special Agent in Charge, or his designee.

(U//~~FOUO~~) **Analysis:** Corporate Policy Directive 0242D, Requirement for Written Operation Order – Field Operations, Section 7.1 requires [redacted] b6 -1 b7C -1 b7E -5 Section 8.2.2.1 states [redacted] Section 11.3.1 states [redacted] The Las Vegas SWAT team utilized the [redacted] for the operations order. SWAT Assistant Team Leader SA [redacted] prepared the operations order. Las Vegas [redacted] page 32, Command and Control, listed SSA [redacted] as the On-Scene Commander. SSA [redacted] was the A/ASAC and the SWAT Coordinator. According to the A/SAC in his INSD interview, he asked A/ASAC [redacted] to be the On-Scene-Commander. Las Vegas [redacted] page 34 was titled Approval/Authority; it did not indicate the plan was approved, or who approved the plan. The Approval/Authority page was never signed by the Special Agent in Charge, or designee, and there was no indication formal approval of the plan was granted.

(U//~~FOUO~~) During his INSD interview, SA [redacted] stated a copy of the final version of the operations order is typically provided to the SWAT Coordinator, who notes approval. SA [redacted] stated A/ASAC [redacted] reviewed a draft paper copy of the operations order and returned it. SA [redacted] stated A/ASAC [redacted] did not sign a copy of the plan, nor did he state he approved the plan. From A/ASAC [redacted] 's presence at the operations order presentation, and lack of negative feedback, SA [redacted] understood the operations order to be approved. b6 -1 b7C -1

(U//~~FOUO~~) During his INSD interview, A/ASAC [redacted] stated he gave verbal approval of the operations order after listening to the briefing of SA [redacted] A/ASAC [redacted] stated a written operations order was not provided to him by SA [redacted] b6 -1 b7C -1

(U//~~FOUO~~) Based on Las Vegas personnel interviews, the Shooting Incident Review Team determined there was confusion regarding the procedures for approving the operations order. As observed above, the On-Scene Commander and the SWAT Assistant Team Leader had different recollections of how the operations order was approved. A signed plan would have alleviated any confusion regarding this matter.

(U//~~FOUO~~) **SIRT Instruction 2:** A/SAC Las Vegas will ensure he, or his designee, provides written or electronic approval of all written operations orders for the execution of every Arrest and Search Warrant and any other activity in which the practical application of firearms might be reasonably anticipated. The approval should occur before the operations order is presented to the participants.

(U//~~FOUO~~) **SIRT Observation 3:** Information regarding the 05/21/2013 crisis situation was not communicated to the Las Vegas Field Office Communications Center.

(U//~~FOUO~~) **Analysis:** It was determined the Las Vegas Field Office Communications Center did not receive a copy of the SWAT Operations Order and was only advised telephonically of a potential SWAT operation on 05/21/2013. During the SWAT operation and subsequent barricade situation, the Communications Center was not given information regarding the initiation of the arrest situation, shots being fired, or a barricaded subject. The Communications Center was also not informed of the possible injury to an Agent. This prevented the Communications Center from being an efficient communications coordination point for the field office in support of the crisis.

(U//~~FOUO~~) Later that same evening, the Communications Center was contacted by Las Vegas Channel 3 News inquiring about the SWAT arrest and shooting incident. Although Communications Center personnel reacted properly, they were caught by surprise by the press inquiry. Previous knowledge of the crisis would have allowed the Communications Center to be better prepared to handle press inquiries and other pertinent communications regarding the incident.

(U//~~FOUO~~) **SIRT Recommendation 3:** A/SAC Las Vegas should ensure pertinent information regarding SWAT operations, to include initiation, completion, and any critical situations stemming from the operation are communicated to the Las Vegas Field Office Communications Center.

(U//~~FOUO~~) **SIRT Observation 4:** A Las Vegas Field Office SWAT operator utilized an unauthorized weapon during [redacted]

(U//~~FOUO~~) **Analysis:** Las Vegas Field Office SWAT team member SA [redacted] advised due to low light levels outside the subject's residence, and because his FBI-issued [redacted] did not have a sight system suitable for low light environments, he utilized a [redacted] provided by the Las Vegas Metropolitan Police Department (LVMPD). The [redacted] provided by LVMPD SWAT contained an EO Tech sight which was better suited for low light environments. SA [redacted] received a familiarization brief from an

b6 -1
b7C -1
b7E -1

LVMPD SWAT operator prior to using the weapon. [redacted] by SA [redacted] and two LVMPD SWAT operators who were using additional LVMPD [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) Las Vegas Field Office SWAT Senior Team Leader (STL) SA [redacted] confirmed SA [redacted] used a [redacted] provided by LVMPD SWAT and manufactured by [redacted]

(U//~~FOUO~~) Appendix F in the Critical Incident Response Group, Special Weapons and Tactics, Policy Implementation Guide published 02/29/2012, contained the following list of authorized field SWAT weapons, which did not include a [redacted] manufactured by [redacted]

***Appendix F: (U) Authorized Field SWAT Weapons***

*(U) Current list of Bureau approved weapons acquired specifically for SWAT operations:*

- *(U)* [redacted]
- *(U)*
- *(U)*
- *(U)*
- *(U)*
- *(U)*
- [redacted]
- *(U)*
- *(U)*

b7E -1

(U//~~FOUO~~) **SIRT Instruction 4:** A/SAC Las Vegas will ensure Las Vegas Field Office SWAT operators, in the absence of exigent circumstances, only use weapons authorized in the Special Weapons and Tactics, Policy Implementation Guide.

(U//~~FOUO~~) **SIRT Observation 5:** Deficiencies were identified in Las Vegas Field Office's Crisis Response Plan.

(U//~~FOUO~~) **Analysis:** Crisis Management Program Policy Implementation Guide (PG), Section 5.2 states [redacted] The Las Vegas Field Office had a Crisis Response Plan which indicated it was revised on 05/31/2012. It contained an appendix (Appendix D) for Agent-involved shootings, which was dated 06/2009. The Introduction section identified and quoted FBI's policy on the use of deadly force and referenced it as being set forth in MIOG, Part II, Section 12-2.1 and in the Legal Handbook for Special Agents (LHSA), Section 3-6.4. b7E -5

(U//~~FOUO~~) MIOG, Part II, Section 12-2.1 was superseded by the Domestic Investigations and Operations Guide (DIOG), Appendix F, dated 10/15/2011. DIOG, Appendix F, and the referenced LHSA, Section 3-6.4, sets forth the Department of Justice Deadly Force



NYT-633

Policy. The Las Vegas Field Office Crisis Response Plan does not cite or set forth the current deadly force policy.

(U//~~FOUO~~) **SIRT Instruction 5:** A/SAC, Las Vegas will ensure the Las Vegas Field Office Crisis Response plan cites and quotes current FBI policy.

(U//~~FOUO~~) **SIRT Observation 6:** There was a failure to obtain approval to [redacted] b7E -1

(U//~~FOUO~~) **Analysis:** Section 3.11 in the Critical Incident Response Group, Special Weapons and Tactics, Policy Implementation Guide published 02/29/2012, stated:

[redacted] b7E -5

(U//~~FOUO~~) A/SAC [redacted] stated in his INSD interview that he gave blanket authority to the on-scene commander to use [redacted] during SWAT operations due to the variety of tactical situations which can occur, but he did not know what policy or authorization level was needed to [redacted] A/SAC [redacted] did not specifically give the authorization to use [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) ASAC [redacted] stated in his INSD interview he did not authorize the [redacted] Once he arrived on scene, ASAC [redacted] believed he was the OSC and was aware a decision to [redacted] had already been made. ASAC [redacted] was in agreement with [redacted] however, he was not aware FBI SWAT was even equipped to [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) A/ASAC [redacted] stated in his INSD interview, he believed he was the OSC, even after ASAC [redacted] arrived on scene. A/ASAC [redacted] stated he was never specifically asked for authority for any FBI SWAT team member to [redacted] He stated he was present during discussions between STL [redacted] and an LVMPD Lieutenant regarding the [redacted] but believed LVMPD SWAT would be [redacted]

(U//~~FOUO~~) CDC [redacted] stated in his INSD interview A/ASAC [redacted] gave approval for the use of [redacted] to get the armed barricaded fugitive out of the apartment. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) The SWAT STL [redacted] stated in his INSD interview A/ASAC [redacted] was present during discussions with the LVMPD SWAT Lieutenant regarding the [redacted]

(U//~~FOUO~~) Las Vegas Field Office SWAT team member SA [redacted] advised he had not received authorization to [redacted] from any FBI official. He received the command to [redacted] from a Las Vegas Metropolitan Police Department (LVMPD) SWAT operator. SA [redacted] believed once LVMPD SWAT arrived on-scene, it became a joint operation, and since leaders from both agencies were in agreement that [redacted] the command to [redacted] received by the LVMPD SWAT operators also extended to him. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) **SIRT Recommendation 6a:** A/SAC Las Vegas should ensure every participant in an FBI operation is made aware of who is the OSC. If the OSC changes during the operation, an affirmative notification to all participants of the new OSC should be made.

(U//~~FOUO~~) **SIRT Recommendation 6b:** A/SAC Las Vegas should ensure there is an affirmative approval process prior to the [redacted] The OSC should affirmatively issue the approval to [redacted] and the SWAT Team Leader should acknowledge the approval. b7E -1

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Las Vegas 07/16/2013 SIRG **Date:** 06/11/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297-HQ-A1271699-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 05/21/2014.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 07/16/2013, prepared by Inspector-in-Charge (IIC) Shawn W. Stroud.

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Incident Report, dated 07/16/2013.

**Details:**

(U//~~FOUO~~) On 05/21/2014, the SIRG convened to review a shooting incident which occurred on 05/21/2013, involving Las Vegas Field Office (LV) Special Agent (SA) [redacted] b6 -1 b7C -1

(U//~~FOUO~~) On 05/21/2013, at approximately 8:45 p.m., Assistant Team Leader SA [redacted] and members of the FBI Las Vegas Special

Title: (U) Las Vegas 07/16/2013 SIRG
Re: 297-HQ-A1271699-D, 06/11/2014

Weapons and Tactics (SWAT) team participated in an FBI Las Vegas SWAT operation in support of case number 88A-LA-2876913, a Los Angeles Field Office fugitive investigation. The operation included the Las Vegas SWAT team executing a search warrant for fugitive subject [redacted] As the SWAT team attempted to make entry into [redacted] Las Vegas, Nevada, by striking the door with a breaching ram, [redacted] fired multiple .45 caliber rounds at the SWAT team through the apartment door and wall. After SA [redacted] and the SWAT team announced themselves, [redacted] fired additional rounds at the SWAT team through the door and wall. [redacted] was instructed to exit his apartment and go out onto his balcony. At this point, SA [redacted] saw the front door move and feared [redacted] was preparing to pull the door open and again shoot at the team. SA [redacted] used the trajectory of the rounds to estimate the location of [redacted] inside the apartment. SA [redacted] fired his M-4 carbine nine times at [redacted] Subsequently, [redacted] fired additional rounds through the balcony sliding glass door. Following unsuccessful negotiation efforts, [redacted] shortly thereafter surrendered. [redacted] was uninjured and transported to the Clark County Jail.

b6 -1,7
b7C -1,7
b7E -1

**SIRG Observations**

(U//~~FOUO~~) On 05/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 05/21/2013, was in compliance with the Department of Justice's Deadly Force Policy.

b6 -1
b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following recommendations and observations:

Title: (U) Las Vegas 07/16/2013 SIRG
Re: 297-HQ-A1271699-D, 06/11/2014

(U//~~FOUO~~) **SIRT Observation 1**: Las Vegas Field Office did not have crisis negotiation elements pre-staged.

(U//~~FOUO~~) **Analysis**: Based upon numerous interviews, it was determined crisis negotiators were not deployed on the 05/21/2013 incident until after SWAT encountered a barricaded subject.

(U//~~FOUO~~) Las Vegas Field Office had no formal policy on the deployment of crisis negotiation staff with SWAT deployments. However, per an all-Agent FBINET E-mail from SSA [redacted] SWAT Coordinator, on 01/24/2013, the following was established: **b6 -1 b7C -1**

*"As a general rule a crisis negotiation team member WILL NOT stage with SWAT during their operations. The crisis negotiation team will be on standby and aware of the SWAT operation and will deploy if needed. There are circumstances when crisis negotiation team members will stage with SWAT, primarily, when there are articulable facts that indicate they should be present. Some facts include: the subject's involvement in a prior barricade situation; information the subject may be suicidal, has vowed not to be taken alive, or is prepared and waiting for police; intel that the area where the subject is located is heavily fortified; or, any other information that the subject will likely not surrender even when confronted by SWAT."*

(U//~~FOUO~~) In addition, the FBI's SWAT Operations Unit (SOU) clearly articulated to all field offices, via communication with the Senior Team Leaders at the annual SOU Conference, their recommendation to deploy FBI Crisis Negotiators to the scene of each FBI SWAT operation.

(U//~~FOUO~~) Intelligence from both LA Field Office and a Confidential Human Source indicated [redacted] was known to barricade himself in places he was staying, he was known carry a firearm, he was facing a substantial sentence for murder, and he had made statements he would never be taken alive. **b6 -7 b7C -7**

(U//~~FOUO~~) When crisis negotiators were requested during the 05/21/2013 incident, there was a substantial delay both in response and in

coordination efforts between SWAT, FBI management, and FBI crisis negotiators. Additionally, there was a delay in coordination with the Las Vegas Metropolitan Police Department (LVMPD) negotiators.

(U//~~FOUO~~) **SIRT Recommendation 1:** SAC, Las Vegas should ensure assessments of proposed SWAT operations are conducted, and FBI LV negotiators are pre-staged with SWAT.

(U//~~FOUO~~) **SIRT Observation 2:** Confusion existed as to who approved, and at what level approval was necessary, for the Las Vegas SWAT Operations Order, dated 05/21/2013.

(U//~~FOUO~~) **Analysis:** Corporate Policy Directive 0242D, Requirement for Written Operation Order – Field Operations, Section 7.1 requires the [redacted] Section 8.2.2.1 states [redacted] Section 11.3.1 states [redacted] The Las Vegas SWAT team utilized the [redacted] for the operation order. SWAT Assistant Team Leader SA [redacted] prepared the operations order. Las Vegas [redacted] page 32, Command and Control, listed SSA [redacted] as the On-Scene Commander. SSA [redacted] was the A/ASAC and the SWAT Coordinator. According to the A/SAC in his INSD interview, he asked A/ASAC [redacted] to be On-Scene-Commander. Las Vegas [redacted] page 34 was titled Approval/Authority; it did not indicate the plan was approved, or who approved the plan. The Approval/Authority page was never signed by the Special Agent in Charge, or designee, and there was no indication formal approval of the plan was granted.

b6 -1
b7C -1
b7E -5

(U//~~FOUO~~) During his INSD interview, SA [redacted] stated a copy of the final version of the operations order is typically provided to the SWAT Coordinator, who notes approval. SA [redacted] stated A/ASAC [redacted] reviewed a draft paper copy of the operations order and returned it.

b6 -1
b7C -1

SA [redacted] stated A/ASAC [redacted] did not sign a copy of the plan, nor did he state he approved the plan. From A/ASAC [redacted]'s presence at the operations order presentation, and lack of negative feedback, SA [redacted] understood the operations order to be approved. b6 -1 b7C -1

(U//~~FOUO~~) During his INSD interview, A/ASAC [redacted] stated he gave verbal approval of the operations order after listening to the briefing of SA [redacted] A/ASAC [redacted] stated a written operations order was not provided to him by SA [redacted].

(U//~~FOUO~~) Based on Las Vegas personnel interviews, the Shooting Incident Review Team determined there was confusion regarding the procedures for approving the operations order. As observed above, the On-Scene Commander and the SWAT Assistant Team Leader had different recollections of how the operations order was approved. A signed plan would have alleviated any confusion regarding this matter.

(U//~~FOUO~~) **SIRT Instruction 2:** SAC, Las Vegas will ensure she, or her designee, provides written or electronic approval of all written operations orders for the execution of every Arrest and Search Warrant and any other activity in which the practical application of firearms might be reasonably anticipated. The approval should occur before the operations order is presented to the participants.

(U//~~FOUO~~) **SIRT Observation 3:** Information regarding the 05/21/2013 crisis situation was not communicated to the Las Vegas Field Office Communications Center.

(U//~~FOUO~~) **Analysis:** It was determined the Las Vegas Field Office Communications Center did not receive a copy of the SWAT Operations Order and was only advised telephonically of a potential SWAT operation on 05/21/2013. During the SWAT operation and subsequent barricade situation, the Communications Center was not given information regarding the initiation of the arrest situation, shots being fired, or a barricaded subject. The Communications Center was also not informed

of the possible injury to an Agent. This prevented the Communications Center from being an efficient communications coordination point for the field office in support of the crisis.

(U//~~FOUO~~) Later that same evening, the Communications Center was contacted by Las Vegas Channel 3 News inquiring about the SWAT arrest and shooting incident. Although Communications Center personnel reacted properly, they were caught by surprise by the press inquiry. Previous knowledge of the crisis would have allowed the Communications Center to be better prepared to handle press inquiries and other pertinent communications regarding the incident.

(U//~~FOUO~~) **SIRT Recommendation 3:** SAC, Las Vegas should ensure pertinent information regarding SWAT operations, to include initiation, completion, and any critical situations stemming from the operation are communicated to the Las Vegas Field Office Communications Center.

(U//~~FOUO~~) **SIRT Observation 4:** A Las Vegas Field Office SWAT operator utilized a non-FBI-approved weapon during [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) **Analysis:** Las Vegas Field Office SWAT team member SA [redacted] advised due to low light levels outside the subject's residence, and because his FBI-issued [redacted] did not have a sight system suitable for low light environments, he utilized a [redacted] provided by the Las Vegas Metropolitan Police Department (LVMPD). The [redacted] provided by LVMPD SWAT contained an EO Tech sight which was better suited for low light environments. SA [redacted] received a familiarization brief from an LVMPD SWAT operator prior to using the weapon. [redacted] by SA [redacted] and two LVMPD SWAT operators who were using additional LVMPD [redacted].

(U//~~FOUO~~) Las Vegas Field Office SWAT Senior Team Leader (STL) SA [redacted] confirmed SA [redacted] used a [redacted] provided by LVMPD SWAT and manufactured by [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) Appendix F in the Critical Incident Response Group, Special

Weapons and Tactics, Policy Implementation Guide published February 29, 2012, contained the following list of authorized field SWAT weapons, which did not include a [redacted] manufactured by [redacted] b7E -1
[redacted]:

***Appendix F: (U) Authorized Field SWAT Weapons***

*(U) Current list of Bureau approved weapons acquired specifically for SWAT operations:*

- *(U)* [redacted]
- *(U)* [redacted]
- *(U)* [redacted]
- *(U)* [redacted] b7E -1
- *(U)* [redacted]
- *(U)* [redacted]
- *(U)* [redacted]
- *(U)* [redacted]
- *(U)* [redacted]

(U//~~FOUO~~) **SIRT Instruction 4:** SAC, Las Vegas will ensure Las Vegas Field Office SWAT operators, in the absence of exigent circumstances, only use FBI-approved weapons authorized in the Special Weapons and Tactics, Policy Implementation Guide.

(U//~~FOUO~~) **SIRT Observation 5:** Deficiencies were identified in Las Vegas Field Office's Crisis Response Plan.

(U//~~FOUO~~) **Analysis:** Crisis Management Program Policy Implementation Guide (PG), Section 5.2 states [redacted] b7E -5

[redacted] Las Vegas Field Office's Crisis Response Plan contains an annex for Agent-involved shootings. The Introduction section identifies and quotes FBI's policy on the use of deadly force and references it as being set forth in MIOG, Part II, Section 12-2.1 and in the Legal Handbook for Special Agents (LHSA), Section 3-6.4. b7E -5

(U//~~FOUO~~) MIOG, Part II, Section 12-2.1 was superseded by the Domestic Investigations and Operations Guide (DIOG), Appendix F, Dated 10/15/2011. DIOG, Appendix F, and the referenced LHSA, Section 3-6.4, sets forth the Department of Justice Deadly Force Policy. The Las Vegas Field Office Crisis Response Plan does not cite or set forth the current deadly force policy.

(U//~~FOUO~~) **SIRT Instruction 5:** SAC, Las Vegas will ensure the Las Vegas Field Office Crisis Response plan cites and quotes current FBI policy.

(U//~~FOUO~~) **SIRT Observation 6:** There was confusion as to whether FBI EM gave approval to [redacted] b7E -1

(U//~~FOUO~~) **Analysis:** Section 3.11 in the Critical Incident Response Group, Special Weapons and Tactics, Policy Implementation Guide published February 29, 2012, states:

[redacted] b7E -5

(U//~~FOUO~~) A/SAC [redacted] stated in his INSD interview, he gave blanket authority to the OSC to use [redacted] during the operation, but did not know what policy or authorization level was needed to [redacted]. A/SAC [redacted] did not specifically give the authorization to use [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) ASAC [redacted] stated in his INSD interview he did not authorize the [redacted]. Once he arrived on scene, ASAC [redacted] believed he was the OSC and was aware a decision to [redacted] had already been

made. ASAC [redacted] was in agreement with [redacted] however, he was not aware FBI SWAT was even equipped to [redacted] b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) A/ASAC [redacted] stated in his INSD interview, he believed he was the on-scene commander (OSC), even after ASAC [redacted] arrived on scene. A/ASAC [redacted] stated he was never specifically asked for authority for any FBI SWAT team member to [redacted] He stated he was present during discussions between STL [redacted] and an LVMPD Lieutenant regarding the [redacted], but believed LVMPD SWAT would be [redacted]

(U//~~FOUO~~) CDC [redacted] stated in his INSD interview A/ASAC [redacted] gave approval for the use of a [redacted] to get the armed barricaded fugitive out of the apartment. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) SWAT STL [redacted] stated in his INSD interview A/ASAC [redacted] was present during discussions with the LVMPD SWAT Lieutenant regarding the [redacted]

(U//~~FOUO~~) Las Vegas Field Office SWAT team member SA [redacted] advised he had not received authorization to [redacted] from any FBI official. He received the command to [redacted] from a Las Vegas Metropolitan Police Department (LVMPD) SWAT operator. SA [redacted] believed once LVMPD SWAT arrived on-scene, it became a joint operation, and since leaders from both agencies were in agreement that [redacted] the command to [redacted] received by the LVMPD SWAT operators also extended to him. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) **SIRT Recommendation 6a:** SAC Las Vegas should ensure every participant in an FBI operation is made aware of who is the OSC. If the OSC changes during the operation, an affirmative notification to all participants of the new OSC should be made.

(U//~~FOUO~~) **SIRT Recommendation 6b:** SAC, Las Vegas should ensure there is an affirmative approval process prior to the [redacted] The OSC should affirmatively issue the approval to [redacted] and the SWAT Team Leader should acknowledge the approval. b7E -1

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), (INSD); [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Violent Criminal Threats Section, Criminal Investigative Division; SC Roger A. Coe, East Asia Section, Counterintelligence Division; Unit Chief (UC) [redacted] FTU, TD; Supervisory Special Agent (SSA) [redacted], Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Evidence Response Team (ERT), Laboratory Division (LD); UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG). In addition to the voting members in attendance, DOJ SIRG member [redacted] was unable to attend but reviewed the Shooting Incident Review Team report and provided his report in writing prior to the SIRG. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors Trent R. Teyema, Shawn W. Stroud, Paul D. Delacourt, and Justin R. Tolomeo, OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SC Jay S. Tabb, CIRG; SSA [redacted] Evidence Response Team, LD; UC [redacted] FTU, TD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD. b6 -1,3 b7C -1,3 b6 -1,3 b7C -1,3

Title: (U) Las Vegas 07/16/2013 SIRG
Re: 297-HQ-A1271699-D, 06/11/2014

**Procedures for Responding to the Instruction**

SAC, Las Vegas is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

♦♦

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT LOS ANGELES FIELD OFFICE 03/01/2012 **Date:** 02/18/2014

**CC:** [redacted]

b6 -1
b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271741-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following a SIRG meeting held on 11/20/2013.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 04/22/2013 prepared by former Inspector Thomas P. Ravenelle. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Incident Report, dated 04/23/2013.

**Details:**

On 11/20/2013, the SIRG convened to review a shooting incident which occurred on 03/01/2012, involving Los Angeles Field Office Special Agent (SA) [redacted] On 03/01/2012, at approximately

b6 -1
b7C -1

8:33 a.m., SA [redacted] was participating in a joint FBI and Los Angeles Police Department (LAPD) operation to locate and arrest Frank Eric Martinez. Martinez was a fugitive charged with two counts of murder for the November 2011 homicide of two leaders within his gang, the State Street Boys. Investigation, to include court-authorized [redacted] located Martinez at a residence in La Mirada, CA. When FBI Agents and LAPD Officers approached the residence, Martinez fled to the garage roof on the house next door. Despite repeated commands to raise his hands and comply with directions, Martinez refused and continually secreted his right hand inside his pants. Believing Martinez was concealing a weapon, LAPD Officers and FBI Agents told Martinez multiple times in English and Spanish to put his hands up and come down from the roof. As a LAPD Officer came forward with a shotgun and non-lethal bean-bag rounds, Martinez quickly moved the right side of his body in the direction of SA [redacted] After hearing a single gun shot, SA [redacted] fearing for his life, fired his assigned Colt M-4 rifle 22 times at Martinez. Three LAPD Officers also responded to Martinez' actions and fired their service weapons. Martinez was struck multiple times and died at the location. A subsequent investigation determined Martinez was unarmed. Further investigation determined the cellular telephone in the subject's possession at the time of the shooting contained the Android-based telephone application "Russian Roulette," capable of generating simulated gunshot sounds.

b6 -1
b7C -1
b7E -1,6

b6 -1
b7C -1

**Results of the SIRG**

On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 03/01/2012 was in compliance with the Department of Justice's deadly force policy.

b6 -1
b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational**

**standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 -1 b7C -1

3. P**rovide recommendations concerning training and/or safety issues.** The SIRG made no recommendations or observations requesting additional training for the agents involved in this shooting incident.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), (INSD); [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted], Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors David Paul Gelios and Shawn W. Stroud, OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted], Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst [redacted] Inspection Management Unit, INSD. b6 -1,3 b7C -1,3

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 04/22/2013

Report of: IIC Thomas P. Ravenelle Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271742-D

Title: SHOOTING INCIDENT REVIEW:
REPORT OF SHOOTING INCIDENT;
LOS ANGELES FIELD OFFICE;
03/01/2012

Investigative Period: 03/01/2012 – 03/08/2012

Reference: Telephone call on 03/01/2012 from Assistant Director in Charge (ADIC) Steven M. Martinez, Los Angeles Field Office (LAFO), to Chief Inspector Kenneth L. Moore, Inspection Division (INSD), and telephone call from Assistant Director Keith L. Bennett, INSD, to ADIC Martinez on 03/01/2012.

---

**Synopsis**

On March 1, 2012, at approximately 8:33 a.m., LAFO SA [redacted] was involved in a shooting incident in La Mirada, California. SA [redacted] was participating in a FBI and Los Angeles Police Department (LAPD) Fugitive Task Force (FTF) operation to locate and arrest Frank Eric Martinez. Martinez was a fugitive charged with two counts of murder for the November 2011 homicide of two leaders within his gang, the State Street Boys. b6 -1 b7C -1

The investigation, to include court-authorized [redacted] indicated Martinez may be located at a residence in La Mirada, CA, a suburb situated southeast of Los Angeles. The FTF established surveillance of the [redacted] La Mirada residence after a 5:30 a.m. operations briefing on March 1, 2012. Assessing the need for additional personnel to assist in the operation, the FTF requested support from the LAPD, Hollenbeck Division, Career Criminal Detail (CCD) to effect the apprehension of Martinez. A coordinated operations plan called for the FTF to maintain surveillance in advance of the CCD conducting a surround and call-out for Martinez at the residence. b6 -2 b7C -2 b7E -1,6

When the CCD approached the [redacted] residence, Martinez fled to the garage roof of the residence next door [redacted] Despite repeated commands to raise his hands and comply with officers, Martinez refused and continually secreted his right hand inside his pants. LAPD officers and FBI Agents attempting to arrest Martinez believed he may have held a concealed weapon. Martinez was told multiple times by the officers in English and b6 -2 b7C -2



NYT-650

Spanish to put his hands up and come down from the roof. Martinez used his left hand to make a call with his cellular telephone. His right hand remained tucked inside his pants. SA [redacted] heard Martinez on his telephone say, "Hey baby, I'm calling to say goodbye, I'm just calling to say goodbye." SA [redacted] who was positioned at ground level at the [redacted] residence, approximately 19 feet from the elevated Martinez, attempted to engage Martinez in dialogue and told him to come down from the roof and talk. Martinez looked at SA [redacted] and said, "Fuck you, I'm not talking to you." SA [redacted] requested an LAPD officer retrieve a shotgun with non-lethal bean-bag rounds.

b6 -1,2
b7C -1,2

Martinez tried to make another telephone call, which SA [redacted] believed was unsuccessful. Martinez appeared agitated and continued to yell profanities at the officers. As the LAPD officer came forward with the shotgun and bean-bag rounds Martinez quickly moved the right side of his body in the direction of SA [redacted] The bulge evident in Martinez' pants, where his right hand was concealed, was thrust toward SA [redacted] Concurrent with this movement by Martinez, SA [redacted] and other officers heard a single shot. SA [redacted] believed Martinez had fired a shot at him and SA [redacted] fearing for his life, fired his assigned Colt M-4 rifle multiple times at Martinez. Three LAPD CCD officers, positioned to the rear of SA [redacted] behind a cinderblock wall, also responded to Martinez' actions and fired their service weapons at Martinez. Martinez was struck multiple times and died at the location. He was subsequently determined to be unarmed.

b6 -1
b7C -1

**Details**

On November 30, 2011, a double homicide occurred in the city of Los Angeles, CA, in LAPD's Hollenbeck area. During the homicide investigation, LAPD homicide detectives identified one of the suspects as Frank Eric Martinez, a 27-year-old Hispanic male, who was a member of the State Street Boys gang, a violent Hispanic gang in East Los Angeles. The two victims were identified as leaders in the same gang. Martinez was charged with two counts of murder for the double homicide.

At the request of LAPD's Hollenbeck Division, the FBI/LAPD Gang and Narcotics Division FTF attempted to locate Martinez. Utilizing a court ordered [redacted] in the area of [redacted] in La Mirada, a suburb situated southeast of Los Angeles. Further investigation by the FTF determined Martinez had associates at [redacted] On February 29, 2012, the FTF developed a plan to conduct surveillance the following morning to determine if Martinez was hiding at the [redacted] residence.

b6 -2
b7C -2
b7E -1,6
b3 -1

On March 1, 2012, at around 5:30 a.m., the FTF briefed an Operations Plan in a parking lot located at the intersection of [redacted] in La Mirada, to establish surveillance and possibly arrest Martinez. Based upon [redacted] was believed to be located at the [redacted] address. FTF TFO [redacted] also obtained [redacted] through [redacted] court orders. [redacted] included statements indicating [redacted]

b6 -2,4
b7C -2,4
b7E -1,6
b3 -1,3

[redacted] b3 -3

A review of the FTF Operations Plan, time stamped March 1, 2012, at 5:30 a.m., indicated LAPD Detective [redacted] was the investigating officer and LAPD Detective [redacted] was the coordinating supervisor. Detective [redacted] and SA [redacted] the LAFO Case Agent, provided background information, photographs, and [redacted] The plan specified the subject of the surveillance was Martinez and he was believed to be at the [redacted] address. The plan noted Martinez had a criminal history, was wanted for a double murder, and was considered armed and dangerous. The plan required participants to have a raid jacket, body armor, flashlight, and hand-held radio. According to the plan, [redacted] was requested and [redacted] was checked to ensure the FTF would not interfere with another agency's investigation at the residence, or enter into a blue-on-blue situation. The CCD would provide additional support if needed. [redacted] was provided to the participants. Officer [redacted] the Hollenbeck Division (Homicide) Investigating Officer, provided updates and case information to participating personnel.

b6 -1,2,4
b7C -1,2,4
b7E -1,6
b3 -3

Personnel participating in the surveillance operation included:

Detective II (TFO) [redacted] (LAPD)
Detective II [redacted] (LAPD)
Detective (TFO) [redacted] (LAPD)
Police Officer (TFO) [redacted] (LAPD)
Police Officer (TFO) [redacted] (LAPD)
Police Officer (TFO) [redacted] (LAPD)
Police Officer [redacted] (LAPD)
SA [redacted] (FBI)
SA [redacted] (FBI)

b6 -1,4
b7C -1,4

The mission was to monitor the residence located at [redacted] in La Mirada, and confirm or eliminate the location as the place where Martinez was hiding out. [redacted] indicated Martinez was at the location, the FTF wanted to verify his presence through physical surveillance. The plan stated [redacted] CCD personnel were placed on standby. If Martinez' presence was confirmed, the CCD would be contacted to effect the apprehension of Martinez through a coordinated surround and call-out of Martinez at the residence. The arrest operation would include [redacted]

b6 -2
b7C -2
b7E -1,6
b3 -1

SA [redacted] TFO [redacted] Officer [redacted] and TFO Detective [redacted] conducted a leaders' briefing and discussed the need for additional personnel. The plan noted if the subject refused to comply with orders to surrender, notification to the LAPD Metropolitan Division would be made for a LAPD SWAT response. Officer [redacted] would draft a search warrant for the

b6 -1,4
b7C -1,4

location. SA [redacted] recommended LAPD SWAT be contacted and made aware of the operation.

b6 -1,2,4
b7C -1,2,4

SA [redacted] advised the FTF did not have enough personnel to contain the subject if located at the [redacted] residence. Officer [redacted] informed SA [redacted] the CCD had additional officers available. Officer [redacted] contacted Homicide Detective [redacted] and requested he respond with CCD personnel to provide standby support. The CCD was re-tasked from Parole Compliance Checks to support the FTF.

CCD personnel met at the Hollenbeck Station and briefed the Operations Plan. Officer [redacted] provided the officer assignments for the arrest operation. Officer [redacted] briefed the CCD participants on the fugitive case, to include [redacted] Officer [redacted] contacted Officer [redacted] and obtained the information needed to complete an Operational Plan for CCD personnel. Their assignment was to contain the residence. If Martinez left the location in a vehicle, the CCD officers would become the arrest team, as they were equipped with a marked black and white police vehicle. After the briefing, Detective [redacted] along with Officers [redacted] responded to [redacted] and met with SA [redacted] who provided an update regarding the status of the surveillance.

b6 -1,2,4
b7C -1,2,4
b7E -1
b3 -3

CCD personnel were dressed in plain clothes with utility belts and tactical vests marked "Los Angeles Police" on the front of the vest and "Police" in white lettering on the back. CCD personnel participating in the operation included:

| | |
|---|---|
| Detective III [redacted] | Supervisor |
| Police Officer III [redacted] | Containment/Arrest |
| Police Officer II | Containment/Arrest |
| Police Officer II | Containment/Arrest |
| Police Officer II | Containment/Arrest |
| Police Officer II | Containment/Arrest |

b6 -4
b7C -4

At approximately 7:00 a.m., the FTF proceeded to the area of [redacted] and commenced surveillance. SA [redacted] was carrying a Springfield 1911, .45-caliber pistol in his holster, and he stowed his Glock 22, .40-caliber pistol next to the driver's seat of his FBI vehicle, a black Sport Utility Vehicle, to access the weapon more quickly when seated on a stationary surveillance. SA [redacted] placed his blue ballistic vest with the word "POLICE" across the front, on his front passenger seat, and also placed his loaded 5.56 x 45mm caliber Colt, M-4A1 rifle, serial number [redacted] on the front passenger seat. SA [redacted] stated his decision to not wear his ballistic vest during the initial surveillance was an effort to conceal his status as a law enforcement officer. SA [redacted] parked his vehicle on the north curb line of [redacted] facing west. He was positioned east and out of view of the target residence. TFO [redacted] was parked at the southeast corner of [redacted] and had the primary view of the residence. SA [redacted] placed a sun screen over his windshield, turned off the vehicle, and

b6 -1,2,4
b7C -1,2,4

listened to radio traffic. SA [redacted] communicated with members of the task force on a Sprint-Nextel telephone and his FBI radio. TFO [redacted] and Officer [redacted] coordinated with officers from the CCD containment team. b6 -1,4 b7C -1,4

At approximately 7:30 a.m., Detective [redacted] observed a [redacted] male drive away from [redacted] in a [redacted] accompanied by [redacted] male. Officer [redacted] followed the vehicle to a nearby business, [redacted] located at [redacted] At approximately 7:50 a.m., CCD personnel were requested to [redacted] CCD Officers [redacted] responded and [redacted] and Officers [redacted] and Detective [redacted] Officers learned [redacted] years of age, was driving the vehicle and had dropped off [redacted] years of age, at [redacted] and Officer [redacted] interviewed him. [redacted] stated [redacted] residence. [redacted] years of age, [redacted] departed the residence a short time later [redacted] Martinez was at the residence. b6 -2,4 b7C -2,4 b7E -1

At approximately 8:12 a.m., part of the CCD team moved to [redacted] near the [redacted] residence. With confirmation Martinez was within the [redacted] residence, a planned change of tactical command was made from Detective [redacted] of the FTF to Detective [redacted] of Hollenbeck Division (Homicide), and LAPD [redacted] was requested. The CCD waited for the requested LAPD [redacted] before continuing with the operation. TFO [redacted] directed the FTF surveillance team to tighten up their coverage. At this time, SA [redacted] put on his ballistic vest with the word "POLICE" across the front, and repositioned his vehicle forward, closer to the corner near the [redacted] residence. b6 -1,2,4 b7C -1,2,4 b7E -1,6

At around 8:15 a.m., the LAPD [redacted] announced on the radio it was seconds away. At approximately 8:20 a.m., Detective II [redacted] arrived at the staging location to relieve Detective [redacted] who left the location to respond to the LAPD Police Administration Building. The CCD team put on tactical gear and proceeded to the residence to execute the plan to surround the residence and call-out Martinez. SA [redacted] arrive and move into a [redacted] TFO [redacted] told SA [redacted] he (SA [redacted] would be responsible for the north side perimeter and TFO [redacted] would take the south side perimeter. TFO [redacted] broadcasted on the radio the CCD officers were approaching the residence to execute the surround and call-out. b6 -1,4 b7C -1,4 b7E -1,6

SA [redacted] waited until the CCD officers passed his location, then drove his vehicle to the west curb line of [redacted] and parked facing west towards the northern side of the target residence. SA [redacted] had containment responsibility for the north side of the residence. SA [redacted] saw one marked and one unmarked CCD police cars approach the residence, and each parked on the south side of the residence, facing east toward the front of the target residence. SA [redacted] activated his emergency lights, grabbed his M-4 rifle, and exited the vehicle. SA [redacted] stood in front of his vehicle and watched the north side of the target location. As SA [redacted] 's b6 -1,2 b7C -1,2

view was obscured by heavy vegetation, he repositioned several yards north and west of his vehicle. SA [redacted] was carrying his M-4 slung across his chest. b6 -1 b7C -1

A female, later identified as [redacted] years of age, exited the residence and was quickly escorted clear of the area by the LAPD. Soon after, another female, later identified as [redacted] years of age, departed the residence and was also escorted clear. Martinez was thereafter observed looking over/through a fence at the officers. The CCD officers shouted at Martinez, "Police, Stop." SA [redacted] observed Martinez climb onto the roof of the residence immediately north of the target residence. SA [redacted] recognized Martinez based on photographs he saw earlier in the day. SA [redacted] gave Martinez commands to stop, and identified himself. SA [redacted] observed Martinez move northwest across the roof away from his location. SA [redacted] yelled to other officers to indicate Martinez was on the roof. SA [redacted] ran around the northeast corner of [redacted] and continued running west across the yard at [redacted]. SA [redacted] saw SA [redacted] move from north to south across [redacted] and point his weapon up in the direction of Martinez. SA [redacted] heard SA [redacted] give commands to Martinez to put his hands up. SA [redacted] also gave commands to Martinez to put his hands up. Martinez had moved onto the roof of the garage west of the residence at [redacted] The pitched garage roof of the [redacted] residence was a separate structure with a connecting partial cover over the adjoining courtyard between the residence and garage. b6 -1,2,4 b7C -1,2,4

SA [redacted] saw SA [redacted] move to a position on the west side of the garage, so SA [redacted] moved to a position on the east side of the garage. Three CCD Officers, [redacted] positioned themselves outside a wall located at the northern edge of the courtyard, which provided the officers a clear view of the garage roof, and of Martinez. SA [redacted] moved down the driveway and encountered a wooden gate leading to an area with access to the east side of the garage. SA [redacted] kicked the gate open and moved through it into the small courtyard in order to provide coverage on the east side of the garage. The courtyard had a narrow passage between the house and the garage, which led to a pool in the backyard. SA [redacted] took a position in the courtyard and pointed his M-4 towards the roof of the garage. Martinez was on the west side of the garage roof and moved back and forth across the pitched roof. SA [redacted] and the TFOs along the wall continued to yell at Martinez to stop and put his hands up. b6 -1,2,4 b7C -1,2,4

Martinez had his right hand tucked inside his pants. SA [redacted] and the three CCD officers along the wall ([redacted]) all reported Martinez appeared to be holding something heavy, and all said they observed a bulge in his pants where his right hand was concealed. Martinez was told multiple times by the officers, in English and Spanish, to put his hands up. Martinez used his left hand to make a call with his cellular telephone. His right hand remained tucked inside his pants. SA [redacted] believed he (SA [redacted]) was exposed and without sufficient cover, and moved to the northwest corner of the residence at [redacted] SA [redacted] could hear Martinez on his telephone say, "Hey baby, I'm calling to say goodbye, I'm just calling to say goodbye." SA [redacted] told Martinez, "Don't do that. Come down; let's talk about it. Just come down and talk to me." b6 -1,2,4 b7C -1,2,4

During the encounter, SA [redacted] opened the door to the residence at [redacted] and yelled "police" to notify any occupants of his presence. SA [redacted] opened the door in order to have somewhere to go for better cover and concealment because he would have neither if Martinez moved to the northern edge of the garage roof. SA [redacted] who was positioned approximately 19 feet from the suspect, lowered his weapon slightly while attempting to engage Martinez in dialogue, telling Martinez to come down from the roof and talk. Martinez looked at SA [redacted] and said, "Fuck you, I'm not talking to you." b6 -1,2 b7C -1,2

Noting Martinez was not complying with instructions, SA [redacted] used his radio to request a bean-bag shotgun from his LAPD FTF counterparts. Officer [redacted] moved from the back yard of [redacted] to his vehicle, where he retrieved a bean-bag shotgun and handed it to Detective [redacted] Detective [redacted] moved from the car towards the garage where Martinez was pacing on the roof. b6 -1,2,4 b7C -1,2,4

Martinez tried to make a second telephone call, which SA [redacted] believed was unsuccessful. Martinez appeared agitated and continued to yell profanities at the officers. As Detective [redacted] approached the garage with the shotgun and bean-bag rounds, Martinez swung his body around and quickly moved the right side of his body in the direction of SA [redacted] The bulge evident in Martinez' pants where his right hand was concealed was thrust outward toward SA [redacted] SA [redacted] heard a single gunshot and believed Martinez had just shot at him. Fearing for his life, SA [redacted] fired his assigned Colt M-4 rifle multiple times at Martinez. Officers [redacted] positioned to the rear of SA [redacted] behind a cinderblock wall, also responded to Martinez' actions and fired their service weapons at Martinez. b6 -1,4 b7C -1,4

A 06/26/2013 officer-involved shooting report of the Office of the Inspector General, Board of Police Commissioners, City of Los Angeles, included statements from LAPD interviews of Officers [redacted] (the INSD Shooting Incident Review Team did not interview the three officers). According to the statements, Officers [redacted] also observed Martinez with his right hand inside his pants. The three officers stated they perceived Martinez was concealing a weapon, and each of the three officers heard the sound of a gunshot as Martinez thrust his right leg forward in the direction of the Agent and officers. Each officer reported Martinez' actions caused them to be in fear for their life, and all three fired their pistols. b6 -4 b7C -4

Martinez subsequently fell onto the roof and continued to move with his right hand out of view of SA [redacted] and the three LAPD officers. The Agent and officers advised they continued to fire until Martinez' movements stopped and he no longer posed a threat. Martinez was struck multiple times and died at the location. As reflected in the medical reports section below, Martinez was struck 18 times. b6 -1 b7C -1

A video recording of the incident was made by an unidentified citizen and broadcast on television station KNBC, Los Angeles. The recording showed Martinez on the garage roof and the LAPD officers at ground level, pointing their weapons at Martinez. The poor quality recording captures portions of the shooting incident. A second recording made by a neighbor, [redacted] showed Martinez walking on the garage roof with his right hand inside the b6 -8 b7C -8

waistband area of his pants. The second recording showed Martinez move out of sight, followed by the sound of gunfire. The recordings were generally consistent with the accounts of SA [redacted] and Officers [redacted] but the poor quality provided limited details. b6 -1,4 b7C -1,4

Following the shooting, officers cautiously entered the courtyard area next to the garage. TFO [redacted] assumed SA [redacted]'s position covering the subject, and SA [redacted] looked around his area in an attempt to locate the impact mark from the round he believed Martinez fired at him. No gun was found on Martinez' person. No evidence of a shot fired by Martinez was found by SA [redacted] or the LAPD personnel who processed the scene. The LAPD led the subsequent crime scene investigation, assisted by FBI LA ERT. b6 -1,4 b7C -1,4

As noted in the FBI Laboratory Report section below, it was determined the cellular telephone in Martinez' possession at the time of the shooting contained the Android-based telephone application "Russian Roulette," capable of generating simulated gunshot sounds.

**Substantive Case Files**

The following substantive matter was under investigation at the time of the shooting on 03/01/2012:

Frank Eric Martinez, A.K.A. Toker;
Fugitive (A)
UFAP-Murder (2 Counts)
OO: Los Angeles
88A-LA-259653

After the shooting incident, the following substantive case was opened:

Frank Eric Martinez, A.K.A. Toker;
[redacted] Special Agent - FBI - Victim; b6 -1 b7C -1
03/1/2012 b7A -1
Assault on a Federal Officer (AFO);
OO: Los Angeles
[redacted]

A. **Administrative**

The Shooting Incident Response Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Thomas P. Ravenelle
Inspector Ronald Twersky
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1 b7C -1
AI/TL [redacted]
AI/TL
Assistant Inspector-in-Place (AIIP) [redacted]

AIIP [redacted]
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

B. **Shooting Incident Review Protocol**

All members of the Shooting Incident Review Team (SIRT) reviewed the FBI produced videotape entitled, "The Rain After the Storm - Shooting Incident Investigations."

On 03/01/2012, IIC Ravenelle communicated with LAFO ASAC [redacted] to arrange logistics for the SIRT. The SIRT traveled to Los Angeles on 03/01/2012 and arrived during the late evening hours. On 03/02/2012, IIC Ravenelle met with LAFO ADIC Martinez to discuss INSD SIRT shooting incident protocols. IIC Ravenelle was informed the LAPD was conducting a parallel investigation and would provide copies of their reports to the SIRT. ADIC Martinez was advised signed sworn statements and FD-302s taken by the SIRT would be provided to the LAPD for inclusion in their investigative file.

b6 -1
b7C -1

On 03/02/2012, IIC Ravenelle met with all SIRT personnel and explained INSD SIRT procedures. The SIRT met with members of the LAFO West Covina RA, which was assigned to investigate the assault on a federal officer case initiated in response to the shooting incident. IIC Ravenelle introduced members of the SIRT and outlined the SIRT protocols. There was an opportunity for dialogue prior to start of the investigation. The SIRT subsequently visited the scene of the shooting, and met with LAPD's Force Investigation Division to discuss investigative activity conducted and to coordinate the investigation.

During the SIRT investigation, one Signed Sworn Statement (SSS) was taken from the FBI Agent who discharged his weapon, SA [redacted] who was represented by attorney [redacted] [redacted] Federal Law Enforcement Officers Association. Other interviews and investigative results were documented via FD-302s. Other FBI personnel, who participated in the surveillance and arrest operation but were not directly involved in the shooting, were allowed to read the FD-302 documenting their interview and confirmed the accuracy of the information provided. The SSS and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by SA [redacted]

b6 -1,2
b7C -1,2

On 03/08/2012, an exit brief was provided by IIC Ravenelle to ADIC Martinez.

C. **Personnel Involved in the Shooting**

1. SA [redacted]
2. LAPD Police Officer II [redacted]
3. LAPD Police Officer II
4. LAPD Police Officer II

b6 -1,4
b7C -1,4

**Other Participants in the Operation**

1. SA [redacted] b6 -1,4 b7C -1,4
2. LAPD Detective II (TFO) [redacted]
3. LAPD Detective II [redacted]
4. LAPD Detective (TFO) [redacted]
5. LAPD Police Officer (TFO) [redacted]
6. LAPD Police Officer (TFO) [redacted]
7. LAPD Police Officer (TFO) [redacted]
8. LAPD Police Officer III [redacted]
9. LAPD Detective III [redacted]
10. LAPD Police Officer III [redacted]
11. LAPD Police Officer II [redacted]

D. **Firearms Training**

A review of LAFO training records for SA [redacted] revealed he was in compliance with firearms qualification requirements. b6 -1 b7C -1

E. **Deadly Force Training**

The Office of Division Counsel for the LAFO provided quarterly legal training to Agents during eleven training sessions conducted in October and November 2011. During each of these sessions, training was provided on the Deadly Force Policy. The legal training sign-in sheet for 10/18/2011 included the signature of SA [redacted] Additionally, SA [redacted] was provided the Deadly Force Policy during a meeting called by ASAC [redacted] on 02/23/2012, and again on 03/01/2012, when the Deadly Force Policy was briefed to participants of the operation. b6 -1 b7C -1

F. **Use of Body Armor and Law Enforcement Identifiers**

SA [redacted] wore FBI SWAT-issued tactical clothing, including body armor, with the word "POLICE" clearly visible across the front of his clothing. b6 -1 b7C -1

G. **FBI Indices and National Crime Information Center (NCIC)**

On March 4, 2012, [redacted] Center Operations Specialist, LAFO, conducted record checks of the California and National Crime Information Center (NCIC) for Frank Eric Martinez (deceased), date of birth December 22, 1984, FBI number 366740VB9. Martinez' criminal history documented four instances where Martinez was armed when arrested, one instance in which he evaded law enforcement, and one violent felony. The criminal history included the following information: b6 -1 b7C -1

On December 31, 2001, at age 17, Martinez was arrested for possession of a controlled substance.

On May 18, 2003, at age 18, Martinez was arrested for possession of a controlled substance while armed. Martinez was convicted of possession of a controlled substance and

possession of a loaded firearm. Martinez was sentenced to 36 months probation and 180 days jail.

On October 27, 2003, at age 18, Martinez was arrested for false imprisonment. Martinez was convicted of false imprisonment, felon in possession of a loaded firearm, and possession of a controlled substance for sale, and sentenced to six years in prison.

On November 17, 2006, at age 21, Martinez was arrested for possession of a controlled substance for sale, and a violation of parole. He was convicted of felon in possession of a firearm, and sentenced to two years in prison.

On August 14, 2008, at age 23, Martinez was arrested for evading a peace officer and possession of a firearm with a prior violent felony conviction. Martinez was sentenced to two years in prison.

On August 26, 2010, at age 25, Martinez was arrested for possession of a controlled substance and violation of parole. Martinez was sentenced to two years in prison.

In addition, the CALGANG database record for Martinez listed him as a documented member of the State Street Boys street gang with the moniker "Toker." The State Street Boys gang was a violent Hispanic street gang based in East Los Angeles.

On March 4, 2012, [redacted] LAFO Center Operations Specialist, LAFO, provided information obtained from [redacted] Parole Agent I, Gang Global Positioning System Agent, California Department of Corrections and Rehabilitation (CDC), regarding a CDC record for Frank Eric Martinez, date of birth December 22, 1984, CDC number V37978. Robles indicated Martinez' record showed a social security account number of 551-83-0631, Criminal Identification Information number A22684072, and California Driver's License number D3190207. Martinez had a special condition of parole not to have contact with any known or unknown gang members. Martinez had been wanted as a parolee-at-large based on a warrant issued on December 12, 2011.

b6 -1,4
b7C -1,4

H. **ERT Report**

The LAPD processed the scene. LAPD evidentiary findings were included in the Force Investigation Division, F011-12, Officer-Involved Shooting Investigation Report, which is attached to this report as Appendix 1.

I. **FBI Laboratory Report**

The cellular telephone used by Martinez, a Samsung Galaxy, was recovered from the shooting scene at [redacted]

b6 -2
b7C -2
b3 -1
b7E -1

[redacted] b3 -3

The Operational Technology Division, Cryptologic and Electronic Analysis Unit's analysis of Martinez' cellular telephone revealed a total of 115 applications installed, downloaded/cancelled, or uninstalled. One of the applications was the "Russian Roulette" Android-based telephone application developed by Selafiel. This application simulated the sound of a gunshot when played. The application was installed in the telephone on January 12, 2012. Laboratory analysis could not determine if the application was accessed or running at the time of the arrest operation.

The LAPD conducted firearms testing and magazine cartridge counts for the four weapons fired by the law enforcement officers. Each weapon was found to function as designed. Investigation and analysis indicated SA [redacted] fired 22 rounds from his 5.56 x 45 mm caliber Colt, Model M4A1 semiautomatic/full-automatic rifle; Officer [redacted] fired eight rounds from his Smith & Wesson, .45 caliber semiautomatic pistol, Model 4506; Officer [redacted] fired 18 rounds from his Glock, .45 caliber semiautomatic pistol, Model 21; and Officer [redacted] fired nine rounds from his Smith & Wesson, .45 caliber semiautomatic pistol, Model 4506. All counts were based upon each weapon being fully loaded prior to the incident, as indicated by each of the involved officers/Agent. b6 -1,4 b7C -1,4

Casings recovered from the scene included 22 casings matched to SA [redacted] 's 5.56 x 45 mm caliber Colt, seven casings matched to Officer [redacted] Smith & Wesson .45 caliber pistol, 18 casings matched to Officer [redacted] Glock .45 caliber pistol, and eight casings matched to Officer [redacted] 's Smith & Wesson .45 caliber pistol. Shot calculations for SA [redacted] and Officer [redacted] were equal to the number of casings matched to their weapons. Casings matching the weapons of Officer [redacted] and Officer [redacted] were one less than the LAPD estimated shot counts. The discrepancy could be attributed to casings not being recovered at the scene, or to the officers' weapons not being loaded to capacity before the incident. b6 -1,4 b7C -1,4

J. **Medical Reports**

On March 4, 2012, Dr. [redacted] Deputy Medical Examiner for the Los Angeles County Coroner's Office, conducted the autopsy of Martinez. Initial information from the autopsy indicated Martinez was hit 18 times, with ten rounds being fatal. Of the 11 rounds recovered from Martinez' body, ten were .223 caliber and one was .45 caliber. The Medical Examiner categorized the gunshot wounds as follows: b6 -4 b7C -4

| | |
|---|---|
| Total gunshot wounds | 18 |
| Fatal shots | 10 |
| Non-fatal shots | 8 |
| Bullets recovered | 11 (ten .223 and one .45) |
| | |
| Wound locations: | |
| | |
| Head | 3 shots (2 fatal, 1 non-fatal graze) |
| Right Upper Arm | 1 upper arm (non-fatal shot) |
| Right Lower Arm | 2 lower arm (non-fatal shots) |
| Chest and abdomen | 7 (fatal shots) |
| Abdomen | 1 (non-fatal shot) |
| Right buttock/flank | 2 (non-fatal shots) |
| Right thigh | 2 (non-fatal shots) |

The majority of rounds entered Martinez' body from an angle consistent with a trajectory from below and to the right of Martinez. According to Dr. [redacted]s evaluation, Martinez would not have survived his injuries even had medical attention been provided immediately after the shooting incident. The amount of internal trauma to the lungs and vital organs would have caused death within seconds, and the bullet wound to the left side of Martinez' head resulted in an "instant kill." The initial cause of death was reported as "Multiple Gunshot Wounds." b6 -4 b7C -4

## K. Declination by the Civil Rights Division

Upon completion of the on-site inquiry, IIC Ravenelle coordinated SIRT investigative findings with [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division. On August 27, 2013, Special Legal Counsel [redacted] notified Inspector Twersky the United States Department of Justice (DOJ) declined prosecution of SA [redacted] and the LAPD officers for their actions during the shooting incident on March 1, 2012. This declination represented the prosecutive decision of the DOJ Civil Rights Division and the United States Attorney's Office for the Central District of California. This decision was memorialized in the September 30, 2013 DOJ Civil Rights Division Notice to Close File located in Appendix C. b6 -1,3 b7C -1,3

## L. Local Prosecutive Opinion

Upon completion of the on-site inquiry, IIC Ravenelle coordinated SIRT investigative findings with the Los Angeles County District Attorney's Office. On February 13, 2013, [redacted] Deputy District Attorney, Los Angeles County District Attorney's Office provided a letter advising the District Attorney's Office declined to prosecute SA [redacted] and the LAPD officers for their actions during the shooting incident on March 1, 2012. b6 -1,4 b7C -1,4

## M. Inspector's Observations

None.



NYT-662

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT SAN JUAN DIVISION 04/26/2012 **Date:** 08/21/2013

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271921-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/26/2012, involving Special Agent (SA) [redacted] of the San Juan Division. While walking toward a bank, SA [redacted] observed a masked male hitting a bank customer on the head with a handgun. SA [redacted] fired five rounds from his Bureau-issued Glock Model 22, .40 caliber pistol injuring the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. One Observation and associated Instruction was adopted by the SIRG for the San Juan Division. b6 -1 b7C -1

**Administrative Notes:** (U) Reference report of Inspector Robert J. Shields, Jr., dated 07/05/2012.

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 04/26/2012, at approximately 11:30 a.m., SA [redacted] was walking toward the Banco Popular Bank to make an ATM withdrawal. As he approached the bank, SA [redacted] observed a masked male, later b6 -1 b7C -1

identified as [redacted] attacking a bank customer. SA [redacted] saw the subject possessed a handgun and was repeatedly hitting the victim in the head with the weapon. b6 -1,7 b7C -1,7

SA [redacted] positioned himself behind a parked [redacted] by [redacted] SA [redacted] removed his firearm, took aim at [redacted] and shouted "FBI." [redacted] turned toward SA [redacted] while holding the handgun. Fearing for his life, SA [redacted] fired one round at the subject. [redacted] ran toward a [redacted] parked in front of the bank and fired one round at SA [redacted] as he reached the vehicle. SA [redacted] fired four additional rounds at [redacted] as he entered the getaway car. The getaway car, driven by an individual later identified as [redacted] sped from the scene and crashed into the front driver's side area of the [redacted] [redacted] exited his [redacted] after the crash and was run over by the getaway car as it became dislodged from the [redacted] and accelerated. b6 -1,5,7 b7C -1,5,7

SA [redacted] followed the getaway car on foot, obtained the license plate number, and contacted the San Juan office to advise he was involved in a shooting. He requested the receptionist contact A/SSA [redacted] and send assistance to the scene. SA [redacted] call was subsequently transferred to the radio room and he advised of the shooting and requested that the local police be notified and respond to the scene. He also provided the license plate number of the getaway vehicle and requested an NCIC check. b6 -1 b7C -1

SA [redacted] rendered aid to [redacted] and subsequently entered the bank to ensure the safety of everyone inside. b6 -1,5 b7C -1,5

The [redacted] was located a mile alway in the Rio Hondo 4 neighborhood. Two residents provided San Juan investigators recordings from their residential security cameras at the time the [redacted] was abandoned. The first resident's camera captured the [redacted] parking across the street from the resident's house. A [redacted] and [redacted] exited the [redacted] and entered the [redacted] in the front passenger seat and rear passenger side. The second resident's security b6 -7,8 b7C -7,8

camera briefly captured the [redacted] entering the neighborhood, followed by the [redacted] The [redacted] then passed by the residence at approximately 11:30 a.m. The [redacted] was reported stolen on 04/11/2012. b6 -7 b7C -7

Based on the circumstances of the robbery, San Juan determined the [redacted] b7A -1

On 04/27/2012, FBI SAs and TFOs were conducting interviews of [redacted]'s family members at a residence in [redacted] Puerto Rico. [redacted] arrived at the residence, was placed under arrest, and taken to a hospital where he was treated for two gunshot wounds and released to law enforcement authorities. b6 -7 b7C -7

On 05/21/2012, [redacted] was also arrested for his involvement in the robbery and shooting incident.

On 05/05/2012, [redacted] Assistant United States Attorney - Criminal Division Chief, District of Puerto Rico, advised an investigation into the shooting incident was not warranted. b6 -4 b7C -4

On 08/22/2012, Mr. [redacted] Criminal Section, Civil Rights Division, United States Department of Justice (USDOJ), advised the circumstances of the Agent-involved shooting did not, "warrant a federal criminal investigation of this matter." b6 -3 b7C -3

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Jr., Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, b6 -1,3 b7C -1,3

USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted], Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted], Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors Gregory T. Bretzing, Christopher W. Davis, and Ronald Twersky, OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and MPAs [redacted], Inspection Management Unit, INSD.

b6 -1
b7C -1

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force employed by SA [redacted] Agent was justified and in conformance with the

b6 -1
b7C -1

FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

SIRG members unanimously adopted the following observation and instruction of the Shooting Incident Review Team (SIRT):

**INSPECTOR'S OBSERVATION**

**Observation #1**: The shooting response plan was not activated by the San Juan Radio Room.

On 04/30/2012, the SIRT reviewed the San Juan Crisis Response Plan, Section XIII, Annex 5, Tab A detailing the response protocol for the Radio Dispatch Room.

**Analysis**: The San Juan Radio Dispatcher had responsibilities to: gather information about the shooting; support the Agent involved; dispatch emergency medical assistance; and if tactical, dispatch backup units; and immediately notify specified field office personnel. The radio dispatcher was to support the Agent involved by providing additional information as it became available, pending the arrival of additional FBI personnel at the scene and, advise/remind the Agent of the Agent's responsibilities as they pertain to an Agent involved shooting incident. In addition, the radio dispatcher was to dispatch emergency medical assistance, such as ambulance or EMS, and additional backup units if the situation was still tactical.

The SIRT determined the San Juan Radio Room Dispatcher did not make any notifications regarding the shooting incident.

**Instruction #1**: SAC, San Juan will ensure the San Juan Radio Room personnel are appropriately trained to activate the Crisis Response Plan when an Agent Involved Shooting occurs.

Title: (U) SHOOTING INCIDENT SAN JUAN DIVISION 04/26/2012
Re: 297-HQ-A1271921-D, 08/21/2013

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/ Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Instruction/Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, San Juan is required to provide detailed responses addressing the Instruction in this EC, pages 4 and 5, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand-alone response. The Observation and related Instruction is to be recited verbatim from the inspection EC, followed by the field office's detailed response. If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please E-mail the Sentinel link to MPA [redacted] b6 -1 b7C -1

# STATE ATTORNEY

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
E. R. GRAHAM BUILDING
1350 N.W. 12TH AVENUE
MIAMI, FLORIDA 33136-2111

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

TELEPHONE (305) 547-0100
www.miamiSAO.com


June 6, 2014

Mr. George L. Piro
Special Agent in Charge
Federal Bureau of Investigation
16320 Northwest 2nd Avenue
North Miami Beach, FL 33169

Re: Special Agent [redacted] b6 -1 b7C -1

Dear Special Agent Piro:

You should please accept this letter as the State Attorney's finding that Special Agent [redacted] s use of deadly force on July 31, 2012 in Miami Dade County, Florida, was legally justified pursuant to Section 776.012, Florida Statutes, which permits the use of deadly force when a person reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or prevent the commission of a forcible felony.

Ordinarily, our established procedure in these types of matters concludes upon the issuance of a formal police shooting close-out memorandum. In this case, in order to facilitate the prosecution of the surviving subject [redacted] we proceeded with the issuance of subpoenas to the involved shooting law enforcement officers, including Special Agent [redacted] We conferred immunity on all involved shooting officers. b6 -1,7 b7C -1,7

A formal memorandum will be generated regarding the incident of July 31, 2012. When that memorandum is completed, a copy will be forwarded by the State Attorney to you as the employing agency head for Special Agent [redacted]

As we have provided most if not all of the investigative reports in this case to counsel for Mr. [redacted] in accords with our state discovery rules of procedure, then these papers are now part of the public record. As a courtesy to your agency, a complete copy of the investigative file has been prepared and is available to you.

Mr. George Piro
June 6, 2014
Special Agent [redacted] b6 -1,4 b7C -1,4

Please do not hesitate to contact me or my colleague, Mr. [redacted] should you have any questions.

Sincerely,

KATHERINE FERNANDEZ RUNDLE
State Attorney

By: [redacted] b6 -4 b7C -4
Assistant State Attorney

[redacted]
Assistant State Attorney

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 12/16/2013

Report of: IIC Thomas P. Ravenelle Office: FBIHQ – INSD

(U//~~FOUO~~) Case ID#: 297-HQ-A1271741-D

(U//~~FOUO~~) Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
MIAMI
07/31/2012

(U//~~FOUO~~) Investigative Period: 07/31/2012 – 08/04/2012

(U//~~FOUO~~) Reference: (U//~~FOUO~~) Telcal on 07/31/2012 between A/SAC [redacted] and Inspection AD Keith L. Bennett. b6 -1 b7C -1

---

(U//~~FOUO~~) **Synopsis:**

(U//~~FOUO~~) On 07/31/2012, at approximately 6:45 p.m., an Agent-involved shooting occurred in the front yard of [redacted] Miami, Florida. The Agent involved, SA [redacted] was assigned to the High Intensity Drug Trafficking Area (HIDTA) Task Force, Squad C-13. SA [redacted] was involved in a static surveillance of a suspected "Grow House" with four Miami Dade County police officers. All the officers were FBI TFOs assigned to Squad C-13. While approaching a male who was observed coming out of the front door of the residence, SA [redacted] and the TFOs were fired upon by a subject later identified as Gerardo Delgado, who exited a vehicle parked in the driveway of the residence. TFO [redacted] was struck three times and received injuries to his lower torso and pelvic area. SA [redacted] and the TFOs returned fire striking Delgado four times in the torso and once in the head. Delgado expired as a result of his wounds. TFO [redacted] was operated on and fully recovered. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) **Details:**

(U//~~FOUO~~) On 07/31/2012, at approximately 6:45 p.m., a static surveillance was conducted by FBI SA [redacted] and four TFOs from the Miami Dade Police Department. These TFOs were Sergeant [redacted] Detective [redacted] Detective [redacted] and Detective [redacted] All four TFOs and SA [redacted] were assigned to an FBI-lead HIDTA Task Force, Squad C-13. The team was reacting to a tip a marijuana "Grow House" was operated at [redacted] Miami, FL. The surveillance was in support of [redacted]. The residence was located in a lower middle-class neighborhood of Miami, not known for this type of activity. b6 -1,4,7 b7C -1,4,7 b7A -1



NYT-671

(U//~~FOUO~~) All five team members were in individual vehicles positioned in the area of [redacted] TFO [redacted] was observing the rear of the residence from one block east. The residence was a one story single family structure facing west. A driveway was located on the north and south sides of the property and connected by a concrete pad. A large [redacted] tree was located in the front yard of the house. A [redacted] with Florida license plate [redacted] and a [redacted] with Florida license plate [redacted] were parked in the north driveway. A [redacted] with Florida license plate [redacted] was parked in the south driveway. b6 -4,7 b7C -4,7

(U//~~FOUO~~) A security video system, with audio, located inside of the residence, captured the event through two cameras, one located on the porch of the home facing west and the other on the northeast corner of the home facing west southwest, effectively covering the front yard where the incident occurred. The system was recovered during the execution of a search warrant at the residence. Subsequently, a separate search warrant was obtained to recover audio and video data from the security system.

(U//~~FOUO~~) TFO [redacted] was parked across the street from the residence with the "eye" on the location. His vehicle was parked in a nearby driveway facing away from the residence. An individual, later identified as Gerardo Delgado, male, Hispanic, DOB 12/08/1955, wearing a blue and white flannel shirt, jeans, and hat exited the residence at [redacted] and stood on the porch. TFO [redacted] notified other TFOs and SA [redacted] to move towards the residence to make contact with the individual. TFO [redacted] then backed his vehicle onto the street before exiting it, blocking the south side driveway. Delgado, unobserved, exited the porch, moved a short distance to the [redacted] and entered the vehicle. Almost simultaneously, an individual, later identified as [redacted], exited the home and stood on the porch. [redacted] was wearing similar clothes and resembled Delgado. b6 -4,7 b7C -4,7

(U//~~FOUO~~) TFO [redacted] rounded the high fence on the south side of [redacted] [redacted] and was the first to enter the yard. He did not see Delgado enter the [redacted] TFO [redacted] focused on [redacted] who was on the front porch. He approached the porch attempting to engage [redacted] in conversation. TFO [redacted] approached the [redacted] but moved away to support TFO [redacted] because [redacted] began moving towards the north side of the yard in a non-compliant manner. SA [redacted] moved towards the confrontation in the yard, west of the tree. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) As TFO [redacted], TFO [redacted] and SA [redacted] moved towards [redacted] the driver's-side door of the [redacted] opened; Delgado exited, and immediately pointed a Colt, MK-4 Government Model .380 caliber semi-automatic handgun (Serial GMU-298) at SA [redacted] As the door opened, TFO [redacted] and SA [redacted] immediately turned towards the car, reacted to the weapon, and drew their handguns. Both gave a verbal command and then fired multiple times at Delgado. Delgado was struck multiple times in the chest and subsequently moved north to the large tree in the center of the yard for cover. b6 -1,4 b7C -1,4

(U//~~FOUO~~) SA [redacted] moved backwards, westbound, while engaging Delgado. Delgado fired multiple times at TFO [redacted] as TFO [redacted] moved northeast towards the



NYT-672

house and the parked [redacted] in the driveway, while continuing to engage Delgado at a distance of approximately four yards.

(U//~~FOUO~~) TFO [redacted] was struck three times, stumbled, and moved around the [redacted] truck for cover. [redacted] grabbed TFO [redacted] behind the [redacted] punched and kicked him several times, and TFO [redacted] dropped his weapon defending himself. After a significant struggle with [redacted] TFO [redacted] escaped westbound down the driveway after the shooting ended. TFO [redacted] fell to the ground behind TFO [redacted] s truck and was given medical assistance by responding officers. He had two "through and through" wounds, one to his left upper thigh and another to his right pelvis. The third shot possibly struck the lower part of his vest and redirected into his body, damaging his spleen and lower intestines. He was airlifted to Jackson Memorial Hospital for surgery.

b6 -4,7
b7C -4,7

(U//~~FOUO~~) TFO [redacted] pulled up in his truck facing south and blocking the north side driveway. He exited his vehicle and took a position of cover behind it. SA [redacted] moved behind TFO [redacted] s truck. TFO [redacted] engaged Delgado while moving westbound to join SA [redacted] and TFO [redacted] behind TFO [redacted] s truck. TFO [redacted] fired from behind the truck and struck Delgado once in the right upper cheek area with a deflected shot off of the tree Delgado was utilizing for cover. Delgado fell to the ground, dropped his weapon within reach, and remained there until the time he was removed for medical attention. Delgado continued to make noises and periodic body movements the entire time he was on the ground.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) No immediate approach was made to Delgado or the house due to the unknown potential dangers within the residence. [redacted] was not cooperating and was hiding near the location of TFO [redacted] s weapon. Delgado was eventually removed tactically by several uniformed officers who arrived on the scene after the shooting had ceased.

b6 -4,7
b7C -4,7

(U//~~FOUO~~) [redacted] who had moved during the incident to the northeast corner of the house, could be heard talking to a 911 operator on the video. Once marked units arrived on the scene, [redacted] complied with commands and surrendered by moving to the street. Commands to both [redacted] and Delgado were given in English and Spanish.

(U//~~FOUO~~) TFO [redacted] was covering the rear of the residence and was not involved in the shooting.

(U//~~FOUO~~) SA [redacted] fired his duty weapon, a Glock 23, seven times. TFO [redacted] fired his duty weapon, a Glock 17, 10 or 11 times. TFO [redacted] fired once with his Glock 17 duty weapon. TFO [redacted] fired his duty weapon, a Glock 17, four times. Subject Delgado fired four times with a .380 Colt semi-automatic pistol. He experienced a stove-piped jam on his fourth shot. The casing remained in the stove pipe position when the weapon was dropped.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) SA [redacted] was wearing a ballistic vest marked "FBI." TFOs [redacted] were wearing ballistic vests marked "POLICE."



NYT-673

(U//~~FOUO~~) Delgado expired from his wounds at Kendall Regional Hospital at approximately 7:39 p.m.

(U//~~FOUO~~) The Metro-Dade Police Department TFOs involved in the shooting incident gave statements and were represented by Metro-Dade Police Department PBA attorneys. SA [redacted] was represented by FLEOLA during his Signed Sworn Statement given on 08/04/2012. b6 -1,7 b7C -1,7

(U//~~FOUO~~) [redacted] was interviewed by the Metro-Dade Police Department on the night of 07/31/2012. He stated he was not sure if they [HIDTA Task Force members] were cops or if it was a rip-off. [redacted] was charged with the following violations of the Florida Penal Code:

Second Degree Felony Murder - 782.04(2) (a)
Trafficking marijuana over 25 lbs. - 893.135
Possession of a place used to manufacture controlled substance - 893.135(1)(2)
Possession of Cocaine .5 grams - 893.13

(U//~~FOUO~~) The Metro-Dade Police Department processed the scene. FBI Miami ERT was not involved. As of the date of this report, it is unknown whether spherical photography was completed by the Metro-Dade Police Department.

(U//~~FOUO~~) The autopsy of subject Delgado occurred 08/02/2012, and the results were pending as of the date of this report.

(U//~~FOUO~~) [redacted] and Delgado were known to be involved in the jewelry business in the area. b6 -7 b7C -7

(U//~~FOUO~~) **U.S. Military Records Check:**

(U//~~FOUO~~) A check for service in the U.S. Military was conducted with negative results for both subjects.

(U//~~FOUO~~) **Miami Dade County Police Department Reports:**

(U//~~FOUO~~) In 06/2014, the State Attorney's Office of the Eleventh Judicial Circuit of Florida provided INSD with the Miami Dade County Police Department's investigative report, officer reports, crime scene reports, and photographs pursuant to the Agent-involved shooting on 07/31/2012.

(U//~~FOUO~~) **Medical Reports:**

(U//~~FOUO~~) In 06/2014, the State Attorney's Office of the Eleventh Judicial Circuit of Florida provided INSD with the Miami Dade County Medical Examiner Department Report dated 07/31/2012.



NYT-674

(U//~~FOUO~~) **Enclosures:**

(U) All enclosures have been made part of this report and were identified in the enclosed table of contents.

A. (U//~~FOUO~~) **Administrative:**

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Thomas P. Ravenelle
Team Leader (TL) [redacted]
TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

B. (U//~~FOUO~~) **Shooting Incident Review Protocol:**

(U//~~FOUO~~) All members of the SIRT reviewed the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 07/31/2012, IIC Ravenelle spoke to the A/SAC [redacted] about the limited information surrounding the incident and arranged logistics for SIRT arrival.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) On 08/01/2012, the SIRT personnel traveled to Miami, Florida, and met at the Miami Field Office. The team attempted to view the location of the incident, but was limited due to media attention. The SIRT was briefed on the investigation and incident by Sergeant [redacted] Homicide Bureau Miami-Dade Police Department.

(U//~~FOUO~~) On 08/01/2012, the SIRT met with Miami Executive Management to explain the review process and protocols.

C. (U//~~FOUO~~) **Personnel Involved in the Shooting:**

(U//~~FOUO~~) Personnel present at time of discharge of weapon:

SA [redacted] (FBI)
Officer [redacted] (Miami-Dade Police Department)
Officer [redacted] (Miami-Dade Police Department)
Officer [redacted] (Miami-Dade Police Department)

b6 -1,4
b7C -1,4



NYT-675

(U//~~FOUO~~) FBI personnel interviewed during review:

A/SAC [redacted] b6 -1
ASAC [redacted] b7C -1
ASAC [redacted]
SSA [redacted]
SA [redacted]
SA [redacted] (San Antonio Field Office)
SA [redacted] (San Antonio Field Office)
SA [redacted]
TIS [redacted]
OST [redacted]
CTOC Specialist [redacted]
CTOC Specialist [redacted]
ET [redacted]

D. (U//~~FOUO~~) **Firearms Training**:

(U//~~FOUO~~) Review of Miami and San Antonio training records for SA [redacted] revealed he was in compliance with firearms qualifications requirements. b6 -1 b7C -1

E. (U//~~FOUO~~) **Deadly Force Training:**

(U//~~FOUO~~) Review of San Antonio CDC records revealed SA [redacted] received deadly force training on 09/23/2011 and 12/09/2011.

F. (U//~~FOUO~~) **Use Of Body Armor and Law Enforcement Identifiers:**

(U//~~FOUO~~) TFOs and the FBI SA were in plain clothes wearing body armor with law enforcement identifiers and markings.

G. (U//~~FOUO~~) **Criminal History:**

(U//~~FOUO~~) A check for concealed weapons permits in the State of Florida was negative for Delgado. [redacted] was issued a concealed weapons permit with an expiration date of 01/24/2017. b6 -4 b7C -4 b3 -4

(U//~~FOUO~~) NCIC checks were negative for Delgado and [redacted] ACS search results were negative for Delgado. One [redacted] reference for [redacted] dated [redacted] was identified.

H. (U//~~FOUO~~) **Evidence Recovery and Laboratory Division Reports:**

(U//~~FOUO~~) Metro-Dade PD processed the crime scene. There was no FBI ERT involvement regarding the processing of the crime scene.



NYT-676

(U//~~FOUO~~) Metro-Dade PD provided copies of all crime scene photographs taken to FBI Miami, and they were subsequently forwarded to INSD for inclusion in this report.

(U//~~FOUO~~) Metro-Dade PD took custody of all TFO weapons involved in the shooting. A/SAC [redacted] took possession of SA [redacted]'s weapon upon arrival at the shooting scene. SA [redacted] took possession of the weapon, cleared it, and facilitated Metro-Dade PD's photographing of the weapon. SSA [redacted] Squad C-13 supervisor, then took custody of the weapon and took it to the HIDTA office where he locked it in his safe. On 08/02/2012, SSA [redacted] provided the weapon to Criminalist [redacted] Firearm and Tool Mark Examiner, Metro-Dade PD for a firearm operability test. At the completion of the test, the weapon was returned to SSA [redacted] and subsequently turned into the Miami Field Office.

b6 -1,4
b7C -1,4

I. (U//~~FOUO~~) **Medical Report:**

***FBI Agent Involved in the Shooting:***

(U//~~FOUO~~) No injuries.

***TFO Involved in the Shooting:***

(U//~~FOUO~~) TFO [redacted] received three gunshot wounds. He received two "through and through" wounds, one to his left upper thigh and another to his right pelvis. The third shot possibly struck his lower vest and redirected into his body, damaging his spleen and lower intestines.

b6 -4
b7C -4

***Subjects:***

(U//~~FOUO~~) Delgado was struck four times in the torso and once in the head. Delgado expired as a result of his wounds.

J. (U//~~FOUO~~) **Civil Rights Division:**

(U//~~FOUO~~) On 08/01/2012, IIC Ravenelle contacted [redacted] Special Legal Counsel, Department of Justice (DOJ), Civil Rights Division and briefed him on the shooting incident.

b6 -3
b7C -3

(U//~~FOUO~~) On 03/15/2013, Special Legal Counsel [redacted] provided a declination by the DOJ Civil Rights Division to IIC Ravenelle. Mr. [redacted] stated, "There is no evidence to support an investigation to determine whether the federal criminal civil rights statutes could have been violated."

K. (U//~~FOUO~~) **Local Prosecutive Opinion:**

(U//~~FOUO~~) On 06/06/2014, State Attorney Katherine Fernandez Rundle of the Eleventh Judicial Circuit of Florida provided a letter of declination to INSD. State Attorney



NYT-677

Rundle stated the State Attorney found that, "Special Agent [redacted]'s use of deadly force on July 31, 2012 in Miami Dade County, Florida, was legally justified pursuant to Section 776.012, Florida Statutes, which permits the use of deadly force when a person reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or prevent the commission of a forcible felony." b6 -1 b7C -1

L. (U//~~FOUO~~) **Inspector's Observations:**

(U//~~FOUO~~) None.



NYT-678

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) SHOOTING INCIDENT MIAMI FIELD OFFICE 07/31/2012 **Date:** 08/15/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** STROUD SHAWN W, 202-324-5069

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** STROUD SHAWN W

**Case ID #:** 297-HQ-A1271748-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following a SIRG meeting held on 07/31/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division (INSD) Shooting Incident Report dated 12/16/2013, prepared by former Inspector Thomas P. Ravenelle. A copy of the complete INSD Shooting Incident Report was uploaded to the captioned file.

**Details:**

(U//~~FOUO~~) On 07/31/2014, the SIRG convened to review a shooting incident which occurred on 07/31/2012, involving Special Agent (SA) [redacted] On 07/31/2012, at approximately 6:45 p.m., a static surveillance was conducted by FBI Miami SA [redacted] and four TFOs from the Miami Dade Police Department. All four TFOs and SA [redacted] were assigned to an FBI-led HIDTA Task Force. The team was reacting to a tip a marijuana "Grow House" was operated at [redacted] b6 -1,7 b7C -1,7

Miami, FL. During the surveillance, a TFO noticed an individual, later identified as Gerardo Delgado exit the residence and stand on the porch. The TFO notified the surveillance team to move towards the residence to make contact with the individual. As the team began to move from their static positions, Delgado, unobserved, moved a short distance to a [redacted] and entered the vehicle. Almost simultaneously, an individual, later identified as [redacted] exited the home and stood on the porch. [redacted] was wearing similar clothes and resembled Delgado. As TFO [redacted] approached the house, he focused on [redacted] who was on the front porch, not realizing Gerardo Delgado had moved to the vehicle. TFO [redacted] along with TFO Detectives [redacted] and [redacted] approached the porch attempting to engage [redacted] in conversation. [redacted] began moving away in a non-compliant manner. TFO [redacted] followed [redacted]. SA [redacted] who was approaching the house with TFO [redacted] moved towards TFO [redacted] As the TFOs and SA [redacted] moved towards [redacted] the driver's-side door of the [redacted] opened; Delgado exited and immediately pointed a semi-automatic handgun at SA [redacted] TFO [redacted] and SA [redacted] immediately turned towards the car, reacted to the weapon, and drew their handguns. Both gave a verbal command and then fired multiple times at Delgado, who fired his weapon four times. Delgado was struck multiple times in the chest and subsequently moved to a large [redacted] tree in the center of the yard for cover. TFO [redacted] was struck three times by Delgado. As TFO [redacted] moved for cover, [redacted] assaulted TFO [redacted] After a significant struggle with [redacted] TFO [redacted] escaped down the driveway and fell to the ground behind a TFO vehicle and was given medical assistance by responding officers. SA [redacted] took a position of cover with TFO [redacted] behind a TFO vehicle. From behind the vehicle, TFO [redacted] fired one round and struck Delgado in the right upper cheek area. The round had deflected off of the [redacted] tree. Delgado fell to the ground and remained there until officers took him into custody and removed him for medical attention. TFO [redacted] were transported to the hospital. TFO [redacted] underwent surgery and eventually made a full recovery. Delgado succumbed to his wounds.

b6 -1,4,7
b7C -1,4,7

b6 -1,4,7
b7C -1,4,7

Title: (U//~~FOUO~~) SHOOTING INCIDENT MIAMI FIELD OFFICE 07/31/2012
Re: 297-HQ-A1271748-D, 08/15/2014

(U//~~FOUO~~) [redacted] had moved during the incident to the northeast corner of the house. Once marked units arrived at the scene, [redacted] complied with commands and surrendered. b6 -7 b7C -7

**Results of the SIRG**

(U//~~FOUO~~) On 07/31/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 07/31/2012 was in compliance with the Department of Justice's Deadly Force policy. b6 -1 b7C -1

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made no observations regarding this shooting incident.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting member. The following members were in attendance: Acting Chief Inspector Paul D. Delacourt, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Criminal Investigative Division; Acting SC [redacted] Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Squad CR-2 Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit,

Title: (U//~~FOUO~~) SHOOTING INCIDENT MIAMI FIELD OFFICE 07/31/2012
Re: 297-HQ-A1271748-D, 08/15/2014

Critical Incident Response Group (CIRG); and UC [redacted] Defensive Systems Unit, TD. The following non-voting individuals were also in attendance: [redacted], Deputy Chief, Civil Rights Division, USDOJ; [redacted] Office of Inspector General, USDOJ; [redacted] Internal Affairs, Customs and Border Patrol (CBP); [redacted] CBP; UC [redacted] Firearms and Toolmarks Unit, LD; SSA [redacted] ERTU, LD; Inspectors Shawn W. Stroud, Timothy M. Feeney, Trent R. Teyema, R. Justin Tolomeo, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD.

b6 -1,3
b7C -1,3

♦♦

OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

ANITA ALVAREZ
STATE'S ATTORNEY

[redacted]
ASSISTANT STATE'S ATTORNEY
[redacted]@cookcountyil.gov

SPECIAL PROSECUTIONS BUREAU
2650 SOUTH CALIFORNIA AVENUE
ROOM 13B16
CHICAGO, ILLINOIS 60608

(773) 674-4063

b6 -4
b7C -4

August 5, 2013

Inspector Shawn W. Stroud
Federal Bureau of Investigations
Inspection Division
935 Pennsylvania Ave. NW
Washington, DC, 20535

**Re: INSD # 297-HQ-A1271285-D**

Dear Inspector Stroud,

This letter is to confirm that the Professional Standards Unit of the Cook County (IL) State's Attorney's Office reviewed this case – the non-fatal shooting of [redacted] by Special Agent [redacted] that occurred on March 25, 2013, in Chicago. We have concluded that no conduct of SA [redacted] in this incident gives rise to charge him with any state criminal offense.

b6 -1,7
b7C -1,7

We appreciate your thorough and complete investigation of this matter. Please contact me if you have any questions.

Respectfully,

[redacted]

b6 -4
b7C -4

Assistant State's Attorney
Supervisor
Professional Standards Unit
Cook County State's Attorney's Office
2650 S. California Ave.
Room [redacted]
Chicago, IL 60608

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 15-cv-09133

Total Deleted Page(s) = 9
Page 7 ~ b5 - 1,2;
Page 8 ~ b5 - 1,2;
Page 11 ~ b5 - 1,2;
Page 12 ~ b5 - 1,2; b6 - 1; b7C - 1;
Page 13 ~ b5 - 1,2; b6 - 1; b7C - 1;
Page 14 ~ b5 - 1,2; b6 - 1; b7C - 1;
Page 15 ~ b5 - 1,2; b6 - 1; b7C - 1;
Page 16 ~ b5 - 1,2; b6 - 1; b7C - 1;
Page 17 ~ b5 - 1,2; b6 - 1; b7C - 1;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Chicago Agent-Involved Shooting Incident: 03/25/2013 **Date:** 06/11/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271285-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 04/12/2013, prepared by Inspector-in-Charge Shawn W. Stroud.

**Enclosure(s):** Enclosed are the following items:
1. (U) Chicago SIRT Report dated 0/25/2013

**Details:**

(U//~~FOUO~~) On 03/25/2013, at approximately 12:30 p.m., three Chicago Field Office Agents, [redacted] while going to lunch and looking for a place to park at a parking lot located at 1220 South Ashland Avenue, Chicago, Illinois, noticed an individual kneeling near a sport utility vehicle. When the individual got into b6 -1 b7C -1

the driver's side of an adjacent [redacted] (herein referred to as sedan), repositioned it to the other side of the sport utility vehicle and got out, SAs [redacted] determined the individual was stealing hubcaps. SA [redacted] was driving and did not see what the individual was doing. b6 -1,7 b7C -1,7

(U//~~FOUO~~) SA [redacted] parked the Bureau vehicle and SAs [redacted] immediately got out and approached the sedan. Upon seeing the Agents approach, the individual stealing the hubcaps got back into the sedan. The sedan had three occupants, who were later identified as driver [redacted] front passenger [redacted], and rear passenger [redacted] SAs [redacted] wanted to get the license plate of the sedan, identify the occupants, and then call the police. SA [redacted] positioned himself near the front passenger window of the sedan and SA [redacted] was near the back passenger window. SA [redacted] identified himself as law enforcement. SA [redacted] used his Blackberry and took a photograph of the two men while SA [redacted] issued commands to the occupants to turn off the engine and get out of the vehicle. The occupants of the sedan did not follow SA [redacted]'s directions. SA [redacted] who had gotten out of his Bureau vehicle, but lagged behind SAs [redacted] had returned to his car and repositioned it to the row near where the sedan was parked, a short distance away from the sedan. SA [redacted] stated he could clearly hear SAs [redacted] identify themselves as law enforcement officers and direct the occupants of the sedan to stop. SA [redacted] subsequently activated his vehicle emergency lights. b6 -1,7,9 b7C -1,7,9

(U//~~FOUO~~) [redacted] who was driving, appeared very fidgety to SAs [redacted] and [redacted] put the vehicle in reverse and abruptly backed the sedan out of the parking space into the driving lane. SAs [redacted] and [redacted] moved out of the way to avoid being struck by the sedan. SA [redacted] felt the situation had escalated and drew his service weapon. SA [redacted] exited his car and remained near the driver side door. Suddenly, the sedan lurched forward and to the left nearly hitting SA [redacted] again. The sedan stopped briefly, and then it swerved to the right, towards SA [redacted] At this point, SA [redacted] perceived the b6 -1,7 b7C -1,7

direction of travel of the sedan as a direct threat to his safety and he commanded the sedan to stop. Subsequently, the sedan struck the left front bumper area of the BUCAR. As the sedan careened past the front driver side of the BUCAR, it was close enough for SA [redacted] to fear the sedan would hit him. SA [redacted] believed himself to be in imminent danger and indicated he made this determination based on the following: (1) he did not see the incident which prompted SAs [redacted] and [redacted] to initially approach the individual, but he did see SAs [redacted] and [redacted] confront the occupants of the sedan, identify themselves as FBI Agents, and start issuing commands; (2) he was unable to see the hands, gestures, or actions of the occupants of the sedan; (3) the sedan nearly struck SA [redacted] on two occasions; (4) one of his partners, who he worked with on a daily basis, perceived enough of a threat to draw his weapon; (5) the sedan had struck his BUCAR in an attempt to flee law enforcement, after all law enforcement personnel present identified themselves as such, orally and by activating emergency lights on [redacted] s BUCAR, and were issuing commands to stop; and (6) [redacted] was in a position where he could turn the wheel of the sedan and crush SA [redacted] between the sedan and BUCAR. Since SA [redacted] felt in imminent fear for his life, he drew his handgun, a Glock 23, identified himself as an FBI Agent, and raised his left hand while issuing verbal commands to stop. When [redacted] failed to comply with the commands to stop, SA [redacted] fired 10 rounds at [redacted] and [redacted] were each hit once and suffered minor, non-life threatening wounds. SA [redacted] estimated the total time that elapsed between the first and last shot was only a few seconds.

b6 -1,7,9
b7C -1,7,9

(U//~~FOUO~~) Following the shooting, the sedan left the parking lot at a high rate of speed. An ambulance crew parked in the parking lot observed the incident. The ambulance, with its emergency lights and siren engaged, pursued the sedan. The sedan crashed into a passenger car and light pole approximately a quarter of a mile away from the parking lot. Occupants of the passenger car sustained minor injuries and were briefly hospitalized. Upon observing the sedan leave the parking lot, the Agents returned to the BUCAR and followed in the direction the sedan was observed travelling. The Agents arrived at the

crash scene approximately one minute after the crash. [redacted] was apprehended, and [redacted] left the accident scene before law enforcement arrived. [redacted] was later located and interviewed. [redacted] turned himself in to the FBI Chicago Field Office on 03/29/2013. FBI Chicago initiated an AFO case as a result of this incident. [redacted] was charged with violating Title 18, United States Code, Sections 111(a)(1) and (b), Assaulting, Resisting, or Impeding Certain Officers or Employees While Engaged In (or on account of the performance of) His/Her Official Duties. [redacted] were not charged. b6 -7,9 b7C -7,9

(U//~~FOUO~~) The shooting and crash scenes were processed by the Chicago Field Office ERT. SA [redacted]'s issued Glock 23 was rendered safe and entered into evidence. Ten .40 caliber shell casings were recovered which were consistent with the ammunition used in SA [redacted]'s weapon. The subject's sedan was processed by members of the FBI's Laboratory Shooting Reconstruction Team. b6 -1 b7C -1

**SIRG Deliberations:**

(U//~~FOUO~~) A presentation of the known facts of the Agent-involved shooting, as detailed above, was made to the SIRG by IIC Stroud via a Power Point presentation. The Power Point included photographs of the scene as enhanced by the FBI Laboratory, an INSD Diagram of the scene, an enhanced copy of a video from the parking lot as taken while the incident occurred, and a copy of a video showing the vehicle of the subjects engaged in an auto accident.

(U//~~FOUO~~) The DOJ Deadly Force Policy provides a core principle that Agents "may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person."

(U//~~FOUO~~) The SIRG voted regarding the application of deadly force. Ten of 12 voting members determined the use of deadly force by SA [redacted] was in compliance with the DOJ Deadly Force Policy. The b6 -1 b7C -1

majority determined that SA [redacted] could have reasonably believed the use of deadly force was necessary because the subject ignored lawful commands to stop and while attempting to flee, almost struck SA [redacted] twice, hit a Bureau car, and almost ran over SA [redacted] causing him to move quickly to the side to avoid being hit by the vehicle. The vehicle was still in close proximity to SA [redacted] and the other agents, and presented an imminent danger to them when SA [redacted] fired the shots in a matter of seconds. b6 -1 b7C -1

(U//~~FOUO~~) Two of the voting members dissented, expressing the belief the application of deadly force in this instance was not in compliance with the Department of Justice's Deadly Force Policy. The dissenting members requested and were provided the opportunity to document the factors for their belief the application of DOJ's Deadly Force Policy was violated.

(U//~~FOUO~~) The dissenting opinion of [redacted], Special Legal Counsel, Civil Rights Division, USDOJ, was provided to INSD in a letter, which is noted as follows: b6 -3 b7C -3

*To: Mark Morgan*

*Deputy Assistant Director, Inspection Division*

*From:* [redacted]

*Special Legal Counsel, Civil Rights Division*

*Date: February 24, 2014*

*Subject: Chicago 3/25/13*

*At the February 21, 2014 FBI Shooting Incident Review Group meeting, I cast a vote that was one of two votes adjudging the non-fatal shooting by a Special Agent in Chicago on March 25, 2013, to be in violation of the Department's Deadly Force Policy. As Committee Chair, you advised that you were considering recording the majority vote – the shooting*

*was within policy – along with the rational of the dissenting voters. This memo presents a summary of my reasoning to assist the drafting of such report.*

*I concur with the effort to better articulate and record the decisions of the Group to provide an historical record that may assist future decisions by reference to the analysis employed in past matters. The facts of this matter and the Group's differing conclusions offer an excellent case study to archive.*

*Also, I have no objection to sharing my analysis with other Group members if you feel it is warranted.*

*In my view,*

b5 -1,2

Title: (U) Chicago Agent-Involved Shooting Incident: 03/25/2013
Re: 297-HQ-A1271285-D, 06/11/2014

[redacted] b5 -1,2

[redacted] *Finally, my vote as a member of SIRG is solely my conclusion and is not necessarily the view of the Department or the Civil Rights Division.*

(U//~~FOUO~~) The dissenting opinion of [redacted] Trial Attorney, Criminal Division, USDOJ, was provided to INSD in an E-mail, which is noted as follows: b6 -3 b7C -3

From: [redacted]@usdoj.gov>

To: Morgan, Mark Alan

Sent: Mon Feb 24 20:30:13 2014

Subject: My response re: Chicago hubcap shooting

*Well done, although I cannot conclude that* [redacted]

[redacted] b5 -1,2

Title: (U) Chicago Agent-Involved Shooting Incident: 03/25/2013
Re: 297-HQ-A1271285-D, 06/11/2014

[redacted]

b5 -1,2

(U//~~FOUO~~) In rebuttal to the opinions expressed, the FBI provided the following information:

[redacted]

b5 -1,2
b6 -1
b7C -1

Title: (U) Chicago Agent-Involved Shooting Incident: 03/25/2013
Re: 297-HQ-A1271285-D, 06/11/2014

[redacted]

b5 -1,2
b6 -1
b7C -1

**SIRG Observations**

(U//~~FOUO~~) On 02/21/2012, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG voted regarding the application of deadly force. Ten of 12 voting members determined the use of deadly force by SA [redacted] was in compliance with the DOJ Deadly Force Policy. The majority determined SA [redacted] could have reasonably believed the use of deadly force was necessary and the vehicle presented an imminent danger to the involved Agents when SA [redacted] fired the shots. As a majority opinion, it was determined SA [redacted] was in compliance with the DOJ Deadly Force Policy.

b6 -1
b7C -1

Two of the voting members dissented, expressing the belief the application of deadly force in this instance was not in compliance with

the Department of Justice's Deadly Force Policy. The dissenting members requested and were provided the opportunity to document the factors for their belief the application of DOJ's Deadly Force Policy was violated.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following observations and recommendations:

(U//~~FOUO~~) **SIRT Observation 1:** The Chicago Field Office Agent Involved Shooting Response Plan (AISRP) was not followed by Chicago Field Office personnel.

**Analysis:** (U//~~FOUO~~) On 03/29/2013, the SIRT reviewed the Chicago Field Office AISRP. The AISRP was dated November 2010. As cited verbatim in the Chicago Field Office AISRP Introduction Section, "The purpose of this document is to provide guidance to Chicago Division employees who may become involved in a shooting incident, either as a participant or one who responds to an incident. Checklists have been devised to prioritize actions of those involved." AISRP Section III (1) (b) "The Involved Agent – Notification Checklist" stated, "When an Agent becomes involved in a shooting either he or an Agent in his presence should notify the Chicago Radio Room and request any necessary medical or other assistance. Depending on exigent circumstances, it may be necessary to first notify Emergency Services – 911."

(U//~~FOUO~~) The SIRT determined, based on 12 interviews, neither the involved Agent nor an Agent in his presence provided notification of the incident to the Chicago Field Office Radio Room as outlined in the AISRP.

(U//~~FOUO~~) **SIRT Recommendation 1a:** SAC, Chicago Field Office should ensure all Chicago Field Office personnel are appropriately trained regarding the AISRP.

(U//~~FOUO~~) **SIRT Recommendation 1b:** SAC, Chicago Field Office should

ensure the Chicago Field Office AISRP is reviewed and updated annually.

(U//~~FOUO~~) **SIRT Observation 2:** Intervention to enforce minor infractions of the law could fall outside the scope of employment.

**Analysis:** (U//~~FOUO~~) The 03/25/2013 Agent-involved shooting incident evolved from Chicago Field Office Agents engaging with a subject they believed was stealing hubcaps in violation of Illinois Compiled Statutes (ILCS) Subdivision 5., General Theft, Section 16-1., Theft. The Agents involved in the shooting incident stated it was not their intention to arrest the subject, but just to identify him, determine what he was doing, and provide the information garnered to the Chicago Police Department.

DIOG, Section 19.3.3 states the following regarding non-federal crimes:

*"There is no federal statutory authority for Agents to intervene in non-federal (state) crimes. FBI policy permits certain types of non-federal arrests in exigent circumstances.*

*As a general rule, an Agent should only make an arrest for a state crime if a serious offense (felony or violent misdemeanor) has been committed in his or her presence and immediate action by the Agent is necessary to prevent escape, serious bodily injury, or destruction of property.*

*Agents are also authorized to arrest a person who is the subject of an FBI Predicated Investigation when a state or local arrest warrant for that person is outstanding, and the person is encountered during the investigation and would likely escape if not arrested. Similarly, an Agent working with state or local law enforcement officers who request assistance to apprehend a nonfederal fugitive who has been encountered during the course of a federal investigation is authorized to provide the requested assistance when intervention is otherwise permitted for a state crime as described in the preceding paragraph.*

*In some states, there is legislative authority for an Agent to*

*intervene in certain types of state crimes as a peace officer rather than as a private citizen. Deputization as a state peace officer allows a federal Agent to make arrests for state offenses with the authority and immunities of a law enforcement officer of the state or one of its subdivisions. Of greater significance is whether intervention by an Agent in a particular nonfederal crime falls within the scope of employment. Agents who intervene in serious nonfederal crimes committed in their presence or who arrest a state fugitive under the circumstances previously described will normally be considered to be acting within the scope of their employment. While the determination to provide legal representation depends on the facts and circumstances of each circumstance, the DOJ, as a general rule, will provide legal representation to Agents who act in accordance with this policy.*

*It is important to note that the DOJ has indicated that efforts to enforce minor infractions of the law, such as shoplifting or traffic violations, are not generally considered to be within the scope of employment. Civil actions against federal personnel concerning acts which fall outside the scope of employment will not be removed to federal courts, and employees in such circumstances will not be eligible for legal representation provided for by the DOJ. An Agent's status with respect to civil liability in such circumstances will depend on a particular state's law, which may require an employee to defend himself/herself as an ordinary citizen."*

(U//~~FOUO~~) The State of Illinois afforded federal law enforcement officers, to include the FBI, "Peace Officer Status," for the purposes of sections concerning unlawful use of weapons, for the purposes of assisting an Illinois peace officer in an arrest, or when the commission of *any offense* (emphasis added) under Illinois law is directly observed by the person. Therefore, under ILCS, the Agents were considered "peace officers" when they approached the subject stealing hubcaps. The theft of hubcaps, not exceeding $500 in value, was a Class A misdemeanor in the state of Illinois.

(U//~~FOUO~~) Being afforded Illinois "Peace Officer Status" means the Agents likely would not have to defend themselves against civil liability as an ordinary citizen; however, the Agents may not be provided legal representation by the DOJ due to the question of scope. As stated in the DIOG Section 19.3.3 referenced above, DOJ indicated efforts by Agents to enforce minor infractions of the law, such as shoplifting or traffic violations, are not generally considered to be within the scope of employment. Taking action to thwart the theft of hubcaps could be interpreted as the enforcement of a minor infraction of the law. To not be afforded federal representation in civil actions needlessly exposes Agents to state legal issues and procedures.

(U//~~FOUO~~) **SIRT Recommendation 2:** SAC, Chicago Field Office should ensure all Agents are trained regarding intervention in non-federal crimes, and potential liability attached thereto.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. **b6 -1 b7C -1**

(U//~~FOUO~~) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted], Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, **b6 -1,3 b7C -1,3**

Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors David Paul Gelios, R. Justin Tolomeo, Howard Marshall, Paul Delacourt, Trent R. Teyema and Shawn W. Stroud, OI, INSD; Team Leaders [redacted], OI, INSD; SSA [redacted], ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem, OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

**Procedures for Responding to the Instruction**

SAC, Chicago Field Office, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

SAC, Chicago Field Office, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow- up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted]

b6 -1
b7C -1

---

[1] I applied the following standards:

(1) at the outset, the conduct of an agent should be presumed to be within policy;

(2) the burden of establishing that the conduct is not within policy should be the SIRG's burden,

(3) the proper standard of proof should be a preponderance of the evidence, as there is no rational basis to employ a lower standard or a higher one, such as clear and convincing;

(4) the agent's proffer of his own state mind (as recorded in a sworn statement) is significant evidence to establish this critical factor, but it should not be dispositive of the agent's state of mind;

(5) all surrounding circumstance and facts, including statements of others, factual and forensic information, and video documentation should be considered to adjudge the agent's state of mind;

(6) the ultimate issue is whether all the available evidence supports a conclusion that the use of deadly force was within the Department's policy as articulate by the plain language of the policy. What an objectively reasonable law enforcement officer would have done is a factor, but not the ultimate issue as it would be in determining civil liability in a constitutional torts case.

[2] It is noted that DOJ Attorney #1 applies a preponderance of the evidence standard and establishes certain presumptions that DOJ Attorney #1 states the SIRG should apply to the incident, but admits that these standards and presumptions are not set forth anywhere in DOJ policy. The DOJ Deadly Force Policy, however, is based upon a Fourth Amendment reasonableness standard, which looks to all the facts and circumstances to determine whether an agent had a reasonable belief that the subject posed an imminent danger of death or serious bodily injury to the agent or another person such that the use of deadly force was necessary.

FD-263 (Rev. 10-18-2012)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ - INSD | Inspection Division | 04/12/2013 | 03/25/2013 – 03/30/2013 |

**TITLE OF CASE**
Shooting Inquiry
Report of Shooting Incident
Chicago Field Office
03/25/2013

REPORT MADE BY: **IIC Shawn W. Stroud** | TYPED BY:

**CHARACTER OF CASE**
Shooting Incident Review

b6 -1
b7C -1

REFERENCES:

Telephone call on 03/25/2013, from Chicago Field Office SAC Cory B. Nelson to Chief Inspector Robert J. Shields Jr., and Chicago Field Office FD-1015, Executive Situation Report to the Director, dated 03/25/2013.

APPROVED _____ ASSISTANT DIRECTOR

COPIES MADE:

**DO NOT WRITE IN SPACES BELOW**

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

**Notations**

A

**COVER PAGE**

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 04/12/2013

Report of: IIC Shawn W. Stroud Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271285-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
CHICAGO FIELD OFFICE
03/25/2013

Investigative Period: 03/25/2013 – 03/30/2013

Reference: (U//~~FOUO~~) Telephone call on 03/25/2013, from Chicago Field Office SAC Cory B. Nelson to Chief Inspector Robert J. Shields Jr., and Chicago Field Office FD-1015, Executive Situation Report to the Director, dated 03/25/2013.

---

**Synopsis**

(U//~~FOUO~~) On 03/25/2013, at approximately 12:30 p.m., three Chicago Field Office Special Agents (SAs), [redacted] were going to lunch and looking for a place to park in a grocery store parking lot, when SAs [redacted] observed a man stealing hubcaps. SA [redacted] parked the bucar and SAs [redacted] immediately got out of the vehicle and approached the individual, later identified as [redacted] identifying themselves as law enforcement and commanding [redacted] to stop. SA [redacted] lagged well behind SAs [redacted] and did not initially interact with [redacted] retreated to his vehicle, a [redacted] and got in the driver's seat. There were two other occupants in the vehicle. [redacted] pulled the vehicle out from the parking space almost hitting SAs [redacted] and [redacted] and then stopped momentarily. While SAs [redacted] were engaged with [redacted] SA [redacted] had returned to his bucar and repositioned it to the row where [redacted] was parked. When [redacted] vehicle began to move again, he was again commanded by SAs [redacted] to stop and get out of his vehicle. Instead of complying with commands, [redacted] with his two companions, drove off striking SA [redacted] s bucar and subsequently heading straight for SA [redacted] who was standing next to his bucar. SA [redacted] motioned and called for the vehicle to stop. When the vehicle continued to advance on SA [redacted] fearing for his life, SA [redacted] fired 10 shots from his Glock pistol and wounded [redacted] and one of the other occupants. Each sustained minor injuries. The vehicle fled from the scene and was involved in a vehicular accident a short distance from the parking lot. The driver, [redacted] escaped, but turned himself in to the FBI Chicago Field Office on 03/29/2013. [redacted] was charged with Assault on a Federal Officer (AFO).

b6 -1,7
b7C -1,7



NYT-709

**Details**

(U//~~FOUO~~) On 03/25/2013, at approximately 12:30 p.m., three Chicago Field Office Agents, [redacted] while going to lunch and looking for a place to park at a parking lot located at 1220 South Ashland Avenue, Chicago, Illinois, they noticed an individual kneeling near a sport utility vehicle. When the individual got into the driver's side of an adjacent [redacted] (herein referred to as sedan), repositioned it to the other side of the sport utility vehicle and got out, SAs [redacted] determined the individual was stealing hubcaps. SA [redacted] was driving and did not see what the individual was doing.

b6 -1,7
b7C -1,7

(U//~~FOUO~~) SA [redacted] parked the Bureau vehicle and SAs [redacted] immediately got out and approached the sedan. Upon seeing the Agents approach, the individual stealing the hubcaps got back into the sedan. The sedan had three occupants, who were later identified as driver [redacted], front passenger [redacted] and rear passenger [redacted] SAs [redacted] wanted to get the license plate of the sedan, identify the occupants, and then call the police. SA [redacted] positioned himself near the front passenger window of the sedan and SA [redacted] was near the back passenger window. SA [redacted] identified himself as law enforcement. SA [redacted] used his Blackberry and took a photograph of the two men while SA [redacted] issued commands to the occupants to turn off the engine and get out of the vehicle. The occupants of the sedan did not follow SA [redacted] s directions. SA [redacted] who had gotten out of his Bureau vehicle, but lagged behind SAs [redacted] had returned to his car and repositioned it to the row near where the sedan was parked, a short distance away from the sedan. SA [redacted] stated he could clearly hear SAs [redacted] identify themselves as law enforcement officers and direct the occupants of the sedan to stop. SA [redacted] subsequently activated his vehicle emergency lights.

b6 -1,7,9
b7C -1,7,9

(U//~~FOUO~~) [redacted] who was driving, appeared very fidgety to SAs [redacted] put the vehicle in reverse and abruptly backed the sedan out of the parking space into the driving lane. SAs [redacted] moved out of the way to avoid being struck by the sedan. SA [redacted] felt the situation had escalated and drew his service weapon. SA [redacted] exited his car and remained near the driver side door. Suddenly, the sedan lurched forward and to the left nearly hitting SA [redacted] again. The sedan stopped briefly, and then it swerved to the right, towards SA [redacted] At this point, SA [redacted] perceived the direction of travel of the sedan as a direct threat to his safety and he commanded the sedan to stop. Subsequently, the sedan struck the left front bumper area of the bucar. As the sedan careened past the front driver side of the bucar, it was close enough for SA [redacted] to fear the sedan would hit him. SA [redacted] believed himself to be in imminent danger and indicated he made this determination based on the following reasons: (1) he did not see the incident which prompted SAs [redacted] to initially approach the individual, but he did see SAs [redacted] confront the occupants of the sedan, identify themselves as FBI Agents, and start issuing commands; (2) he was unable to see the hands, gestures, or actions of the occupants of the sedan; (3) the sedan nearly stuck SA [redacted] on two occasions; (4) one of his partners, who he worked with on a daily basis, perceived enough of a threat to draw his weapon; (5) the sedan had struck his bucar in an attempt to flee

b6 -1,7
b7C -1,7

law enforcement, after all law enforcement personnel present identified themselves as such, orally and by activating emergency lights on his bucar, and were issuing commands to stop; and (6) [redacted] was in a position where he could turn the wheel of the sedan and crush SA [redacted] between the sedan and bucar. Since SA [redacted] felt in imminent fear for his life, he drew his handgun, a Glock 23, identified himself as an FBI Agent, and raised his left hand while issuing verbal commands to stop. When [redacted] failed to comply with the commands to stop, SA [redacted] fired 10 rounds at him. [redacted] were each hit once and suffered minor, nonlife-threatening wounds.

b6 -1,7
b7C -1,7

(U//~~FOUO~~) The sedan left the parking lot at a high rate of speed. An ambulance crew parked in the parking lot observed the incident. The ambulance, with its emergency lights and siren engaged, pursued the sedan. The sedan crashed into a passenger car and light pole approximately a quarter of a mile away from the parking lot. Occupants of the passenger car sustained minor injuries and were briefly hospitalized. Upon observing the sedan leave the parking lot, the Agents returned to the bucar and followed in the direction the sedan was observed travelling. They arrived at the crash scene approximately one minute after the crash. [redacted] was apprehended, and [redacted] left the accident scene before law enforcement arrived. [redacted] was later located and interviewed. [redacted] turned himself in to the FBI Chicago Field Office on 03/29/2013. FBI Chicago initiated an AFO case as a result of this incident. [redacted] was charged with violating Title 18, United States Code, Sections 111(a)(1) and (b). [redacted] were not charged.

b6 -1,7,9
b7C -1,7,9

(U//~~FOUO~~) The shooting scene and crash scene were processed by the Chicago Field Office ERT. SA [redacted]'s issued Glock 23 was rendered safe and entered into evidence. Ten .40 caliber shell casings were recovered which were consistent with the ammunition used in SA [redacted]'s weapon. The subject's sedan was processed by members of the Laboratory Shooting Reconstruction Team.

b6 -1
b7C -1

(U//~~FOUO~~) The occupants of the subject vehicle were:

| Name | [redacted] | | |
|---|---|---|---|
| Position | Driver | Right front passenger | Rear passenger |
| Sex | | | |
| Race | | | |
| Height | | | |
| Weight | | | |
| Hair | | | |
| Eyes | | | |
| DOB | | | |
| SSAN | | | |
| FBI # | | | |

b6 -7,9
b7C -7,9

**Substantive Case Files**

(U//~~FOUO~~) After the shooting incident, the following substantive case was opened:

(U) [redacted] (Subject); b6 -1,7
VICTIMS: SA [redacted] SA [redacted] SA [redacted] b7C -1,7
ASSAULT ON FEDERAL OFFICERS; b7A -1
CHICAGO;
25 MARCH 2013
[redacted]

**Enclosures**

(U//~~FOUO~~) All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Shawn W. Stroud
Inspector Gregory T. Bretzing
Assistant Inspector (AI)/Team Leader (TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP

(U//~~FOUO~~) FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:

SSA [redacted] – Evidence Response Team Unit – Team Leader b6 -1
SSA [redacted] – Evidence Response Team Unit b7C -1
[redacted] – Firearms and Toolmarks Unit – Physical Scientist
[redacted] – Firearms and Toolmarks Unit
SA [redacted] – Omaha Total Station Operator

B. **Shooting Incident Review Protocol**

(U//~~FOUO~~) On 03/25/2013, IIC Stroud spoke with Chicago Field Office ASAC [redacted] b6 -1
[redacted] to arrange logistics prior to arriving in Chicago. On 03/25/2013, the SIRT traveled to b7C -1
Chicago. On the morning of 03/26/2013, IIC Stroud and SIRT members met with Chicago Field Office EM and SSA personnel before traveling to the shooting scene which occurred in a parking lot of the Jewel Osco Grocery Store located at 1220 South Ashland Avenue, Chicago, Illinois.

(U//~~FOUO~~) All members of the SIRT reviewed the Inspection Division Shooting Review Protocol.

(U//~~FOUO~~) On 03/26/2013, IIC Stroud met with the involved FBI SAs and management personnel to explain the review process and protocols. IIC Stroud, Inspector Bretzing, and TL [redacted] met with the Chicago Police 12th District Commander, [redacted] who stated she was not opening an investigation, and did not need for her personnel to participate in any interviews. b6 -1,4 b7C -1,4

(U//~~FOUO~~) Three Signed Sworn Statements (SSSs) were taken from the three FBI Agents directly involved in the shooting. Other interviews, events, and observations were documented via FD-302s. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor the FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The SSSs and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all FBI personnel interviewed via SSS.

(U) On 03/27/2013, IIC Stroud, Inspector Bretzing, and TL [redacted] met with [redacted] [redacted] Criminal Chief of the Cook County State's Attorney's Office. [redacted] indicated he would like to receive a copy of the Shooting Incident Review results. He anticipated sending the results to their Professional Standards Unit, headed by Supervisory Attorney [redacted] b6 -1,4 b7C -1,4

(U) On 03/27/2013, IIC Stroud had a conference call with Attorney [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division and AUSA [redacted] Northern District of Illinois, to provide an update on the investigation. [redacted] asked [redacted] to participate in the conference call due to the U.S. Attorney Office's interest in reviewing the results of the shooting investigation. b6 -3 b7C -3

(U) On 03/29/2013, IIC Stroud provided an exit brief to SAC Nelson and the CDC [redacted] b6 -1 b7C -1

## C. Personnel Involved in the Shooting

1. SA [redacted] (fired weapon)
2. SA
3. SA

## D. Firearms Training

(U//~~FOUO~~) FBI Chicago provided qualifications records for SA [redacted] A review of the office training records reflected the following: b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted]'s most recent qualification with his FBI-issued Glock 23, Serial Number [redacted] was on 12/26/2012.



NYT-713

## E. Deadly Force Training

(U//~~FOUO~~) Since 10/27/2012, SA [redacted] participated in approximately 20 operations, which included controlled drug buys, firearms purchases, arrests, and tracker installations. All occasions included the presentation of the Deadly Force Policy. CDC [redacted] advised SA [redacted] attended an All Agents Conference on 09/30/2011, where a review of the FBI Deadly Force Policy was part of the curriculum. CDC [redacted] provided a copy of the conference sign-in log verifying SA [redacted]'s attendance. CDC [redacted] also advised the Chicago Field Office Primary Firearms Instructor (PFI) [redacted] reviewed the FBI Deadly Force Policy during firearm qualifications and training sessions. b6 -1 b7C -1

## F. Use of Body Armor and Law Enforcement Identifiers

(U//~~FOUO~~) As the three Agents were on their way to lunch and not participating in a planned law enforcement action, none of them were wearing ballistic body armor, nor were FBI or law enforcement identifiers displayed. However, all personnel verbally identified themselves as FBI and law enforcement officers to the occupants of the vehicle. This was verified by witness statements.

## G. FBI Indices and National Crime Information Center (NCIC)

(U//~~FOUO~~) The National Crime Information Center (NCIC), criminal history check included multiple entries for [redacted] and [redacted] was the subject of 40 arrests for offenses including narcotics and weapons violations, robbery, and assault. [redacted] was convicted 14 times, most recently on 06/09/2006, for Burglary. b6 -7,9 b7C -7,9

(U//~~FOUO~~) [redacted]'s criminal history included 47 arrests for offenses including resisting arrest as well as narcotics and weapons violations. [redacted] was convicted eight times, most recently on 02/21/2006, for Forgery. [redacted] was also an identified member of the Vice Lords street gang. b6 -9 b7C -9

(U//~~FOUO~~) [redacted]s criminal history included 31 arrests for offenses including narcotics, robbery, and weapons violations. [redacted] was convicted six times, most recently on 01/08/1998, for Possession of a Controlled Substance. b6 -9 b7C -9

## H. Evidence Recovery and Laboratory Division Reports

(U//~~FOUO~~) At approximately 1:45p.m., on 03/25/2013, in the process of responding to the scene of an Agent-involved shooting, Supervisory Special Agent (SSA) [redacted] and SSA [redacted] collected a loaded Glock 23 pistol bearing serial number [redacted] and an additional Glock 23 magazine from SA [redacted] SA [redacted] advised he had changed magazines prior to the collection of the weapon. SSA [redacted] and SSA [redacted] conducted a manual round count of the weapon and extra magazine. b6 -1 b7C -1

(U//~~FOUO~~) The scene of the shooting was secured and processed by the Chicago Field Office ERT and the Laboratory Shooting Reconstruction Team (LRST) to include use of Total

2. (U//~~FOUO~~) [redacted] was shot in the hip. The round was recovered at Stroger Hospital. He also had a rod surgically implanted in his leg on 03/26/2013, due to a broken leg. The leg injury was due to the impact of the subject vehicle with a non-police vehicle and subsequently a light pole. The accident happened several blocks away from the shooting scene. b6 -7,9 b7C -7,9

3. (U//~~FOUO~~) [redacted] was not injured.

**Innocent Bystander Victims:**

1. (U//~~FOUO~~) [redacted] was driving his car southbound on South Paulina Street. [redacted] was a passenger. As [redacted] was about to turn eastbound onto West Flournoy Street, he stopped when he observed an ambulance. After allowing the ambulance to pass, [redacted] proceeded with his turn and observed [redacted] car driving straight at him. Both cars collided in the intersection of South Paulina Street and West Flournoy Street. [redacted] was released from the hospital on 03/26/2013. He suffered a cracked sternum, cuts, and bruises. b6 -5,7 b7C -5,7

2. (U//~~FOUO~~) The passenger, [redacted] was released from the hospital on 03/25/2013, the day of the accident. She suffered two cracked ribs, cuts, and bruises.

J. **Declination by the Civil Rights Division**

(U//~~FOUO~~) On 03/27/2013, IIC Stroud contacted [redacted] Special Legal Counsel, DOJ, Civil Rights Division, and briefed him on the shooting incident. On 04/03/2013, AI/TL [redacted] hand-carried a copy of the Signed Sworn Statements and corresponding diagrams to Mr. [redacted] s office, located at 601 D Street, Washington DC. b6 -1,3 b7C -1,3

(U//~~FOUO~~) On 08/12/2013, [redacted] Special Legal Counsel, Civil Rights Division, U.S. Department of Justice declined prosecution of this case.

K. **Local Prosecution Opinion**

(U//~~FOUO~~) Upon completion of the on-site inquiry, IIC Stroud coordinated SIRT investigative findings with [redacted] Criminal Chief of the Cook County State's Attorney's Office. He provided the findings to their Professional Standards Unit, headed by Supervisory Attorney [redacted] for his review and opinion. On 08/05/2013, Mr. [redacted] advised he concluded, "that no conduct of SA [redacted] in this incident gives rise to charge him with any state criminal offense." b6 -1,4 b7C -1,4

L. **Inspector's Observations**

(U//~~FOUO~~) **SIRT Observation 1**: The Chicago Field Office Agent Involved Shooting Response Plan (AISRP) was not followed by Chicago Field Office personnel.

**Analysis:** On 03/29/2013, the SIRT reviewed the Chicago Field Office AISRP. The AISRP was dated November 2010. As cited verbatim in the Chicago Field Office AISRP Introduction Section, "The purpose of this document is to provide guidance to Chicago Division employees who may become involved in a shooting incident, either as a participant or one who responds to an incident. Checklists have been devised to prioritize actions of those involved." AISRP Section III (1) (b) "The Involved Agent – Notification Checklist" stated, "When an Agent becomes involved in a shooting either he or an Agent in his presence should notify the Chicago Radio Room and request any necessary medical or other assistance. Depending on exigent circumstances, it may be necessary to first notify Emergency Services – 911."

The SIRT determined based on 12 interviews, neither the involved Agent nor an Agent in his presence provided notification of the incident to the Chicago Field Office Radio Room as outlined in the AISRP.

The below table outlines, based on SIRT analysis, the calls made regarding the Agent Involved Shooting:

| CG Employee | Calls Made | Where Located at Time of Call | Comments |
|---|---|---|---|
| SA [redacted] | 911; SSA; CDC | At the scene of the accident (intersection of South Paulina Street and West Flournoy Street). | Involved in shooting incident. |
| SA [redacted] | None | N/A | Involved in shooting incident. |
| SA [redacted] | 911 | Called when the vehicle he was riding in was attempting to cross West Roosevelt Road while exiting the Jewel Osco parking lot. | Involved in shooting incident. |
| SSA [redacted] | ASAC; ERT-STL | En route to scene. | Role was A/ASAC and OSC. |
| OST [redacted] | 911 | CG Radio Room (Dayshift 8:00 a.m.-4:45 p.m.). | Directed by SSA [redacted] to call. |
| SA [redacted] | Bank of America Security Specialist; SSA | Jewel Osco parking lot. | Dispatched to scene. |
| CDC [redacted] | SA involved; | En route to Magistrate's office. | Dispatched to scene. |

b6 -1
b7C -1



NYT-716

| CG Employee | Calls Made | Where Located at Time of Call | Comments |
|---|---|---|---|
| | SAC | | |
| ADC [redacted] | SAC | En route to Magistrate's office. | Dispatched to scene. |
| SSA [redacted] | CG Radio Room | At the scene of the accident (intersection of South Paulina Street and West Flournoy Street). | SSA of the three Agents involved in the shooting. |

b6 -1
b7C -1

(U//~~FOUO~~) **SIRT Recommendation 1a:** SAC, Chicago Field Office should ensure all Chicago Field Office personnel are appropriately trained regarding the AISRP.

(U//~~FOUO~~) **SIRT Recommendation 1b:** SAC, Chicago Field Office should ensure the Chicago Field Office AISRP is reviewed and updated annually.

(U//~~FOUO~~) **SIRT Observation 2:** Intervention to enforce minor infractions of the law could fall outside the scope of employment.

**Analysis:** The 03/25/2013 Agent-involved shooting incident evolved from Chicago Field Office Agents engaging with a subject they believed was stealing hubcaps in violation of Illinois Compiled Statutes (ILCS) Subdivision 5. General Theft, Section 16-1. Theft. The Agents involved in the shooting incident stated it was not their intention to arrest the subject, but just to identify him, determine what he was doing, and provide the information garnered to the Chicago Police Department.

DIOG, Section 19.3.3 states the following regarding non-federal crimes:

*"There is no federal statutory authority for Agents to intervene in non-federal state) crimes. FBI policy permits certain types of non-federal arrests in exigent circumstances.*

*As a general rule, an Agent should only make an arrest for a state crime if a serious offense (felony or violent misdemeanor) has been committed in his or her presence and immediate action by the Agent is necessary to prevent escape, serious bodily injury, or destruction of property.*

*Agents are also authorized to arrest a person who is the subject of an FBI Predicated Investigation when a state or local arrest warrant for that person is outstanding, and the person is encountered during the investigation and would likely escape if not arrested. Similarly, an Agent working with state or local law enforcement officers who request assistance to apprehend a nonfederal fugitive who has been encountered during the course of a federal investigation is authorized to provide the requested assistance when intervention is otherwise permitted for a state crime as described in the preceding paragraph.*

*In some states, there is legislative authority for an Agent to intervene in certain types of state crimes as a peace officer rather than as a private citizen. Deputization as a state peace officer allows a federal Agent to make arrests for state offenses with the authority and immunities of a law enforcement officer of the state or one of its subdivisions. Of greater significance is whether intervention by an Agent in a particular nonfederal crime falls within the scope of employment. Agents who intervene in serious nonfederal crimes committed in their presence or who arrest a state fugitive under the circumstances previously described will normally be considered to be acting within the scope of their employment. While the determination to provide legal representation depends on the facts and circumstances of each circumstance, the DOJ, as a general rule, will provide legal representation to Agents who act in accordance with this policy.*

*It is important to note that the DOJ has indicated that efforts to enforce minor infractions of the law, such as shoplifting or traffic violations, are not generally considered to be within the scope of employment. Civil actions against federal personnel concerning acts which fall outside the scope of employment will not be removed to federal courts, and employees in such circumstances will not be eligible for legal representation provided for by the DOJ. An Agent's status with respect to civil liability in such circumstances will depend on a particular state's law, which may require an employee to defend himself/herself as an ordinary citizen."*

The State of Illinois affords federal law enforcement officers, to include the FBI, "Peace Officer Status," for the purposes of sections concerning unlawful use of weapons, for the purposes of assisting an Illinois peace officer in an arrest, or when the commission of *any offense* (emphasis added) under Illinois law is directly observed by the person. Therefore, under ILCS, the Agents were considered "peace officers" when they approached the subject stealing hubcaps. The theft of hubcaps, not exceeding $500 in value, was a Class A misdemeanor in the state of Illinois.

Being afforded Illinois "Peace Officer Status" means the Agents likely would not have to defend themselves against civil liability as an ordinary citizen; however, the Agents may not be provided legal representation by the DOJ due to the question of scope. As stated in the DIOG Section 19.3.3 referenced above, DOJ has indicated that efforts by Agents to enforce minor infractions of the law, such as shoplifting or traffic violations, are not generally considered to be within the scope of employment. Taking action to thwart the theft of hubcaps could be interpreted as the enforcement of a minor infraction of the law. To not be afforded federal representation in civil actions needlessly exposes Agents to state legal issues and procedures.

(U//~~FOUO~~) **SIRT Recommendation 2:** SAC, Chicago Field Office should ensure all Agents are appropriately trained regarding the engagement in non-federal crimes.

Station. The Chicago Field Office ERT collected 10 shell casings in the vicinity of where SA [redacted] fired his weapon. The LRST accounted for nine of these rounds. Six complete slugs were recovered from the vehicle with one partial fragment. One slug was recovered from [redacted] the passenger of the subject vehicle. One impact point was discovered on the raised cement curb directly opposite the subject vehicle from where SA [redacted] stood and fired. The impact point tested positive for firearms lead, but the actual slug was not found. FBI Chicago Total Station and Spherical Photography were completed at the shooting and crash scenes. Trajectory Analysis was completed on the subject vehicle.

b6 -1,9
b7C -1,9

(U//~~FOUO~~) Recovered evidence items requiring laboratory testing were as follows:

**Firearms/Toolmarks Testing**

| | |
|---|---|
| 1B37 | Bullet jacket fragment - from [redacted] |
| 1B35 | Bullet fragment - from [redacted] |
| 1B30 | Bullet with bullet jacket fragments - from [redacted] |
| 1B27 | Bullet and bullet fragments - from [redacted] |
| 1B20 – 1B23, 1B26 | Bullets (five - from [redacted] |
| 1B18 | Bullet and fibers from fabric collected at Hospital Emergency Room |
| 1B6 – 1B15 | Cartridge cases (10) collected from parking lot between Bank of America and Jewel Osco |
| 1B4 | One Glock magazine with one round of Winchester .40 S&W ammunition and 13 rounds of Speer .40 S&W ammunition 13 rounds were recovered from the magazine, and one round was recovered from the chamber of the firearm. |
| 1B3 | One Glock magazine with two rounds of Speer .40 S&W ammunition and one round of Winchester .40 S&W ammunition (the ammunition was recovered from the magazine). |
| 1B2 | One Glock Model 23 .40 caliber handgun bearing serial number [redacted] |

b6 -1,7
b7C -1,7

(U//~~FOUO~~) Additionally, the Laboratory Division, Firearms-Toolmarks Unit was requested to generate a shooting incident reconstruction report.

## I. Medical Report

**FBI Agents Involved in the Shooting:**

(U//~~FOUO~~) No injuries.

**Subjects:**

1. (U//~~FOUO~~) [redacted] (driver) was shot once in the upper wrist of his left arm. Entry and exit wounds were visible from the same side, opposite the forearm.

b6 -7
b7C -7

OFFICE OF THE STATE'S ATTORNEY
McHenry County

LOUIS A. BIANCHI
State's Attorney

June 5, 2013

Christopher Davis
Inspector
Inspector Division
935 Pennsylvania Ave. NW
Washington, DC 20535

Dear Inspector Davis,

Our office has reviewed the attempted armed robbery incident which occurred at the Associated Bank in Richmond, IL on May 10th, 2013. We believe that Special Agents [redacted] were justified in the use of force which resulted in the death of Tony Starnes. The evidence clearly established that Starnes was engaged in a forcible felony of attempting to rob the bank and when the Special Agents intervened he attempted to strike Agent [redacted] with his vehicle. The Special Agents responded by discharging their weapons. These actions were necessary to defend themselves against lethal force. Accordingly, this office will not file criminal charges against Special Agents [redacted] If you have any questions or comments please contact me.

b6 -1
b7C -1

Very truly yours,

Louis A. Bianchi
State's Attorney

LAB/[redacted]

b6 -4
b7C -4

McHENRY COUNTY GOVERNMENT CENTER • 2200 NORTH SEMINARY AVENUE • WOODSTOCK, ILLINOIS 60098
815•334•4159 (phone) 815•337•0872 (fax)

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Chicago Field Office 05/10/2013 **Date:** 06/12/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** R Justin Tolomeo
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271285-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to captioned shooting following the SIRG meeting on 05/21/2014.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 09/26/2013, prepared by former Inspector Christopher W. Davis. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Details:**

(U) On 05/21/2014, the SIRG convened to review a shooting Incident which occurred on 05/10/2014, involving Chicago Field Office Special Agents [redacted] These agents were participating in a surveillance and arrest operation targeting a robbery crew led by [redacted] b6 -1,7 b7C -1,7

Title: (U) Shooting Incident Chicago Field Office 05/10/2013
Re: 297-HQ-A1271285-D, 06/12/2014

(U) In August of 2010, CG initiated a case against [redacted] and his associates including Anthony "Tony" Starnes and [redacted] The crew was involved in [redacted] investigators identified a "work car" associated with [redacted]'s crew, a stolen silver 2005 Honda. Chicago Squad CE-7 agents [redacted] An Operations Plan was developed [redacted] The Operations Plan was a combination surveillance and arrest plan and indicated SWAT elements would be lead in the actual arrest with CE-7 agents acting as surveillance units and perimeter security. The timing of the arrest was based on overall public safety concerns as the scenario developed.

b6 -7
b7C -7
b7A -1
b7E -1,6

(U) The Operations Plan was briefed on 05/07/2013, however not all Agents scheduled to participate in the arrest were present. The Operations Order was signed by ASAC [redacted] as the On Scene Commander.

b6 -1
b7C -1

(U) At approximately 7:30 am on 05/10/2013, [redacted] At approximately 9:30 am, ASAC [redacted] was contacted by SSA [redacted] to advise the Operational Plan briefed on 05/07/2013, had been activated. Squad CE-7 Agents conducted surveillance of the Honda, driven by subject Tony Starnes, and a [redacted] Sports Utility Vehicle (SUV) driven by [redacted] with passenger [redacted] The surveillance began in Chicago and ended in Richmond, Illinois. Surveillance units included CE-7 agents, SWAT agents, CE-7 SSA [redacted] SWAT Senior Team Leader (STL) [redacted] and the SWAT coordinator, SSA [redacted] During the surveillance, Agents observed both subject vehicles stopped in a parking lot in Wisconsin, approximately one mile North of Associated Bank in Richmond, Illinois (IL) where [redacted] moved in to the Honda carrying a bag.

b6 -1,7
b7C -1,7
b7E -1,4,6

(U) The subjects drove back to Richmond, IL where the SUV entered

and parked at a car wash across the street from the Associated Bank. The Honda circled the bank and neighborhood twice at which time the SUV followed the Honda into the parking lot and stopped in front of the ACE Hardware store. The Honda stopped in front of the bank. SWAT and CE-7 Agents confirmed arrest authority given by SSA [redacted] SWAT STL [redacted] Immediately SWAT SAs [redacted] exited STL [redacted] s vehicle. SAs [redacted] engaged the subjects yelling FBI, police, and giving instructions not to move. The Honda sped backward then lurched forward as to strike [redacted] and [redacted] SA [redacted] attempted to run out of the car's path. When the car lurched forward towards agents [redacted] they both fired at the driver. The vehicle struck SA [redacted] 's SUV and continued to proceed forward through the parking lot. SA [redacted] who had taken a position to the rear of SA [redacted] SUV, feared for the safety of others around him and also fired at the driver. The car accelerated and crashed into a light pole in the parking lot causing it to halt. SAs [redacted] arrested [redacted] was arrested by Agents in the ACE Hardware parking lot without incident. STARNES was pronounced dead at the scene. Starnes was stuck by four rounds, once in the head and once each in the shoulder, arm and abdomen. [redacted] was not stuck by any rounds.

b6 -1,7
b7C -1,7
b7E -1

(U) During a subsequent interview with [redacted] he advised he told Starnes to stop and confirmed they knew the agents were law enforcement. [redacted] advised he did not know why Starnes refused to stop and tried to flee.

b6 -7
b7C -7

**SIRG Observations:**

(U) On 05/21/2014, The SIRG reviewed the agent-involved shooting incident with intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SAs [redacted] and [redacted] was in compliance with the Department of Justice's Deadly Force Policy.

b6 -1
b7C -1

Title: (U) Shooting Incident Chicago Field Office 05/10/2013
Re: 297-HQ-A1271285-D, 06/12/2014

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following observations and recommendations concerning operational oversight of the operation.

(U) **Observation 1:** The command and control structure was poorly defined for the surveillance and arrest operation.

(U) **Analysis 1a:** The SIRT review determined there was inadequate delegation of roles and responsibilities for the operation. The Operations Plan included 11 non-SWAT Agent personnel and 21 SWAT personnel to be involved in the surveillance and arrest. While arrest scenarios were clearly defined in the approved Operations Plan, it was not clearly delineated if this operation was intended as a SWAT operation or an operation supported by tactically-trained Agents. Overall control of operational activity at the scene was unclear.

(U) **Analysis 1b:** SWAT Policy Implementation Guide (PIG), Section 2.2.3 states the following:

**(U) SWAT Coordinator**

(U//~~FOUO~~) [redacted] b7E -5

(U) The SIRT determined ASAC [redacted] had verbally given on-scene command of the operation to SSA [redacted] who was the SWAT Coordinator. However, SSA [redacted] gave the final approval on scene to arrest the subjects. Interviews indicated this resulted in b6 -1 b7C -1

confusion among the CE-7 Agents and SWAT personnel as to the appropriate chain of command.

(U) **Analysis 1c**: DIOG 19.2.3 Arrest Plans requires the [redacted] be used in lieu of the [redacted] when SWAT resources are employed. b7E -5

*...In situations where an FBI SWAT Team(s) or the Critical Incident Response Group's (CIRG), Tactical Section is involved, the [redacted] Template must be used in lieu of the [redacted] See the Special Weapons and Tactics Policy Implementation Guide (PG), 0444PG and Hostage Rescue Team PG, 0501PG for more on the use of the SWAT Teams and CIRG, Tactical Section in high risk operations...* b7E -5

*(U)* Interviews confirmed some Agents believed the entire operation was a Squad CE-7 operation with tactically-trained Agents assisting, while others believed this was a SWAT operation. The [redacted] was written and briefed by CE-7 Agents without SWAT input as to the placement or use of the SWAT operators. b7E -5

(U) **Analysis 1d**: SWAT Policy implementation Guide, Section 3.3 Rehearsals and Brief-Backs states as follows:

(U//~~FOUO~~) [redacted] b7E -5

[redacted]

All interviewed SWAT operators believed this to be a SWAT operation as they were tasked with the arrest scenarios. However, no official SWAT briefing was conducted to include all the SWAT operators involved in the planned arrest. The operational briefing held on 05/07/2013 included some, but not all, of the involved SWAT operators. While the Operations Plan was electronically provided to those absent, the SIRT

determined a fully attended SWAT briefing with all assigned operators should have been conducted prior to this operation.

(U) **Recommendation 1a**: SAC, Chicago, should ensure the proper chain of command is adequately communicated to all participants involved in felony vehicle stops and/or arrest operations.

(U) **Instruction 1b**: SAC, Chicago, should ensure SWAT elements deployed to an arrest operation are under the direct control of the SWAT Coordinator or SWAT STL in compliance with SWAT PIG Section 2.2.3.

(U) **Instruction 1c**: SAC, Chicago, should ensure operations involving SWAT use [redacted] in compliance with DIOG Section 19.2.3 and the SWAT PIG. b7E -5

(U) **Instruction 1d**: SAC, Chicago, should ensure, when feasible, all team members of a proposed SWAT operation are briefed directly by the SWAT STL prior to deployment of the operation in compliance with SWAT PIG Section 3.3.

(U) **Observation 2**: The ASAC designated as the On Scene Commander (OSC) for the operation failed to maintain oversight of the operation or effectively delegate operational responsibility to an appropriate supervisor.

(U) **Analysis 2**: ASAC [redacted] the designated On Scene Commander (OSC) was conducting a community outreach program at the firearms range in Waukegan, IL. He did not immediately deploy to the scene or an area where he could maintain effective control of the operation. Further, ASAC [redacted] did not clearly designate which SSA, CE-7 SSA [redacted] or SWAT coordinator SSA [redacted], was in charge at the scene. Interviews with involved agents confirmed it was unclear to them who had overall control of the operation. While AASAC [redacted] verbally assigned OSC responsibility to SSA [redacted] INSD interviews revealed ASAC [redacted] maintained telephonic contact with multiple agents and supervisors to include SSA [redacted] who ultimately provided the final b6 -1 b7C -1

approval on scene to effect the arrest. ASAC [redacted] did not limit command and control directives to one consistent point of contact. b6 -1 b7C -1

(U) **Recommendation 2**: SAC, Chicago, should ensure the OSC be in a position to maintain appropriate oversight of operations utilizing SWAT resources.

(U) **Observation 3**: SSA [redacted] and surveillance team member SA [redacted] were not wearing FBI issued Body Armor during the arrest operation.

(U) **Analysis 3**: MIOG, Part 2, Section 12-13.1(1) states: "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

(U) The SIRT determined through interviews SSA [redacted] and SA [redacted] were not wearing body armor at the time of the shooting incident. SSA [redacted] stated he was wearing an FBI armband, and no further explanation was provided as to why he was not wearing body armor. SA [redacted] advised he did not have time to put on the body armor as he did not want to draw attention to himself while on surveillance. b6 -1 b7C -1

(U) Every indication was an arrest associated with this operation could involve a violent confrontation. Under such circumstances, it is imperative Executive Management and SSAs in the Chicago Field Office ensure all personnel wear body armor in accordance with the MIOG.

(U) **Instruction 3**: SAC, Chicago, will ensure all Special Agents utilize FBI approved body armor, during all planned arrest operations.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative actions be taken against SAs [redacted] b6 -1 b7C -1

(U) The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), INSD; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; Supervisor Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Defensive Systems Unit, TD; and SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG). In addition to the voting members in attendance, DOJ SIRG member [redacted] was unable to attend but reviewed the Shooting Incident Review Team report and provided his vote in writing prior to the SIRG. The following non-voting members were also in attendance: [redacted] Office of Inspector General (OIG), USDOJ; ASAC [redacted] OIG, USDOJ; SC Jay S. Tabb, Tactical Section, CIRG; [redacted] Violent Criminal Threat Section, CID; [redacted] Firearms and Toolmarks Unit, FBI Laboratory; Inspectors Shawn W. Stroud, R. Justin Tolomeo, Trent R. Teyema, and Paul Delacourt, OI, INSD; Team Leaders [redacted] OI, INSD; [redacted] Special Assistant, OI, INSD; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and UC [redacted] and Management Program Analysts [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

**(U) Procedures for Responding to the Observation**

(U) SAC Chicago is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is

addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement. SAC Chicago is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] [redacted]

b6 -1
b7C -1

♦♦

FD-263 (Rev. 10-18-2012)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ - INSD | FBIHQ | 05/10/2013 | 05/11/2013 – 05/15/2013 |

**TITLE OF CASE**
Shooting Inquiry
Report of Shooting Incident
Chicago Field Office
05/10/2013

REPORT MADE BY
**IIC Christopher W. Davis**

TYPED BY

**CHARACTER OF CASE**
Shooting Incident Review

b6 -1
b7C -1

REFERENCES:

Telephone call on 03/06/2013 to the Chief Inspector, Inspection Division.

APPROVED

ASSISTANT DIRECTOR

**DO NOT WRITE IN SPACES BELOW**

COPIES MADE:
1 - Inspection (Attn: SIRT)
1 – INSD (297-HQ-A1271285-D

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

**Notations**

A
**COVER PAGE**

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Date: 09/26/2013

Report of: IIC CHRISTOPHER W. DAVIS Office: FBIHQ-INSD

Case ID#: 297-HQ-A1271285-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
CHICAGO FIELD OFFICE
05/10/2013

Investigative Period: 05/11/2013-05/15/2013

---

## I. Executive Summary

On 08/11/2010, CE-7 SA [redacted] opened criminal enterprise investigation [redacted] predicated by CHS reporting. SA [redacted] was designated the co-case Agent. The investigation focused on a local crew of subjects conducting armed robberies [redacted] The crew was led by [redacted] SA [redacted] utilized [redacted] to determine the crew utilized a stolen Honda Civic with stolen license plates to conduct the robberies. When not being used for a "job," the Honda was stored at a paid, public parking lot facility. A court order was obtained for [redacted]

b6 -1,7
b7C -1,7
b7A -1
b7E -1,4,6

At approximately 7:30 am on 05/10/2013, [redacted] CE-7 Agents compiled [redacted] and communicated it to squad members and SWAT operators. CE-7 Agents conducted surveillance of the Honda, driven by subject Tony Starnes, which was accompanied/followed by a [redacted] Sports Utility Vehicle (SUV) driven by [redacted] with passenger [redacted] The surveillance began in Chicago and ended in Richmond, Illinois. During the surveillance, Agents observed both subject vehicles stopped in a parking lot in Wisconsin[1] wherein [redacted] grabbed a bag from the trunk of the Honda and switched vehicles to ride in the backseat of the Honda driven by Starnes. The subjects drove back to Richmond where the SUV entered and sat at a car wash across the street from the Associated Bank, 10910 North Main Street, Richmond, Illinois. The Honda circled the bank and neighborhood twice at which time the SUV followed the Honda into the parking lot and stopped in front of the ACE Hardware store, located adjacent to the Associated Bank. The Honda stopped in front of the bank. Upon observing Starnes and [redacted] wearing masks and [redacted] holding a handgun, the SWAT Senior Team Leader (STL) obtained verbal authority from SSA [redacted] to initiate the first

b6 -1,7
b7C -1,7
b7E -1,4,6

[1] The city of Richmond, Illinois is less than one mile from the border between Illinois and Wisconsin. This parking lot is located one mile from the Associated Bank, 10910 North Main Street, Richmond, Illinois.

arrest scenario as described in the Operations Plan. STL [redacted] Immediately thereafter, SAs [redacted] exited SA [redacted]'s vehicle to engage the subjects. The Honda then sped backward and lurched forward as if to strike SA [redacted] and collided with SA [redacted] SA [redacted] ran out of the vehicle's path. SAs [redacted] fired at the driver. As the vehicle continued to accelerate forward, SA [redacted] fired at the driver. The vehicle then crashed into a light pole in the parking lot and was disabled. Agents arrested [redacted] and Starnes was pronounced dead at the scene. [redacted] was arrested by Agents in the ACE Hardware parking lot without incident.

b6 -1,7
b7C -1,7
b7E -1,6

The scene was processed by Chicago ERT. Twenty .223 caliber shell casings were recovered, consistent with ammunition used in SAs [redacted] weapons. Three hand guns were found in the vehicle driven by Starnes and occupied by [redacted]

b6 -1,7
b7C -1,7

## II. Incident Details

### A. Substantive Case Files and Background Information

The following substantive matter was under investigation at the time of the shooting incident on 05/10/2013:

| | |
|---|---|
| CASE ID: | [redacted] |
| CASE TITLE: | ITSP-HOBBS ACT |
| Date Opened: | 08/11/2010 |

b6 -7
b7C -7
b7A -1

After the shooting incident, the following substantive case was opened:

| | |
|---|---|
| CASE ID: | [redacted] |
| CASE TITLE: | UNSUB(S);<br>ASSAULT ON A FEDERAL OFFICER |
| Date Opened: | 05/10/2013 |

b7A -1

### B. Listing of Personnel Involved in the Incident

FBI

ASAC [redacted] (On-Scene Commander - OSC)
SSA [redacted]
SA [redacted] (fired weapon)
SA [redacted] (fired weapon)
SA [redacted] (fired weapon)
SA [redacted] (STL)
SA [redacted]
SA [redacted]

b6 -1
b7C -1

SA
SA
SSA (SWAT Coordinator)
SA
SA
SA
SA
SA
SA
SA
SA
SA
SA
SA

b6 -1
b7C -1

**C. Briefings**

On 05/06/2013, an Operations Plan utilizing CE-7 Agents and SWAT Agents was approved by ASAC , the designated OSC, with SSA as the reviewing official. The plan was briefed to available CE-7 and SWAT personnel on 05/07/2013. The Deadly Force Policy was read during this briefing. The Operations Plan was a combined surveillance and arrest plan. The investigation being conducted by CG indicated and his crew used a Honda stored at a paid, public parking parking lot facility to commit armed robberies. The surveillance portion of the Operations Plan authorized initiation when CE-7 and SWAT personnel would then follow the Honda to determine if it was being used to conduct an armed robbery.

b6 -1,7
b7C -1,7
b7E -1,4,6

The arrest portion of the Operations Plan detailed two arrest scenarios.

b7E -1

**D. Initial Entry/First Contact**

On 08/11/2010, CE-7 SA opened criminal enterprise investigation predicated by CHS reporting; SA was the co-case Agent. The investigation focused on a local crew of subjects conducting armed robberies at The crew was led by Initial intelligence on and his co-conspirators was obtained from a confidential human source (CHS) during the course of the investigation. In the fall of 2012, SAs and utilized and surveillance to determine the crew utilized a stolen Honda Civic with stolen license plates to conduct the robberies. When not

b6 -1,7
b7C -1,7
b7A -1
b7D -1
b7E -1,4,6

being used for a "job," the Honda was stored at a paid, public parking lot facility. A court order was obtained for [redacted] b7E -1,6

On 05/10/2013 at approximately 7:30 am, [redacted] b6 -1 b7C -1 b7E -1,4,6 SA [redacted] advised SSA [redacted] the Honda was moving and requested approval to activate SWAT and CE-7 personnel as outlined in the approved Operations Plan. SSA [redacted] approved this request and SA [redacted] contacted STL [redacted] to advise him SWAT deployment was approved.

At approximately 9:30am, ASAC [redacted] was contacted by SSA [redacted] to advise the Operational Plan briefed on 05/07/2013 had been activated. ASAC [redacted] notified the SAC via the CG Operations Center at 10:00am that the vehicle was moving and a car stop would be conducted when it was safe to do so. At the time, ASAC [redacted] – who was the designated OSC in the Operations Plan - was at the Chicago firearms range conducting an outreach program. ASAC [redacted] advised he remained at the range and monitored the surveillance via radio and received updates by cellular telephone. He did not immediately join the surveillance as the length of the surveillance and final destination were unknown at that time. He envisioned joining the operation when a determination was made on an arrest location. b6 -1 b7C -1

As the surveillance determined the target location appeared to be the Richmond, Illinois area, ASAC [redacted] left the range at approximately 11:10am and headed towards Richmond to join the operation. While enroute, ASAC [redacted] informed SSA [redacted] the SWAT Coordinator, that if the SWAT elements were in a position to make the arrests and if enough probable cause existed, they were authorized to effectuate the arrests. Based upon SWAT staff on-scene, ASAC [redacted] believed and advised SSA [redacted] he thought there were enough SWAT personnel available to execute the arrest if needed. b6 -1 b7C -1

During the surveillance, it was determined the Honda, driven by Starnes, was being accompanied/followed by a [redacted] SUV, driven by [redacted] with [redacted] as a passenger. The surveillance followed the two vehicles to the Illinois/Wisconsin border and the town of Richmond, Illinois. Both vehicles turned onto North Main Street in Richmond and traveled over the border to a parking lot in Wisconsin. At approximately 11:20am, the surveillance team observed the three men talking outside the vehicles and witnessed [redacted] obtain a bag from the trunk of the Honda and get into the back seat of the Honda with Starnes driving. b6 -7 b7C -7

Both vehicles returned to Richmond, Illinois and the SUV parked in the car wash business across the street from the Associated Bank, 10910 North Main Street, Richmond, Illinois. The surveillance team observed the Honda drive past the bank several times before driving into the bank parking lot and stopping. The SUV also moved from the parking lot of the car wash to the parking lot of the ACE hardware store adjacent to the bank.

According to the Operations Plan, [redacted] The SWAT personnel were divided into 4 vehicles. SAs [redacted] were in a [redacted] (hereinafter referred to as V1). SAs [redacted] b6 -1 b7C -1 b7E -1,6

[redacted] were in a [redacted] (hereinafter referred to as V2). SAs [redacted] were in a [redacted] (hereinafter referred to as V3). SAs [redacted] and [redacted] were in a [redacted] (hereinafter referred to as V4). All CE-7 personnel were designated [redacted]

b6 -1
b7C -1
b7E -1,6

**E. Shooting Incident**

At approximately 11:30am, Agents witnessed Starnes and [redacted] wearing masks in the Honda and [redacted] was observed holding a handgun. SA [redacted] the STL, obtained verbal approval from SSA [redacted] to initiate arrest scenario one, as outlined in the Operations Plan, as it appeared Starnes and [redacted] were preparing to rob the bank. STL [redacted] gave the command for the SWAT teams to effect the arrests as he drove into the bank parking lot himself. STL [redacted] Once V1 hit the Honda, all the Agents exited V1 to engage the subjects.

b6 -1,7
b7C -1,7
b7E -1

[redacted]

b7E -1

[redacted] Starnes immediately reversed his vehicle, stopped, and then accelerated forward towards V1; SA [redacted] and SA [redacted] had positioned themselves initially in front of the Honda. STL [redacted] witnessing the Honda coming forward towards him jumped back into V1.

b6 -1,7
b7C -1,7

At about this same time, [redacted] who was also in front of the Honda, had to jump out of the way to avoid being hit as the Honda sped past him, firing what he believed was two to three rounds as the car passed.

Upon exiting V1, SA [redacted] took a position three feet from driver's window of the Honda, identified himself, and ordered the driver (Starnes) to stop. SA [redacted] heard what he thought was the Honda hit a vehicle as it was backing up and then saw it start to accelerate forward. SA [redacted] believing SAs [redacted] were positioned in front of the Honda, perceived a threat to them. SA [redacted] moved his weapon closer to the driver's window, aimed it downward, and fired three rounds into the driver's window. Due to the shattering of the glass and the smoke from the barrel of his weapon, SA [redacted] vision was temporarily obscured and he did not see what his rounds impacted.

b6 -1
b7C -1

SA [redacted] had initially taken a position to the left of SA [redacted] however as the Honda began to accelerate forward he moved to a position at the back passenger corner of V1. SA [redacted] saw the Honda accelerate past V1 and fearing the driver would injure additional people fired what he believed were eight rounds at the driver of the Honda.

b6 -1,7
b7C -1,7

As the SAs in V1 were engaging Starnes and [redacted] in the Honda, SA [redacted] who was originally positioned across the street from the parking lot, witnessed V2 stop to effect the arrest of [redacted] in the SUV. SA [redacted] did not realize V4 was approaching to provide support to the SAs in V1. SA [redacted] drove into the bank parking lot to assist the Agents engaging Starnes and [redacted] As she did so, a round entered her vehicle

through the front windshield on the passenger side and embedded into the back seat. As soon as the round entered her vehicle, SA [redacted] exited the vehicle and sought cover. b6 -1 b7C -1

As the Honda accelerated past V1, it drove over a curb in the parking lot, continued to accelerate forward before jumping another curb, hitting a light post, and ultimately coming to a stop on an embankment.

SAs [redacted] followed the Honda on foot, while V4 followed the Honda through the parking lot. As Agents approached the driver's side of the vehicle they saw brain matter on the ground and significant blood splatter on the inside of the Honda. It appeared Starnes was deceased. SAs [redacted] ordered [redacted] out of the back seat of the Honda and arrested him without further incident. Three handguns were found in the Honda. b6 -1,7 b7C -1,7

At the same time the shooting incident occurred, Agents in V2 and V3 arrested [redacted] without incident.

**F. Post Shooting**

After the shooting, Chicago Field Office ASAC [redacted] responded to the location and coordinated the subsequent investigation. ASAC [redacted] arrived on scene at about 12:40 pm. Chicago Field Office ERT and the Laboratory Shooting Reconstruction Team processed the scene. ASAC [redacted] arrived on scene at approximately 12:30 pm. SAC Corey Nelson arrived on scene at approximately 1:10 pm. b6 -1 b7C -1

**G. Accounting of Shots Fired**

Twenty shell casings were seized by ERT. All ballistic testing was conducted by the Firearms/Toolmark Unit. An analysis of these casings is contained in the attached laboratory report dated 01/28/2014.

**H. Subject Information**

The SIRT was provided with the results of National Crime Information Center warrant and arrest record check for Starnes, [redacted] which indicated the following: b6 -7 b7C -7

1) Anthony Starnes – Twenty-two arrests and eight convictions to include weapons, drug and assault offenses.

2) [redacted] – Eight arrests and five convictions to include assault and robbery offenses.

3) [redacted] – Twenty-three arrests and one conviction to include weapons, drugs and assault offenses.

**I. Use of Body Armor and Law Enforcement Identifiers**

The SIRT determined all Agents involved in the shooting incident were wearing ballistic body armor, with markings identifying them as FBI agents. SSA [redacted] and SA [redacted] who were part of the perimeter team and not engaged directly in the shooting incident, were not wearing ballistic body armor. b6 -1 b7C -1

Agent Signed Sworn Statements (SSS) and witness interviews indicated Agents identified themselves as FBI prior to engaging the subjects in the shooting.

**J. Forensic Summary**

See attached laboratory report dated 12/18/2013.

**K. Medical Summary**

On 07/11/2013, SSRA [redacted] received the completed Autopsy Report for Anthony Starnes from the McHenry County Coroner's Office. The report identified the following gunshot wounds sustained by Starnes: b6 -1 b7C -1

1) Through and through gunshot wound to the head with no evidence of close range fire. The wound coursed from left to right along a straight path. A deformed copper jacket fragment was recovered from a black hood worn by Starnes. The wound caused lacerations of the brain and bruising of the eyes. This wound also caused multiple skull fractures.

2) A gunshot wound to the left shoulder with no evidence of close range fire. The wound coursed from left to right, slightly front to back and downward. The wound course involved skin, muscle, soft tissue, the left humerus, left lung, heart and right hemi-colon. A deformed small caliber lead bullet was recovered. This wound also caused a left hemothorax, hemopericardium and fecal peritoneum.

3) A gunshot wound to the left abdomen with no evidence of close range fire. The wound coursed from left to right, tunneling through soft tissue.

The toxicology report indicated Starnes tested positive for marijuana.

**III. Shooting Incident Review Team Details**

**A. The Shooting Incident Review Team (SIRT) was composed of the following personnel:**

Inspector-in-Charge (IIC) Christopher W. Davis
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]

AIIP
AIIP
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

## IV. Shooting Incident Review Protocol

On 05/10/2013, IIC Davis communicated with Chicago SAC Cory Nelson to arrange logistics for the SIRT. ASAC served as the point of contact for the SIRT.

Due to varying travel plans, SIRT members traveled to Chicago on 05/10/2013 and 05/11/2013. On the morning of 05/11/2013, SIRT members were met at their hotel by A/ASAC who provided four vehicles from the Chicago motor pool for use by the SIRT. A/ASAC drove the SIRT to the Chicago Field Office/North RA, 1600 Golf Road, Rolling Meadows, Illinois where the SIRT was provided work space.

b6 -1
b7C -1

IIC Davis provided a preliminary briefing to the SIRT members present (AIIPs and had not yet arrived in Chicago.) AI/TLs also addressed the SIRT and provided team and partner assignments.

ASAC arrived at the North RA and provided IIC Davis and AI/TLs with the names of the Chicago personnel involved in the shooting incident. ASAC also discussed the SIRT checklist and provided a status update on the items on the list. ASAC then drove the SIRT to the shooting scene where they were met by ASAC and viewed the scene while it was being processed by Chicago ERT and personnel from the Laboratory Evidence Response Team (LERT). ASAC also provided a detailed briefing of the shooting incident.

b6 -1
b7C -1

During the SIRT investigation, eight SSSs were taken from FBI Agents: three from the agents directly involved in the shooting: SAs (all represented by Esq). The remaining five SSSs were obtained from SAs Other interviews, events, and observations were documented via FD-302s. All interviewed FBI personnel were allowed to read the FD-302 summarizing their interview to confirm the accuracy of the information provided. The SSSs and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all those interviewed.

b6 -1,2,4
b7C -1,2,4

On 05/14/2013, IIC Davis and AI/TL met with the Assistant State's Attorney and Criminal Division Chief of the McHenry County State's Attorney Office, Woodstock, IL who advised they would review the information collected from the SIRT and provide a written declination of prosecution if the facts were consistent with the information verbally provided.

On 05/15/2013, an exit brief was provided by IIC Davis to SAC Nelson, ASAC [redacted] ASAC [redacted] ASAC [redacted] and CDC [redacted] b6 -1 b7C -1

## V. Administrative

### A. Firearms Training

FBI Chicago provided qualification records dated 11/15/2012 for SAs [redacted] A review of the records showed the Agents had successfully qualified on the weapons used in the shooting incident. b6 -1 b7C -1

### B. Deadly Force Training

CDC [redacted] provided training on the FBI Deadly Force Policy annually at the mandatory All Employee's Conference. Attendance at the All Employee's Conference was documented and maintained via sign-in sheets. CDC [redacted] provided the sign-in sheets for the training events for 2012 and 2011. The 2011 sign-in sheets reflected the attendance of SA [redacted] and SA [redacted] The 2012 sign-in sheet reflected the attendance of SA [redacted] There is no record of SA [redacted] attending either training event. CDC [redacted] stated the Chicago Field Office did not have an official 'make-up' session for the annual training however, the training materials were provided to Field Office personnel via the Intranet. In addition, the Deadly Force Policy was regularly read to personnel at operational briefings. b6 -1 b7C -1

### C. DOJ Civil Rights Division Prosecutorial Decision

On 09/12/2013, IIC Davis was contacted by [redacted] Special Legal Counsel, DOJ who advised his office had declined a criminal civil rights investigation against the Agents involved in this shooting incident. b6 -3 b7C -3

### D. Local Prosecutorial Decision

On 06/05/2013, IIC Davis was contacted by Louis A. Bianchi, State's Attorney for McHenry County, Illinois who advised his office had declined a criminal investigation against the Agents involved in this shooting incident.

## VI. Inspector's Observations:

**Observation 1**: The command and control structure was poorly defined for the surveillance and arrest operation.

**Analysis 1**: The SIRT determined the approved Operations Plan in this instance had an arrest component consisting of SWAT personnel performing a Felony Vehicle Stop. The plan was approved by ASAC [redacted] however, the SIRT was not provided with documentation indicating SAC Nelson had delegated this authority to ASAC [redacted] b6 -1 b7C -1

[redacted] b5 -1,2

The SIRT determined the command decisions made prior to the shooting incident were not clearly delineated or communicated to personnel participating in the operation. The Operations Plan included 11 non-SWAT Agent personnel and 21 SWAT personnel to be involved in the planned surveillance and arrest. While arrest scenarios are clearly defined in the approved Operations Plan, it is not clearly delineated if this operation was written intended as a SWAT operation or an operation supported by tactically-trained Agents.

Interviews confirmed some Agents believed the entire operation was a Squad CE-7 operation with tactically-trained Agents assisting, while others believed this was a SWAT operation. The operation was written and briefed by CE-7 Agents without SWAT input as to the placement or use of the SWAT operators.

Conversely, all interviewed SWAT operators believed this to be a SWAT operation as they were tasked with the arrest scenarios. However, no official SWAT briefing was conducted to include all the SWAT operators involved in the planned arrest. The operational briefing held on 05/07/2013 included some, but not all, of the involved SWAT operators. While the Operations Plan was electronically provided to those absent, the SIRT determined a fully attended SWAT briefing with all assigned operators should have been conducted prior to this operation. [redacted] b5 -1,2

The SIRT determined ASAC [redacted] had verbally given on-scene command of the operation to SSA [redacted] who was the SWAT Coordinator. However, SSA [redacted] gave the final approvals on scene to deploy the arrest portion of the operation. Interviews indicated this resulted in confusion among the CE-7 Agents and SWAT personnel as to the appropriate chain of command. b6 -1 b7C -1

[redacted]

b6 -1
b7C -1
b5 -1,2

**Recommendation 1a**: SAC, Chicago, should ensure the proper chain of command is adequately communicated to all participants involved in felony vehicle stops and/or arrest operations.

**Recommendation 1b**: [redacted]

b5 -1,2

**Recommendation 1c**: SAC, Chicago, should ensure all team members of a proposed SWAT operation are briefed directly by the SWAT STL prior to deployment of the operation.

**Recommendation 1d**: SAC, Chicago, should ensure SWAT elements deployed to an arrest operation are under the direct control of the SWAT Coordinator or SWAT STL.

**Observation 2**: [redacted]

b5 -1,2

**Analysis 2**: [redacted]

[redacted]

b7E -5
b5 -1,2

[redacted]

b6 -1
b7C -1
b5 -1,2

[redacted]

b5 -1,2

**Recommendation 2**: [redacted]

**Observation 3**: SSA [redacted] and SA [redacted] were not wearing FBI issued Ballistic Protective Undergarment (BPU) during the arrest operation.

b6 -1
b7C -1

**Analysis 3**: MIOG, Part 2, Section 12-13.1(1) states: "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

The SIRT determined through interviews SSA [redacted] and SA [redacted] were not wearing body armor at the time of the shooting incident. SSA [redacted] stated he was wearing an FBI armband, and no further explanation was provided as to why he was not wearing body armor. SA [redacted] advised he did not have time to put on the body armor as he did not want to draw attention to himself while on surveillance.

b6 -1
b7C -1

Every indication was an arrest associated with this operation could involve a violent altercation. Under such circumstances, it is imperative Executive Management and SSAs in the Chicago Field Office ensure all personnel wear BPU's in accordance with the MIOG.

**Instruction 3**: SAC, Chicago, will ensure all Special Agents utilize FBI approved BPUs, during all planned arrest operations.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident New Orleans Field Office **Date:** 06/11/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** MARSHALL HOWARD S
David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297I-HQ-A2974031 (U) Non-Delegated Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 03/25/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report prepared by former Inspector Gregory T. Bretzing. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Details:**

(U//~~FOUO~~) On 03/25/2014, the SIRG convened to review a shooting incident which occurred on 07/30/2013. The incident involved New Orleans SA [redacted] who was participating in a surveillance along with other members of Squad 11 as well as New Orleans Police Department (NOPD) task force officers. b6 -1 b7C -1

Title: (U//~~FOUO~~) Shooting Incident New Orleans Field Office
Re: 297I-HQ-A2974031, 06/11/2014

(U//~~FOUO~~) The subject of the surveillance was Allen Desdunes, a predicated subject of a gang investigation [redacted] who was detained on 05/01/2013, for distribution of heroin. [redacted] b7A -1 b7D -1

[redacted] Eventually, the New Orleans Field Office sought a federal arrest warrant for Desdunes and scheduled an appointment with a Magistrate on the afternoon of 7/30/2013. The purpose of the surveillance on 07/30/2013 was [redacted] in order to assist in the development of an arrest plan. b7E -1,4,6

(U//~~FOUO~~) Utilizing a court ordered [redacted] Desdunes was quickly located in the parking lot of a Studio 6 Extended Stay Hotel in New Orleans, Louisiana. He was observed conducting hand-to-hand drug transactions with the occupants of other vehicles. Two Agents and a TFO from the surveillance team [redacted] b6 -7 b7C -7 b7D -1 b7E -1,6

(U//~~FOUO~~) After confirmation of the drug transaction, two Squad 11 Agents [redacted], and NOPD TFO [redacted] decided to approach Desdunes in the Motel 6 parking lot. SA [redacted] and SA [redacted] were in one vehicle and TFO [redacted] was in another. As the Agents approached Desdunes in their vehicle, they "chirped" their siren to identify themselves as law enforcement officers. Desdunes attempted to escape by ramming the Agent's and TFO's vehicles. During this encounter, Desdunes' vehicle was pinned against a curb by the Agent's vehicle. The Agents and TFO exited their vehicles, with TFO [redacted] taking a position of cover to the rear passenger side of Desdunes' vehicle. SA [redacted] approached the driver's window with his M4 carbine. SA [redacted] noted the driver's side window airbag deployed, obstructing his view of Desdunes. Desdunes put his vehicle in reverse, rammed the b6 -1,4 b7C -1,4

Agents' car, and continued to try to escape. Desdunes did not respond to commands to turn off his vehicle and exit.

(U) SA [redacted] used his M4 carbine to break the driver's side window in an attempt to subdue Desdunes. Desdunes reached behind the passenger's seat and made a turning motion towards SA [redacted] with a bag of drugs in his hand. As the Agents and TFO continued to yell commands at Desdunes and [redacted] Desdunes made a second motion towards the back seat and turned quickly towards [redacted] who was holding the deployed air bag with his left hand while aiming his carbine at Desdunes. Based on Desdunes' actions, and his failure to respond to commands, SA [redacted] fearing for his safety and the safety of others, fired one shot at Desdunes, fatally wounding him. TFO [redacted] observed the same sudden, aggressive movements by Desdunes. TFO [redacted] stated he would have fired his weapon, however he was in a potential cross-fire situation. He also noted Desdunes' car continued to slam against the FBI vehicle, thereby obscuring his shot. TFO [redacted] advised the vehicle presented a danger to himself and others.

b6 -1,4,7
b7C -1,4,7

**SIRG Observations**

(U//~~FOUO~~) On 03/25/2014, the SIRG reviewed the agent-involved shooting incident with the intent to:

(U//~~FOUO~~) 1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 07/30/2014 was in compliance with the Department of Justice's Deadly Force Police.

b6 -1
b7C -1

(U//~~FOUO~~) 2.**Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following observations regarding safety issues.

(U//~~FOUO~~) **Observation 1:** The TFO involved in the shooting incident was not wearing body armor.

Title: (U//~~FOUO~~) Shooting Incident New Orleans Field Office
Re: 297I-HQ-A2974031, 06/11/2014

(U//~~FOUO~~) **Analysis 1:** MIOG, Part 2, Section 12-13.1(1) stated:

[redacted] b7E -5

(U//~~FOUO~~) TFO [redacted] advised during his interview he was not wearing body armor at the time of the shooting incident. b6 -4 b7C -4

(U//~~FOUO~~) **Instruction 1:** SAC New Orleans will ensure, when feasible, all personnel assigned to FBI-led Task Forces utilize body armor during all planned or potential arrest operations.

(U//~~FOUO~~) **Observation 2:** Agents failed to observe proper arrest, search, and detention techniques.

(U//~~FOUO~~) **Analysis 2a:** Proper Arrest Plans and Techniques were detailed in SAC Memorandum 27-2001, dated 12/28/2001, which was codified in MIOG, Part 2, Section 11. Portions of the MIOG, Part 2, Section 11 were later incorporated into DIOG, Section 19. Relevant sections are cited as follows:

MIOG, PART 2, SECTION 11. TECHNIQUES AND MECHANICS OF ARREST

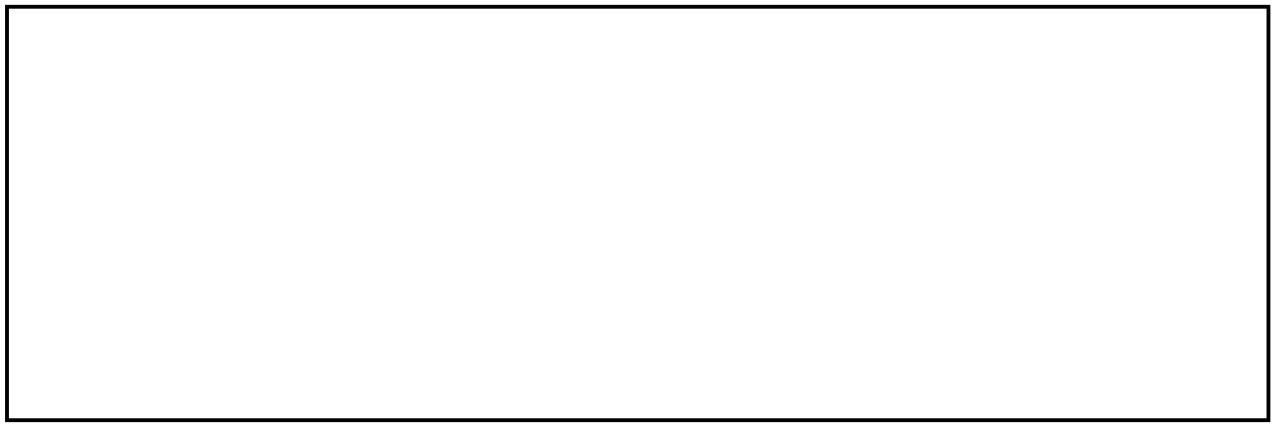
11-1 ARREST TECHNIQUES

11-1.1 General

(2) The arrest team should consist of enough Agents/officers, whenever possible, to cope properly with those or other situations which may arise. [redacted] b7E -5

11-1.3 Search of the Person

11-1.3.1 High-Risk Search/Full-Body Search/Handcuffing



b7E -5

(2).… it is required that all arrested persons be handcuffed with hands behind the back, back to back, and double locked. If circumstances necessitate handcuffing with the hands to the front, then the hands must be back to back, and the cuffs must be belted down and double locked…

11-1.3.2 Final Search and Collection of Evidence

(1) A high-risk search, even though believed to be thorough, cannot be relied upon to be adequate. A more thorough full-body search of an arrested person should be conducted as soon as possible before transport. Under existing Bureau instructions, the final search will usually be conducted in a place of local detention…

11-1.4 Transportation of Arrested Persons

(2) It will usually be necessary for Agents to transport persons arrested from the place of arrest to the place of local detention… With one subject and two or more Agents/officers, one Agent/officer should ride in the rear seat with the subject. This Agent/officer should be seated directly behind the driver. When more than one subject is transported in an automobile, it is desirable to place the subjects in the rear seat of the car with one subject on the passenger side and the other in the middle. An Agent/officer should be

positioned behind the driver and maintain strict control over the subjects. Every precaution should be taken during the planning of the arrest to ensure that adequate personnel with corresponding emergency vehicles are available to avoid a ratio of more than one subject per vehicle… Subjects should not be transported by only one Agent unless exigent circumstances or Agent safety dictate. The Bureau vehicle should be searched both before and subsequent to the transportation of any subject.

**DIOG 19.5.3 (U) RESTRAINING DEVICES**

(U//~~FOUO~~) Temporary restraining devices, such as handcuffs, shackles and/or belts may be used to secure an arrestee. Use of such devices is lawful and proper, and Agents are expected to employ reasonable judgment under the circumstances in the use of these devices and to resolve any doubt in favor of their use.

**DIOG 19.7 (U) SEARCH INCIDENT TO ARREST**

(U//~~FOUO~~) The authority to search incident to an arrest is an exception to the warrant requirement. Under this exception, an Agent may conduct a full and complete search of the person of the arrestee and the area within the arrestee's "immediate control." Immediate control means "the area from within which he might gain possession of a weapon or destructible evidence." Once an arrestee has been secured and can no longer reach into the area to be searched, there is no longer justification for a warrantless search. The purpose for the exception is to protect the arresting Agent, prevent escape, and preserve any evidence in possession of the arrestee. The right to search flows from the fact of arrest, not the nature of the crime for which the arrest has been made.

(U//~~FOUO~~) INSD determined SA [redacted] SA [redacted] and TFO [redacted]

**b6 -1,4,7**
**b7C -1,4,7**
**b7E -1**

Title: (U//~~FOUO~~) Shooting Incident New Orleans Field Office
Re: 297I-HQ-A2974031, 06/11/2014

[redacted] Shortly afterwards, TFO [redacted] departed the scene, leaving SAs [redacted] with the detained individuals. b6 -1,4,7 b7C -1,4,7 b7E -1

(U//~~FOUO~~) After learning of the shooting incident, SA [redacted] left SA [redacted] alone with [redacted] and returned to the Motel 6 parking lot. SA [redacted] ultimately transported [redacted] approximately 1.1 miles [redacted] to a parking lot adjacent to the Studio 6 parking lot. SA [redacted] did not conduct a search of [redacted] prior to transporting them and he was unaware if anyone had conducted a search after they were detained. In addition, SA [redacted] transported [redacted] to the New Orleans Police Department's Seventh District with the assistance of SA [redacted] b6 -1,7 b7C -1,7

(U//~~FOUO~~) **Analysis 2b:** INSD determined after the shooting incident, subject [redacted] was handcuffed after being taken out of Desdune's vehicle and left in a seated position at the rear of the vehicle. [redacted] was subsequently left unattended and no high risk search was conducted by the arresting agents. b6 -7 b7C -7

(U//~~FOUO~~) **Recommendation 2a:** SAC, New Orleans should ensure, when feasible, Agents are not left alone with multiple subjects.

(U//~~FOUO~~) **Recommendation 2b:** SAC, New Orleans should ensure, when feasible, arrested subjects are transported in a Law Enforcement vehicle properly searched before and after transport.

(U//~~FOUO~~) **Recommendation 2c:** SAC, New Orleans should ensure, when feasible, arrested subjects are transported with more than one Agent.

(U//~~FOUO~~) **Recommendation 2d:** SAC, New Orleans should ensure high risk searches are conducted on subjects post-arrest.

(U//~~FOUO~~) **Recommendation 2e:** SAC, New Orleans, should ensure all restrained subjects are properly controlled.

Title: (U//~~FOUO~~) Shooting Incident New Orleans Field Office
Re: 297I-HQ-A2974031, 06/11/2014

(U//~~FOUO~~) 4. **Provide recommendations for Administrative action if deemed appropriate.** The SIRG made the following observation regarding Administrative issues.

(U//~~FOUO~~) **Observation 3:** Executive Management was not notified of a high risk operation.

(U//~~FOUO~~) **Analysis 3:** DIOG Section 19.3.1 stated, " Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest. Agents are authorized to make warrantless arrests for any federal crime (felony or misdemeanor) committed in their presence. Agents also have authority to make warrantless felony arrests for a crime not committed in the presence of the Agent if there is probable cause to believe the person to be arrested committed a federal felony. A warrantless arrest must only be made when sound judgment indicates obtaining a warrant would unduly burden the investigation or substantially increase the potential for danger or escape."

(U//~~FOUO~~) The goal of the surveillance operation was [redacted] **b7E -1,4,6** in anticipation of executing an arrest warrant scheduled to be obtained in the afternoon. The objective of the surveillance changed when Desdunes was observed engaging in criminal activity. SA [redacted] and SA [redacted] advised in their signed sworn statements they decided to approach Desdunes [redacted] **b6 -1,7** **b7C -1,7** They intended to elicit Desdunes' cooperation, and if he refused, to conduct a probable cause arrest. They failed to notify their SSA, ASAC or the USAO when the purpose of the operation changed.

(U//~~FOUO~~) Upon reviewing the totality of the circumstances leading to the shooting incident, INSD determined the Agents had sufficient time to notify their management of the change of objective. In addition, Agents could have requested additional resources to assist in the arrest operation, including marked law enforcement vehicles, and to obtain USAO concurrence with a probable cause arrest. It should be

re-stated, New Orleans agents had court approved [redacted] This ensured Agents had the ability to locate Desdunes if he left the location prior to the arrival of additional resources. b7D -1 b7E -1,6

(U//~~FOUO~~) **Instruction 3:** SAC, New Orleans should ensure, whenever possible, executive management notification and authority is obtained prior to potential high risk operations.

(U//~~FOUO~~) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ (telephonic); Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Sean M. Cox, [redacted] Counterintelligence Division; Supervisor Special Agent (SA [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Washington, Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; [redacted] Deputy General Counsel, Office of the General Counsel; SC Jay S. Tabb, Tactical Section, CIRG; SSA [redacted] and Public Affairs Specialist [redacted] Office of Public Affairs, National Press Office; Inspectors Howard S. Marshall, Shawn W. Stroud, R. Justin Tolomeo, Trent R. Teyema and OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management and Program Analysts [redacted] Inspection Analysis Unit, INSD; UC [redacted] b6 -1,3 b7C -1,3 b7E -7 b6 -1,3 b7C -1,3

Title: (U//~~FOUO~~) Shooting Incident New Orleans Field Office
Re: 297I-HQ-A2974031, 06/11/2014

[redacted] and Management Program Analysts [redacted] b6 -1 b7C -1
[redacted] Inspection Management Unit, INSD.

**Procedures for Responding to the Observation**

(U//~~FOUO~~) SAC New Orleans is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until each Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement. SAC New Orleans is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MAPA [redacted] b6 -1 b7C -1

♦♦

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Date: 07/30/2013

Report of: IIC Gregory T. Bretzing Office: FBIHQ-INSD

Case ID#: 297I-HQ-A2974031

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
NEW ORLEANS FIELD OFFICE
07/30/2013

Investigative Period: 07/31/2013 – 08/02/2013

---

## I. Executive Summary

On 07/30/2013, members of New Orleans Field Office (NOFO) Squad 11 were conducting surveillance in support of a pending gang investigation. The subject of the surveillance was Allen Desdunes, a predicated subject of the gang investigation who was detained on 05/01/2013 for distribution of heroin. [redacted] The NOFO began working with the USAO to obtain a federal arrest warrant for Desdunes and had an appointment with the Magistrate on the afternoon of 7/30/2013 to file a complaint and obtain a warrant. The purpose of the surveillance on 07/30/2013 was [redacted] in order to assist in the development of an arrest plan.

b7D -1
b7E -1,4,6

During the surveillance, Desdunes was located in the parking lot of a Studio 6/Motel 6 located at 12300 South I-10 Service Road, New Orleans, Louisiana where he was observed conducting hand-to-hand drug transactions with the occupants of other vehicles. Two Agents and a TFO from the surveillance team [redacted]

b6 -7
b7C -7
b7E -1

After confirmation of the drug transaction, two Squad 11 Agents [redacted] and [redacted], and NOPD TFO [redacted] decided to approach Desdunes and [redacted] in the Motel 6 parking lot. SA [redacted] and SA [redacted] were in one vehicle and TFO [redacted] was in another. As the Agents approached Desdunes' vehicle, they "chirped" their siren to identify themselves as law enforcement officers. Desdunes attempted to escape by ramming the Agent's and TFO's vehicles. During this encounter, Desdunes' vehicle was pinned against a curb by the Agent's vehicle. The Agents and TFO exited their vehicles, with TFO [redacted] taking a cover

b6 -1,4,7
b7C -1,4,7

position to the rear passenger side of Desdunes' vehicle as SA [redacted] approached the driver's window with his M4 carbine. SA [redacted] noted the driver's side window airbag had deployed, obstructing his view of Desdunes. Desdunes put his vehicle in reverse, rammed the Agents' car, and continued to try to escape. Desdunes did not respond to commands to turn off his vehicle and exit. SA [redacted] used his M4 carbine to break the driver's side window in an attempt to subdue Desdunes. At this point, Desdunes reached behind his seat and made a turning motion towards SA [redacted] with a bag of drugs in his hand. As the Agents and TFO continued to yell commands at Desdunes and [redacted] Desdunes made a second motion towards the back seat and turned quickly towards [redacted] who was holding up the deployed side of an air bag with his left hand while aiming his carbine at Desdunes. Based on Desdunes' actions and his failure to respond to commands, SA [redacted] fearing for his safety and the safety of others, fired one shot at Desdunes, fatally wounding him. TFO [redacted] observed the same sudden, aggressive movements by Desdunes, but did not fire his weapon due to a potential cross-fire situation. He also noted Desdunes' car continued to slam against the FBI vehicle, thereby obscuring his view. [redacted] was subsequently removed from the vehicle and arrested.

b6 -1,4,7
b7C -1,4,7

FBI Agents canvassed the area for eyewitnesses or video surveillance of the incident. No video surveillance was located and no Motel 6 employees or guests indicated they observed the incident. A group of laborers behind a wall to the parking lot where the incident occurred claimed they heard shouts and sounds of a car crashing, however the dividing wall obstructed any view.

The scene was processed by the Louisiana State Police (LSP), assisted by the NOFO ERT. Spherical photography and Total Station activities were concluded on 07/30/2013, after which Desdunes' car was transported to Baton Rouge by the LSP for additional processing.

## II. Incident Details

### A. Substantive case files and background information

The following substantive matter was under investigation at the time of the shooting incident on 07/30/2013:

CASE ID:
CASE TITLE: [redacted]
ET: AL
Date Opened: [redacted]

b6 -7
b7C -7
b7A -1
b7E -2



NYT-754

After the shooting incident, the following substantive case was opened:

CASE ID: [redacted] b6 -1,4,7
CASE TITLE: ALLEN DESDUNES (DECEASED); [redacted] b7C -1,4,7
b7A -1
SPECIAL AGENT (SA) [redacted] - VICTIM;
SA [redacted] - VICTIM;
TASK FORCE OFFICER (TFO) [redacted] - VICTIM;
ASSAULT ON A FEDERAL OFFICER (AFO)
DATE OPENED: 07/30/2013

**B. Listing of personnel involved in the incident**

FBI
SA [redacted] (fired weapon) b6 -1,4
SA [redacted] b7C -1,4

TFOs
[redacted] - New Orleans Police Department

**C. Briefings**

There was no formal briefing for the surveillance conducted on 07/30/2013. The purpose of the surveillance operation was [redacted] in b7E -1,4,6
anticipation of executing an arrest warrant later that afternoon. The surveillance initially consisted of SAs [redacted] and TFO b6 -1,4
[redacted] b7C -1,4

**D. Initial entry/first contact**

During the surveillance, Desdunes was located in the back parking lot of the Studio 6/Motel 6, 12300 South I-10 Service Road, New Orleans, Louisiana where he was observed conducting what appeared to be hand-to-hand drug transactions. A passenger in the front seat, later identified as [redacted] appeared to be assisting Desdunes. SA [redacted] SA [redacted] and TFO b6 -1,4,7
[redacted] b7C -1,4,7
b7E -1
[redacted] Shortly afterwards, TFO [redacted] departed the scene, leaving SAs [redacted] and [redacted] with the detained individuals.

SA [redacted] SA [redacted] and TFO [redacted] decided to approach Desdunes and [redacted] b6 -1,4,7
[redacted] Prior to confronting Desdunes, b7C -1,4,7
SAs [redacted] put on their ballistic armor, however, TFO [redacted] did not. SAs [redacted] were in one vehicle and TFO [redacted] was in a second vehicle.



NYT-755

**E. Shooting incident**

SA [redacted] driving his FBI vehicle, chirped his siren as his vehicle and TFO [redacted]'s vehicle approached Desdunes in the parking lot. SAs [redacted] believed Desdunes would recognize them as they had been present when Desdunes was first detained by the FBI in May 2013. SA [redacted] tackled Desdunes trying to escape while handcuffed during this initial detention. As the Agents approached Desdunes, he rammed their vehicle in an effort to flee. Desdunes' vehicle was forced into a raised sidewalk at the rear of the motel where SA [redacted] attempted to restrict its movement. Upon initial impact, SA [redacted] exited SA [redacted]'s vehicle and approached Desdunes' driver's side window with his Colt M4 carbine. Afterward, SA [redacted] and TFO [redacted] exited their vehicles and covered Desdunes with their rifles. SA [redacted] was at the rear driver's side of Desdunes' vehicle and TFO [redacted] at the rear passenger side. While Desdunes continued to ram SA [redacted]'s vehicle, the Agents were shouting commands to Desdunes to stop and exit the vehicle. SA [redacted] approached the driver's window and broke it with his rifle. His view of Desdunes was obstructed by the driver's side air bags which deployed. Using one hand to steady the rifle, SA [redacted] raised the air bag and jabbed Desdunes with the tip of his rifle while shouting commands to stop the vehicle. Desdunes made a quick movement to the rear of his vehicle and turned back around quickly. He grabbed the steering wheel with his left hand while holding a plastic bag in his right hand, continuing to ram his vehicle back into SA [redacted]'s car. Desdunes then made a second sudden move towards the rear of the vehicle. SA [redacted] believing Desdunes was turning back around to shoot him and feeling an imminent threat, dropped the air bag, bladed his body, and fired one shot at Desdunes. SA [redacted] did not see the impact of the shot, but noticed Desdunes stopped moving. No additional shots were fired.

b6 -1,4
b7C -1,4

The passenger in the vehicle, [redacted] was detained and uninjured.

b6 -7
b7C -7

**F. Post shooting**

After the shooting, NOFO ASACs [redacted] responded to the location and coordinated with the New Orleans Police Department and Louisiana State Police (LSP) regarding the subsequent investigation. It was agreed the LSP would process the scene and conduct a Total Station review with the assistance of the NOFO ERT, who conducted spherical photography of the scene. LSP seized all pertinent evidence at the scene and transported Desdune's vehicle to Baton Rouge, Louisiana for further processing.

b6 -1
b7C -1

**G. Accounting of shots fired**

One shell casing was seized by the LSP. All ballistic testing was conducted by the LSP. An analysis of this casing was pending at the time of this report.

**H. Subject information**

The SIRT was provided with the results of the National Crime Information Center warrant and arrest record check for Desdunes. The report noted ten arrests and multiple convictions for offenses including several narcotics violations and multiple instances of a felon in possession of a firearm.

**I. Use of body armor and law enforcement identifiers**

The SIRT determined the two Agents involved were both wearing ballistic body armor. However, TFO [redacted] was not wearing ballistic body armor. The ballistic body armor had visible markings indicating the Agents were law enforcement. b6 -4 b7C -4

**J. Forensic Summary**

The Louisiana State Police provided the FBI will a full forensic report of all evidentiary items seized as well as crash data and ballistic testing. The complete report is included in its entirety in Tab VII.

**K. Medical Summary**

On 11//01/2013, [redacted] of the New Orleans Coroner's Office, provided the FBI with a copy of the coroner's report on Desdunes. The report indicated the round fired from SA [redacted] entered Desdunes' left cheek and was recovered in the right occipital scalp subcutaneous tissue. The complete report is included in Tab VI. b6 -4 b7C -4

**III. Shooting Incident Review Team Details**

**A. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Gregory T. Bretzing
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP

**IV. Shooting Incident Review Protocol**

On 07/30/2013, IIC Bretzing communicated with NOFO ASAC [redacted] to arrange logistics for the SIRT. ASAC [redacted] and SSA [redacted] served as the points of contact for the SIRT. b6 -1 b7C -1

On 07/31/2013, IIC Bretzing and AI/TLs [redacted] traveled from Washington, DC to New Orleans, Louisiana where they were met by SAs [redacted] and transported to the NOFO. b6 -1 b7C -1

IIC Bretzing provided a preliminary briefing to SAC Michael Anderson, ASAC [redacted] ASAC [redacted] ASAC [redacted] and CDC [redacted] to discuss INSD SIRT shooting incident protocol. After this briefing, ASAC [redacted] briefed IIC Bretzing and AI/TLs [redacted] There was an opportunity for dialogue between the INSD team and the involved personnel to address concerns, provide clarification, and answer questions prior to the investigation commencing. The SIRT then went to the shooting scene where ASAC [redacted] provided a walk-through of the shooting incident. The scene was processed by the LSP, with the assistance of the NOFO ERT. The vehicles involved in the incident and seized evidence had been removed. b6 -1 b7C -1

During the SIRT investigation, Signed Sworn Statements (SSS) were taken from SA [redacted] and SA [redacted] Both Agents were represented by [redacted] Esq. Other interviews, events, and observations were documented via FD-302s. All FBI personnel were allowed to read the FD-302 summarizing their interview to confirm the accuracy of the information provided. The SSS and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all those interviewed. b6 -1,2 b7C -1,2

On 07/31/2013, IIC Bretzing contacted [redacted] Special Legal Counsel, DOJ and briefed him on the shooting incident. b6 -1,3 b7C -1,3

On 8/01/2013, IIC Bretzing and AI/TL [redacted] met with the United States Attorney (USA) Dana Boente and AUSAs [redacted] to brief them on the SIRT investigation.

On 08/01/2013, IIC Bretzing and AI/TL [redacted] met with the New Orleans Parrish District Attorney Leon Cannizzaro and Assistant District Attorney [redacted] to brief them on the SIRT investigation. b6 -1,4 b7C -1,4

On 08/02/2013, an exit brief was provided by IIC Bretzing to SAC Anderson, ASAC [redacted] ASAC [redacted] and CDC [redacted]

## V. Administrative

### A. Firearms training

(U//~~FOUO~~) The NOFO provided qualification records for SA [redacted] A review indicated he was current on his firearms qualification certification. b6 -1 b7C -1



NYT-758

**B. Deadly Force training**

Documentation provided by the NOFO indicated CDC [redacted] provided annual guidance regarding the FBI deadly force policy to all Agents. CDC [redacted] advised the deadly force policy was read during each operational briefing within the field office. b6 -1 b7C -1

SA [redacted] advised in his SSS he last read the FBI Deadly Force policy approximately three weeks prior to the shooting incident in preparation for a planned arrest operation in which he participated.

There was no operational plan or formal briefing for the surveillance as the purpose was [redacted] Therefore, the FBI Deadly Force policy was not reviewed prior to the surveillance. b7E -1,4,6

**C. DOJ Civil Rights Division Prosecutorial Decision**

On 01/15/2014, IIC Bretzing was contacted by [redacted] Special Legal Counsel, DOJ who advised his office had declined a criminal civil rights investigation against the Agent involved in this shooting incident. b6 -3 b7C -3

**D. Local Prosecutorial Decision**

On 12/24/2013, Inspector Gregory T. Bretzing received an E-mail from [redacted] of the New Orleans Field Office which contained as an attachment a letter from the Office of the Orleans Parish District Attorney. The letter was addressed to SAC Michael J. Anderson and Inspector Bretzing and was dated 12/20/2013. b6 -4 b7C -4

The letter stated the Orleans Parish was referring the Agent-involved shooting matter of 07/30/2013 to the United States Attorney for the Eastern District of Louisiana for review pursuant to Federal Law Standards as the Orleans Parish lacked the necessary jurisdiction to proceed with further prosecution.

The letter was signed by [redacted] First Assistant District Attorney, Office of the Orleans Parish District Attorney. b6 -4 b7C -4

## VI. Inspector's Observations

**Observation 1**: The TFO involved in the shooting incident was not wearing ballistic armor.

**Analysis 1**: MIOG, Part 2, Section 12-13.1(1) stated: [redacted] b7E -5

[redacted]

TFO [redacted] advised during his interview he was not wearing body armor at the time of the shooting incident. b6 -4 b7C -4

**Instruction 1**: SAC, New Orleans, will ensure all personnel assigned to FBI-led Task Forces utilize ballistic armor during all planned or potential arrest operations.

**Observation 2**: Agents failed to utilize proper arrest, search, and detention techniques.

**Analysis 2a**: Proper Arrest Plans and Techniques were detailed in SAC Memorandum 27-2001, dated 12/28/2001, which was codified in MIOG, Part 2, Section 11. Portions of the MIOG, Part 2, Section 11 were later incorporated into DIOG, Section 19. Relevant sections are cited as follows:

MIOG, PART 2, SECTION 11. TECHNIQUES AND MECHANICS OF ARREST

11-1 ARREST TECHNIQUES

11-1.1 General

(2) A person who is being placed under arrest may do one of several things... The arrest team should consist of enough Agents/officers, whenever possible, to cope properly with those or other situations which may arise. [redacted] b7E -5

[redacted]

11-1.3 Search of the Person

11-1.3.1 High-Risk Search/Full-Body Search/Handcuffing

[redacted] b7E -5

(2) ... it is required that all arrested persons be handcuffed with hands behind the back, back to back, and double locked. If circumstances necessitate handcuffing with the hands to the front, then the hands must be back to back, and the cuffs must be belted down and double locked...

11-1.3.2 Final Search and Collection of Evidence

(1) A high-risk search, even though believed to be thorough, cannot be relied upon to be adequate. A more thorough full-body search of an arrested person should be conducted as soon as possible before transport. Under existing Bureau instructions, the final search will usually be conducted in a place of local detention...

11-1.4 Transportation of Arrested Persons

(2) It will usually be necessary for Agents to transport persons arrested from the place of arrest to the place of local detention... With one subject and two or more Agents/officers, one Agent/officer should ride in the rear seat with the subject. This Agent/officer should be seated directly behind the driver. When more than one subject is transported in an automobile, it is desirable to place the subjects in the rear seat of the car with one subject on the passenger side and the other in the middle. An Agent/officer should be positioned behind the driver and maintain strict control over the subjects. Every precaution should be taken during the planning of the arrest to ensure that adequate personnel with corresponding emergency vehicles are available to avoid a ratio of more than one subject per vehicle... Subjects should not be transported by only one Agent unless exigent circumstances or Agent safety dictate. The Bureau vehicle should be searched both before and subsequent to the transportation of any subject.

INSD determined SA [redacted] SA [redacted] and TFO [redacted] b6 -1,4,7
b7C -1,4,7
b7E -1

[redacted] Shortly afterwards, TFO [redacted] departed the scene, leaving SAs [redacted] with the detained individuals.

After learning of the shooting incident, SA [redacted] left SA [redacted] alone with [redacted] and [redacted] and returned to the Motel 6 parking lot. SA [redacted] ultimately transported [redacted] and [redacted] approximately 1.1 miles [redacted] to a parking lot adjacent to the Studio 6/Motel 6 parking lot. SA [redacted] did not conduct a search of [redacted] prior to transporting them and he was unaware if anyone had conducted a search after they were detained. In addition, SA [redacted] transported [redacted] to the New Orleans Police Department's Seventh District with the assistance of SA [redacted] b6 -1,7 b7C -1,7

**Analysis 2b**: INSD determined after the shooting incident, subject [redacted] was handcuffed after being taken out of Desdune's vehicle and left in a seated position at the rear and outside of the FBI vehicle which was directly behind Desdune's vehicle. [redacted] was subsequently left unattended and no high risk search was conducted by the arresting agents. b6 -7 b7C -7

**Instruction 2a**: SAC, New Orleans will ensure Agents are not left alone with multiple subjects.

**Instruction 2b**: SAC, New Orleans will ensure arrested subjects are transported in a Law Enforcement vehicle properly searched before and after transport.

**Instruction 2c**: SAC, New Orleans will ensure arrested subjects are transported with more than one Agent.

**Instruction 2d**: SAC, New Orleans will ensure high risk searches are conducted on subjects post-arrest.

**Recommendation 2e**: SAC, New Orleans should ensure all restrained subjects are properly controlled.

**Observation 3**: Executive Management was not notified of a high risk operation.

**Analysis 3**: DIOG Section 19.3.1 stated, "Whenever possible, SAC and USAO authority must be obtained before making a warrantless arrest. Agents are authorized to make warrantless arrests for any federal crime (felony or misdemeanor) committed in their presence. Agents also have authority to make warrantless felony arrests for a crime not committed in the presence of the Agent if there is probable cause to believe the person to be arrested committed a federal felony. A warrantless arrest must only be made when sound judgment indicates obtaining a warrant would unduly burden the investigation or substantially increase the potential for danger or escape."

The goal of the surveillance operation was to determine [redacted] in anticipation of executing an arrest warrant scheduled to be obtained in the afternoon. The objective of the surveillance changed when Desdunes was observed engaging in criminal activity. SAs [redacted]'s signed sworn statements indicated they decided to approach Desdunes [redacted] They b7E -1,4,6 b6 -1,7 b7C -1,7

intended to elicit Desdunes' cooperation, and if he refused, to conduct a probable cause arrest. They failed to notify their SSA, ASAC or the USAO when the purpose of the operation changed.

Upon reviewing the totality of the circumstances leading to the shooting incident, INSD determined the Agents had sufficient time to notify their management of the change of objective from surveillance to arrest. In addition, knowing Desdunes had attempted to escape during a previous detainment [redacted] there was an increased likelihood he would resist. Agents could have requested additional resources to assist in the arrest operation, including marked law enforcement vehicles, and obtained USAO concurrence for a probable cause arrest. Further, New Orleans agents had a court approved [redacted] ensuring Agents the ability to locate Desdunes if he left the location prior to the arrival of additional resources.

b7D -1
b7E -1,6

**Recommendation 3**: SAC, New Orleans should ensure executive management notification and authority is obtained prior to potential high risk operations.

Office of the Orleans Parish District Attorney

**Leon A. Cannizzaro, Jr.**
DISTRICT ATTORNEY

[redacted]
First Assistant District Attorney

b6 -4
b7C -4

December 20, 2013

Mr. Kenneth Allen Polite, Jr.
United States Attorney
Eastern District of Louisiana
650 Poydras Street, Suite 1600
New Orleans, LA 70130

Michael J. Anderson
Special Agent in Charge
FBI- New Orleans Division
2901 Leon C. Simon Boulevard
New Orleans, LA 70126

Gregory T. Bretzing
Inspection Division
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Sirs:

On July 30, 2013, Federal Bureau of Investigation Special Agents met at a Motel 6 in the City of New Orleans to arrest Allen Desdunes for distributing heroin. Based on the evidence presented and reviewed, the Agents believed that the actions they took were in the course of the performance of their duties and were necessary, proper, reasonable, and justified. In determining whether or not to institute prosecution arising from a fatal shooting of a suspect by Federal Law Enforcement Agents when acting in the course of effecting an arrest of a suspect for Federal Drug Law violations, local prosecutors are bound by the limitations of Federal Law granting immunity under the Supremacy Clause of the Constitution of the United States of America. The law does not require that the actions of a Federal Agent be in fact necessary or in retrospect justifiable, only that he reasonably thought it to be. Further, there is no indication that the Agents manifested malice towards the deceased. Therefore, this matter is being referred to the United States Attorney for the Eastern District of Louisiana for his review pursuant to Federal Law Standards because this office lacks the necessary jurisdiction to proceed. However, should you come to possess any information or evidence indicating that the Agents involved acted upon malice towards Mr. Desdunes, this office will further consider this matter.

[redacted]

b6 -4
b7C -4

[redacted]

KEVIN S. BRACKETT
SOLICITOR

March 3, 2014

Special Agent [redacted]
South Carolina Law Enforcement Division
P.O. Box 21398
Columbia, South Carolina 29221-1398

b6 -4
b7C -4

Re: File 34-14-02

Agent [redacted]

I am writing in reference to the above file you submitted to my office for review. I have reviewed the file and based on the evidence gathered and interviews of the witnesses I have concluded that the only individual criminally culpable for any actions occurring during the shooting incident itself is [redacted]

b6 -4,7
b7C -4,7

Detective [redacted] of the Charlotte Mecklenburg Police Department was attempting to arrest Mr. [redacted] on an outstanding warrant for Armed Robbery at a residence in [redacted] South Carolina. He was accompanying local sheriff's deputies in a consent search of the home when he came upon Mr. [redacted] in an upstairs bedroom in possession of a firearm that he was pointing at the officer. Shots were exchanged.

Mr. [redacted] disputes he fired first but does not dispute that he was pointing a handgun at the officer who he knew to be attempting to arrest him. Indeed, it appears that the armed Mr. [redacted] was laying in wait for an officer to come through the door of the bedroom where he was hiding.

b6 -4,7
b7C -4,7

Detective [redacted] asserts the firing may have been simultaneous or [redacted] may have fired first. Under South Carolina law it is immaterial who fired first. Detective [redacted] was faced with a lethal threat through no fault of his own and was entitled to fire his weapon in self-defense the very moment he realized he was being menaced by Mr. [redacted] South Carolinians are generally a sporting bunch but neither our law nor our sense of fair play requires an individual to allow their assailant the first shot.

MOSS JUSTICE CENTER
1675-1A YORK HIGHWAY • YORK, SOUTH CAROLINA 29745-7422
(803) 628-3020 • FAX: (803) 628-3025

The use of force by Detective [redacted] was lawful and the level of force employed appropriate to the occasion. b6 -4 b7C -4

I am being forwarded the investigative file of the FBI and will review it upon receipt. If there is anything in that file that might cause me to reconsider my opinion I will alert you, otherwise I consider this aspect of the incident to be closed.

Sincerely,

Kevin S. Brackett
16th Circuit Solicitor

cc: Deputy Inspector [redacted] Federal Bureau of Investigation b6 -1 b7C -1
Chief Rodney Monroe, Charlotte Mecklenburg Police Department
Sheriff Bruce M. Bryant, York County Sheriff

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Revised SIRG observations. **Date:** 09/25/2014

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 -1 b7C -1

**Approved By:** Trent R. Teyema
STROUD SHAWN W
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A4046109 (U) Shooting

**Synopsis:** (U//~~FOUO~~) To provide SAC CE with revised SIRG observations.

**Details:**

(U//~~FOUO~~) On 08/29/2014, INSD provided SAC CE with observations, analysis, and recommendations resulting from the 07/31/2014 SIRG (297I-HQ-A4046109, serial 54). After a discussion between SAC CE and AD INSD, INSD revised Observation 1 and Recommendation 1c. The revision is included in the Observations provided below:

1. **Evaluate the application of deadly force.** As the application of deadly force in this instance involved a CMPD TFO rather than an Agent, the SIRG did not evaluate the application of deadly force with respect to whether it was in compliance with the Department of Justice's Deadly Force Policy. As TFO [redacted] was bound by the CMPD's Deadly Force Policy, his application of Deadly Force was evaluated by the CMPD. b6 -4 b7C -4

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

**Observation 1:** The [redacted] UFAP investigation lacked managerial oversight, and was not conducted in accordance with CID Fugitive b6 -7 b7C -7

Title: (U//~~FOUO~~) Revised SIRG observations.
Re: 297I-HQ-A4046109, 09/25/2014

Policy.

**Analysis 1:** Charlotte Squad CE08 responsibilities included supervision of the Violent Crime SSTF and the following threat issues: 1) Transnational Organized Crime West (TOC-West); 2) Transnational Organized Crime East (TOC-East); 3) Violent Incident Crimes-Domestic. Fugitive investigations were worked under the Violent Incident-Domestic threat issue.

Squad CE08 was led by SSA [redacted] and comprised of nine Agents and 14 full-time TFOs assigned to the Safe Streets Task Force (SSTF). Two of the 14 full-time TFOs were CMPD, officers [redacted] Prior to being assigned to the SSTF, TFOs [redacted] were assigned to CMPD's Violent Criminal Apprehension Team (VCAT). As members of the SSTF, their mission was to focus on the apprehension of dangerous fugitives where a federal investigative interest existed, and develop probable cause necessary to obtain UFAP warrants. There were no FBI Agents assigned to work fugitive investigations on Squad CE08. As such, TFOs [redacted] relied on other non-SSTF VCAT team members who were federally deputized to pursue FBI UFAP investigations. TFOs [redacted] also provided support to VCAT members in non-federal cases as needed. Both [redacted] and [redacted] participated in approximately 400 arrests during 2013. In contrast, Squad CE08 had 14 federal fugitive investigations pending during INSD's on-site review.

b6 -1,4
b7C -1,4

TFO [redacted] opened [redacted] as a [redacted] Investigation (88A-CE-3900107) on 12/18/2013. The predication for this investigation was a state arrest warrant for [redacted] based on an Armed Robbery of a fast food restaurant where [redacted] On Friday, 01/03/2014, TFO [redacted] notified CE08 SSA [redacted] via UNET E-mail, that he and TFO [redacted] were traveling to [redacted] South Carolina to pursue a lead on the [redacted] UFAP investigation. TFO [redacted] also stated they would be pursuing a lead in an unrelated [redacted] case [redacted] in [redacted] South Carolina and meeting with the South Carolina Law Enforcement Division (SLED). SSA [redacted]

b6 -1,4,7
b7C -1,4,7
b7E -2

Title: (U//~~FOUO~~) Revised SIRG observations.
Re: 297I-HQ-A4046109, 09/25/2014

acknowledged receipt of TFO [redacted] s E-mail and requested specific addresses at which the TFOs would be pursuing the leads. SSA [redacted] reminded TFO [redacted] he needed to provide more advanced notice of potential operations to SSA [redacted] so he could make the necessary notifications to the Columbia Field Office and the Charlotte Criminal ASAC. b6 -4,7 b7C -4,7

After being notified of the above activity on 01/03/2014, SSA [redacted] immediately notified SSA [redacted] his counterpart in the Columbia Field Office, via FBI UNET E-mail. SSA [redacted] and SSA [redacted] had an arrangement whereby they notified each other in this manner when their squads needed to pursue leads in the other's AOR. It was also SSA [redacted] 's practice to notify his ASAC via telephone, E-mail, or Instant Messaging, although he does not recall notifying his ASAC of the activity on 01/03/2014. On occasion, SSA [redacted] s ASAC would seek additional information on a matter after electronically acknowledging receipt. The SIRT was unable to determine if such notification was made to the ASAC by SSA [redacted] b6 -1 b7C -1

On Monday, 01/06/2014, TFOs [redacted] traveled to a [redacted] in [redacted] South Carolina to pursue another lead on [redacted] SSA [redacted] was not notified by the TFOs prior to going to the [redacted] At the [redacted] TFOs [redacted] learned a [redacted] [redacted] lived at [redacted] South Carolina. [redacted] was known to drive a [redacted] minivan. TFO [redacted] notified SSA [redacted] via UNET E-mail of the investigation's developments, indicated he had requested assistance from the York County Sheriff's Office, and was proceeding to the [redacted] address. Since no vehicles were parked in the driveway when the TFOs drove by, TFO [redacted] notified SSA [redacted] they were going to make contact the following morning. SSA [redacted] again notified SSA [redacted] of these developments. However, SSA [redacted] was not certain if he notified ASAC [redacted] ASAC [redacted] was also uncertain if he received an Instant Message from SSA [redacted] on 01/06/2014, regarding the noted investigation and the intended investigative steps. ASAC [redacted] remembered no other communications with SSA [redacted] including E-mail, telephonic, or otherwise, regarding b6 -1,4,7 b7C -1,4,7

Title: (U//~~FOUO~~) Revised SIRG observations.
Re: 297I-HQ-A4046109, 09/25/2014

this investigation, prior to 01/07/2014. SSA [redacted] recalled after TFOs [redacted] obtained the information from the [redacted] they did meet in person at the Charlotte Field Office and discussed the information obtained regarding the [redacted] address. b6 -1,4,7 b7C -1,4,7

As per DIOG 7.1, a Full Investigation may be opened if there is an "*articulable factual basis*" of possible federal criminal or national threat activity. As a result of this incident, CID published an Electronic Communication (319W-HQ-A1487699-CID) dated 04/14/2014, to clarify Fugitive Investigation Policy, the Violent Crimes Unit (VCU) instructed fugitive matters be opened as [redacted] once the following standards were met: b7E -2

- [redacted]

b7E -5

The Charlotte UFAP opening Electronic Communication (EC)

verified an outstanding felony arrest warrant existed on [redacted] for Robbery With a Deadly Weapon. The EC did not articulate a factual basis for possible violations of federal law, did not document contact with the USAO, did not confirm a request for assistance from a local prosecutive authority, and did not set a lead to FBIHQ/VC/MOU for [redacted] factual review. b6 -7 b7C -7 b7E -5

There was no arrest plan prepared prior to the 01/07/2014 incident. Although there was not definitive information indicating [redacted] was at the residence, the TFOs acknowledged his presence was a possibility. As per DIOG 19.2.3 ARREST PLANS: b6 -7 b7C -7

*The ADIC/SAC is responsible to ensure that careful and thorough planning is conducted for the successful execution of a high risk arrest operation involving a potentially dangerous situation or subject. The arrest plan must be adapted to each situation and must include relevant details to enhance the safety and effectiveness of the agents and officers involved in the search operation. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees.*

*Prior to conducting an arrest operation deemed a high risk, the agent must prepare a written* [redacted] *to include the five critical categories: Situation, Mission, Execution, Administration and Equipment, and Control and Communication (SMEAC), and must utilize the* [redacted] *Form* [redacted] *In situations where an FBI SWAT Team(s) or the Critical Incident Response Group's (CIRG), Tactical Section is involved, the* [redacted] *Template must be used in lieu of the* [redacted] *See the Special Weapons and Tactics Policy Implementation Guide (PG), 0444PG and Hostage Rescue Team PG, 0501PG for more on the use of the SWAT Teams and CIRG, Tactical Section in high risk operations.* b7E -5

*The written* [redacted] *must be presented in an oral briefing to* b7E -5

*all personnel involved in the execution of the arrest warrant(s) prior to the operation. During the briefing, the briefing Agent should stress to the participants of the operation that the arrest(s) has the potential to become dangerous. At the discretion of the field office approving official, the CDC/ADC may review the* [redacted] *and/or participate in providing the FBI deadly force briefing to the arrest operation participants.* **b7E -5**

*Exigent circumstances (i.e., emergency, pressing necessity requiring immediate action) may necessitate an oral briefing in lieu of the written* [redacted] *The ASAC or designee must approve the use of an oral briefing in lieu of a written and approved* [redacted] *in exigent circumstances. An oral briefing must follow the requirements of a written* [redacted] *to address the SMEAC categories identified above. Documentation of the oral briefing must occur as soon as possible following the operation by preparing and filing the* [redacted] [redacted] *Template, whichever is appropriate for the situation.* **b7E -5**

*The SSA may consider utilizing, and/or alerting local authorities to the planned arrest, if appropriate under the circumstances. Although the time of notification is left to the discretion of the SSA, he/she must consider the jurisdiction of local law enforcement, its responsibility to its community and its need to be aware of law enforcement actions in its jurisdiction.*

*The term "Agent" in the context of this section includes FBI Special Agents and other federal, state, tribal, or local law enforcement officers who have been deputized under either Title 18 or 21 of the United States Code and are working on behalf of or at the direction of the FBI, e.g. task force officer, JTTF, etc.*

INSD determined there was informal communication between TFOs and FBI personnel regarding the fugitive investigation prior to the incident on 01/07/2014. However, Charlotte lacked sufficient guidance or documentation outlining a strategy or expectations for TFOs while conducting federal investigations, to include a process by which

detailed and timely information from TFOs was received to facilitate informed decisions and appropriate oversight. There was no documented squad guidance or protocol regarding fugitive investigations or specific responsibilities of VCAT and FBI personnel. The current FBI-CMPD Memorandum of Understanding signed on 05/01/2013, did not adequately address the TFOs responsibilities to communicate with FBI personnel during potential arrest situations.

Based on intelligence obtained from the interviews of [redacted] prior intelligence [redacted] worked in South Carolina, and the actions taken by the TFOs on site (use of LRAD and large law enforcement team), INSD assessed there was a reasonable presumption [redacted] would be at the residence. SSA [redacted] neglected his managerial responsibility to ensure there was logical operational planning with consideration of contingencies by permitting FBI TFOs to conduct FBI fugitive investigations with little more than an expectation of cursory notification of their investigative activities. SSA [redacted] acted as a mere conduit to the adjacent Field Office by only notifying the Columbia SSA via E-mail his TFOs would be in the Columbia AOR conducting a fugitive investigation. SSA [redacted] in his capacity as the SSA of the TFOs, should have been more engaged in the discussion and planning for what could have reasonably been expected to be an arrest scenario.

b6 -1,2,7
b7C -1,2,7

**Instruction 1a**: SAC, Charlotte will ensure UFAP investigations are worked in accordance with existing DIOG policy, the Fugitive Policy Guide, and recent CID guidance (319W-HQ-A1487699-CID, Serial 1081) on fugitive investigations.

**Instruction 1b**: SAC, Charlotte will ensure an operations plan is utilized when conducting a potential high risk arrest.

**Recommendation 1c**: SAC, Charlotte should ensure guidance is provided to Squad CE08, consistent with current DIOG policy, the Fugitive Policy Guide, and CID Guidance outlining UFAP investigative

requirements and delineating TFOs' responsibilities to include those related to communication and command and control with FBI personnel, to facilitate informed decision making.

**Recommendation 1d:** SAC, Charlotte should ensure communications between supervisors and EM regarding TFO investigative actions are appropriately documented.

**Observation 2:** There was no documentation of SAC or designee approval for travel into another field office's area of responsibility for operational activity.

**Analysis 2:** *Manual of Investigative Operations and Guidelines (MIOG) Part 2, Section 23-3.1 stated, "Investigative information from another field office is to be obtained by that office unless extraordinary haste requires direct communication. When the exigencies of a case, emergencies, or economy and common sense dictate, an employee, if authorized by his/her SAC, may enter the territory of another field office. The concurrence of the SAC of the entered office is to be obtained prior to the travel."*

SSA [redacted] advised cross-border travel occurred frequently with Charlotte personnel traveling into South Carolina and South Carolina personnel, to include TFOs, traveling into North Carolina. This travel was common due to the close proximity of the state line to downtown Charlotte. SSA [redacted] and SSA [redacted] routinely coordinated the travel through unclassified E-mail. Per Charlotte, this practice was verbally approved by Charlotte and Columbia SACs, but not documented via EC.

b6 -1
b7C -1

**Instruction 2:** SAC, Charlotte will ensure SAC or designee approval is appropriately documented prior to operational travel into another field office's area of responsibility.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Shooting Incident Charlotte Field Office **Date:** 08/29/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** Trent R. Teyema
STROUD SHAWN W
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A4046109 (U) Shooting

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 07/31/2014.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) CE SIRT Report

**Details:**

(U//~~FOUO~~) On 12/12/2013, the Charlotte Mecklenburg, North Carolina, Police Department (CMPD) obtained an arrest warrant for [redacted] b6 -4,7 b7C -4,7 b7E -2 [redacted] for the Armed Robbery of the restaurant Jack-in-the-Box located in Pineville, North Carolina. After receiving information [redacted] may have fled North Carolina to South Carolina, on 12/18/2013, CMPD TFO [redacted] assigned to Charlotte Field Office Violent Crimes Safe Streets Task Force (SSTF), opened a UFAP [redacted] Investigation.

Title: (U//~~FOUO~~) Shooting Incident Charlotte Field Office
Re: 297I-HQ-A4046109, 08/29/2014

(U//~~FOUO~~) On 01/07/2014, at approximately 6:12 a.m., CMPD TFOs [redacted] accompanied by three CMPD Violent Criminal Apprehension Team (VCAT) officers and four deputies from the York County, South Carolina, Sheriff's Office (YCSO), drove to [redacted] South Carolina. A vehicle known to belong to [redacted] was in the driveway of the residence. For approximately 25 minutes, the Charlotte TFOs attempted to get [redacted] to answer the front door. [redacted] answered the door at approximately 6:37 a.m. [redacted] told the TFOs [redacted] was not in the residence and provided verbal consent to a cursory search. b6 -4,7 b7C -4,7

(U//~~FOUO~~) TFO [redacted] CMPD Officer [redacted] CMPD Officer [redacted] CMPD Lieutenant [redacted], and YCSO Deputy [redacted] entered the residence. TFO [redacted] Officers [redacted] accompanied by Deputy [redacted], proceeded upstairs to clear two bedrooms. TFO [redacted] Officers [redacted] entered the bedroom located on the left side of the stairway. TFO [redacted] saw an individual seated or crouched on a bed with a handgun drawn and pointed at TFO [redacted] TFO [redacted] recognized this individual as [redacted] from a previously viewed photograph. TFO [redacted] immediately fired his weapon at [redacted] firing four rounds, striking [redacted] twice, once in each leg. Simultaneously, [redacted] discharged four rounds from a .22 caliber handgun at TFO [redacted]. Two of the .22 caliber rounds struck TFO [redacted] one in the left shoulder and one in the pelvic region. No other officers were injured. Both TFO [redacted] recovered from their wounds. b6 -4,7 b7C -4,7

**SIRG Observations**

(U//~~FOUO~~) On 07/31/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** As the application of deadly force in this instance involved a CMPD TFO rather than an Agent, the SIRG did not evaluate the application of deadly force with respect

to whether it was in compliance with the Department of Justice's Deadly Force Policy. As TFO [redacted] was bound by the CMPD's Deadly Force Policy, his application of Deadly Force was evaluated by the CMPD. b6 -4 b7C -4

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

**Observation 1:** The [redacted] UFAP investigation lacked managerial oversight, and was not conducted in accordance with CID Fugitive Policy. b6 -7 b7C -7

**Analysis 1:** Charlotte Squad CE08 responsibilities included supervision of the Violent Crime SSTF and the following threat issues: 1) Transnational Organized Crime West (TOC-West); 2) Transnational Organized Crime East (TOC-East); 3) Violent Incident Crimes-Domestic. Fugitive investigations were worked under the Violent Incident-Domestic threat issue.

Squad CE08 was led by SSA [redacted] and comprised of nine Agents and 14 full-time TFOs assigned to the Safe Streets Task Force (SSTF). Two of the 14 full-time TFOs were CMPD, officers [redacted] Prior to being assigned to the SSTF, TFOs [redacted] were assigned to CMPD's Violent Criminal Apprehension Team (VCAT). As members of the SSTF, their mission was to focus on the apprehension of dangerous fugitives where a federal investigative interest existed, and develop probable cause necessary to obtain UFAP warrants. There were no FBI Agents assigned to work fugitive investigations on Squad CE08. As such, TFOs [redacted] relied on other non-SSTF VCAT team members who were federally deputized to pursue FBI UFAP investigations. TFOs [redacted] also provided support to VCAT members in non-federal cases as needed. Both [redacted] and [redacted] participated in approximately 400 arrests during 2013. In contrast, Squad CE08 had 14 federal fugitive investigations pending during INSD's on-site review. b6 -1,4 b7C -1,4

TFO [redacted] opened [redacted] as a [redacted] b6 -4,7 b7C -4,7 b7E -2

Investigation (88A-CE-3900107) on 12/18/2013. The predication for this investigation was a state arrest warrant for [redacted] based on an Armed Robbery of a fast food restaurant where [redacted] On Friday, 01/03/2014, TFO [redacted] notified CE08 SSA [redacted] via UNET E-mail, that he and TFO [redacted] were traveling to [redacted] South Carolina to pursue a lead on the [redacted] UFAP investigation. TFO [redacted] also stated they would be pursuing a lead in an unrelated [redacted] case ([redacted] in [redacted] South Carolina and meeting with the South Carolina Law Enforcement Division (SLED). SSA [redacted] acknowledged receipt of TFO [redacted]s E-mail and requested specific addresses at which the TFOs would be pursuing the leads. SSA [redacted] reminded TFO [redacted] he needed to provide more advanced notice of potential operations to SSA [redacted] so he could make the necessary notifications to the Columbia Field Office and the Charlotte Criminal ASAC.

b6 -1,4,7
b7C -1,4,7

After being notified of the above activity on 01/03/2014, SSA [redacted] immediately notified SSA [redacted] his counterpart in the Columbia Field Office, via FBI UNET E-mail. SSA [redacted] and SSA [redacted] had an arrangement whereby they notified each other in this manner when their squads needed to pursue leads in the other's AOR. It was also SSA [redacted]'s practice to notify his ASAC via telephone, E-mail, or Instant Messaging, although he does not recall notifying his ASAC of the activity on 01/03/2014. On occasion, SSA [redacted]'s ASAC would seek additional information on a matter after electronically acknowledging receipt. The SIRT was unable to determine if such notification was made to the ASAC by SSA [redacted].

b6 -1
b7C -1

On Monday, 01/06/2014, TFOs [redacted] traveled to a [redacted] in [redacted] South Carolina to pursue another lead on [redacted] SSA [redacted] was not notified by the TFOs prior to going to the [redacted] At the [redacted] TFOs [redacted] learned a [redacted] [redacted] lived at [redacted] South Carolina. [redacted] was known to drive a [redacted] minivan. TFO [redacted] notified SSA [redacted] via UNET E-mail of the investigation's developments, indicated he had requested assistance from the York County Sheriff's Office, and

b6 -1,4,7
b7C -1,4,7

was proceeding to the [redacted] address. Since no vehicles were parked in the driveway when the TFOs drove by, TFO [redacted] notified SSA [redacted] they were going to make contact the following morning. SSA [redacted] again notified SSA [redacted] of these developments. However, SSA [redacted] was not certain if he notified ASAC [redacted] ASAC [redacted] was also uncertain if he received an Instant Message from SSA [redacted] on 01/06/2014, regarding the noted investigation and the intended investigative steps. ASAC [redacted] remembered no other communications with SSA [redacted] including E-mail, telephonic, or otherwise, regarding this investigation, prior to 01/07/2014. SSA [redacted] recalled after TFOs [redacted] obtained the information from the [redacted] they did meet in person at the Charlotte Field Office and discussed the information obtained regarding the [redacted] address.

b6 -1,4,7
b7C -1,4,7

As per DIOG 7.1, a Full Investigation may be opened if there is an "*articulable factual basis*" of possible federal criminal or national threat activity. As a result of this incident, CID published an Electronic Communication (319W-HQ-A1487699-CID) dated 04/14/2014, to clarify Fugitive Investigation Policy, the Violent Crimes Unit (VCU) instructed fugitive matters be opened as [redacted] once the following standards were met:

b7E -2,5

- [redacted]

Title: (U//~~FOUO~~) Shooting Incident Charlotte Field Office
Re: 297I-HQ-A4046109, 08/29/2014

[redacted] b7E -5

The Charlotte UFAP opening Electronic Communication (EC) verified an outstanding felony arrest warrant existed on [redacted] for Robbery With a Deadly Weapon. The EC did not articulate a factual basis for possible violations of federal law, did not document contact with the USAO, did not confirm a request for assistance from a local prosecutive authority, and did not set a lead to FBIHQ/VC/MOU for [redacted] factual review. b6 -7 b7C -7 b7E -5

There was no arrest plan prepared prior to the 01/07/2014 incident. Although there was not definitive information indicating [redacted] was at the residence, the TFOs acknowledged his presence was a possibility. As per DIOG 19.2.3 ARREST PLANS: b6 -7 b7C -7

*The ADIC/SAC is responsible to ensure that careful and thorough planning is conducted for the successful execution of a high risk arrest operation involving a potentially dangerous situation or subject. The arrest plan must be adapted to each situation and must include relevant details to enhance the safety and effectiveness of the agents and officers involved in the search operation. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees.*

*Prior to conducting an arrest operation deemed a high risk, the agent must prepare a written* [redacted] *to include the five critical categories: Situation, Mission, Execution, Administration and Equipment, and Control and Communication (SMEAC), and must utilize the* [redacted] *Form* b7E -5

Title: (U//~~FOUO~~) Shooting Incident Charlotte Field Office
Re: 297I-HQ-A4046109, 08/29/2014

[redacted] b7E -5

[redacted] *In situations where an FBI SWAT Team(s) or the Critical Incident Response Group's (CIRG), Tactical Section is involved, the* [redacted] *Template must be used in lieu of the* [redacted] *See the Special Weapons and Tactics Policy Implementation Guide (PG), 0444PG and Hostage Rescue Team PG, 0501PG for more on the use of the SWAT Teams and CIRG, Tactical Section in high risk operations.*

*The written* [redacted] *must be presented in an oral briefing to all personnel involved in the execution of the arrest warrant(s) prior to the operation. During the briefing, the briefing Agent should stress to the participants of the operation that the arrest(s) has the potential to become dangerous. At the discretion of the field office approving official, the CDC/ADC may review the* [redacted] *and/or participate in providing the FBI deadly force briefing to the arrest operation participants.* b7E -5

*Exigent circumstances (i.e., emergency, pressing necessity requiring immediate action) may necessitate an oral briefing in lieu of the written* [redacted] *The ASAC or designee must approve the use of an oral briefing in lieu of a written and approved* [redacted] *in exigent circumstances. An oral briefing must follow the requirements of a written* [redacted] *to address the SMEAC categories identified above. Documentation of the oral briefing must occur as soon as possible following the operation by preparing and filing the* [redacted] [redacted] *Template, whichever is appropriate for the situation.* b7E -5

*The SSA may consider utilizing, and/or alerting local authorities to the planned arrest, if appropriate under the circumstances. Although the time of notification is left to the discretion of the SSA, he/she must consider the jurisdiction of local law enforcement, its responsibility to its community and its need to be aware of law enforcement actions in its jurisdiction.*

*The term "Agent" in the context of this section includes FBI Special Agents and other federal, state, tribal, or local law*

*enforcement officers who have been deputized under either Title 18 or 21 of the United States Code and are working on behalf of or at the direction of the FBI, e.g. task force officer, JTTF, etc.*

INSD determined there was informal communication between TFOs and FBI personnel regarding the fugitive investigation prior to the incident on 01/07/2014. However, Charlotte lacked sufficient guidance or documentation outlining a strategy or expectations for TFOs while conducting federal investigations, to include a process by which detailed and timely information from TFOs was received to facilitate informed decisions and appropriate oversight. There was no documented squad policy or protocol regarding fugitive investigations or specific responsibilities of VCAT and FBI personnel. The current FBI-CMPD Memorandum of Understanding signed on 05/01/2013, did not adequately address the TFOs responsibilities to communicate with FBI personnel during potential arrest situations.

Based on intelligence obtained from the interviews of [redacted] prior intelligence [redacted] worked in South Carolina, and the actions taken by the TFOs on site (use of LRAD and large law enforcement team), INSD assessed there was a reasonable presumption [redacted] would be at the residence. SSA [redacted] neglected his managerial responsibility to ensure there was logical operational planning with consideration of contingencies by permitting FBI TFOs to conduct FBI fugitive investigations with little more than an expectation of cursory notification of their investigative activities. SSA [redacted] acted as a mere conduit to the adjacent Field Office by only notifying the Columbia SSA via E-mail his TFOs would be in the Columbia AOR conducting a fugitive investigation. SSA [redacted] in his capacity as the SSA of the TFOs, should have been more engaged in the discussion and planning for what could have reasonably been expected to be an arrest scenario.

b6 -1,2,7
b7C -1,2,7

**Instruction 1a:** SAC, Charlotte will ensure UFAP investigations are worked in accordance with existing DIOG policy, the Fugitive Policy Guide, and recent CID guidance (319W-HQ-A1487699-CID,

Serial 1081) on fugitive investigations.

**Instruction 1b**: SAC, Charlotte will ensure an operations plan is utilized when conducting a potential high risk arrest.

**Recommendation 1a**: SAC, Charlotte should coordinate with CID to ensure a squad fugitive policy is developed, delineating TFOs' responsibilities regarding communication and command and control with FBI personnel, to facilitate informed decision making.

**Recommendation 1b**: SAC, Charlotte should ensure communications between supervisors and EM regarding TFO investigative actions are appropriately documented.

**Observation 2**: There was no documentation of SAC or designee approval for travel into another field office's area of responsibility for operational activity.

**Analysis 2**: *Manual of Investigative Operations and Guidelines (MIOG) Part 2, Section 23-3.1 stated, "Investigative information from another field office is to be obtained by that office unless extraordinary haste requires direct communication. When the exigencies of a case, emergencies, or economy and common sense dictate, an employee, if authorized by his/her SAC, may enter the territory of another field office. The concurrence of the SAC of the entered office is to be obtained prior to the travel."*

SSA [redacted] advised cross-border travel occurred frequently with Charlotte personnel traveling into South Carolina and South Carolina personnel, to include TFOs, traveling into North Carolina. This travel was common due to the close proximity of the state line to downtown Charlotte. SSA [redacted] and SSA [redacted] routinely coordinated the travel through unclassified E-mail. Per Charlotte, this practice was verbally approved by Charlotte and Columbia SACs, but not documented via EC.

b6 -1
b7C -1

**Instruction 2:** SAC, Charlotte will ensure SAC or designee approval is appropriately documented prior to operational travel into another field office's area of responsibility.

3. **Provide recommendations for administrative action if deemed necessary.** As the application of deadly force in this instance involved a CMPD TFO rather than an Agent, the SIRG made no administrative action recommendations; deferring to the CMPD review of the application of deadly force. As it related to FBI personnel, the SIRG made no administrative recommendations.

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting member. The following members were in attendance: Acting Chief Inspector Paul D. Delacourt, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Criminal Investigative Division; Acting SC [redacted] Counterintelligence Division; Supervisory Special Agent (SSA) [redacted], Investigative Law Unit, Office of the General Counsel; SSA [redacted], Squad CR-2 Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and UC [redacted], Defensive Systems Unit, TD. The following non-voting individuals were also in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted], Office of Inspector General, USDOJ; [redacted] Internal Affairs, Customs and Border Patrol (CBP); [redacted], CBP; UC [redacted] Firearms and Toolmarks Unit, LD; SSA [redacted] ERTU, LD; Inspectors Shawn W. Stroud, Timothy M. Feeney, Trent R. Teyema, R. Justin Tolomeo, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Team Leaders [redacted] and

b6 -1,3
b7C -1,3

Title: (U//~~FOUO~~) Shooting Incident Charlotte Field Office
Re: 297I-HQ-A4046109, 08/29/2014

[redacted] OI, INSD; [redacted], Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] Inspection Management Unit (IMU), INSD. b6 -1 b7C -1

**Procedures for responding to the observations of the SIRG.**

(U//~~FOUO~~) SAC, CE, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, CE, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 -1 b7C -1

♦♦

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 15-cv-09133

Total Deleted Page(s) = 1
Page 5 ~ b7E - -5;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 03/27/2014
Report of: IIC Trent R. Teyema Office: FBIHQ – INSD
Case ID#: 297I-HQ-A4046109
Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT;
CHARLOTTE FIELD OFFICE;
01/07/2014

Investigative Period: 01/07/2014 – 03/27/2014

## I. Executive Summary

(U//~~FOUO~~) On December 12, 2013, the Charlotte Mecklenburg, North Carolina, Police Department (CMPD) obtained an arrest warrant for [redacted] for the Armed Robbery of a Jack in the Box restaurant located in Pineville, North Carolina. After receiving information [redacted] may have fled North Carolina to South Carolina, on December 18, 2013, CMPD TFO [redacted] assigned to the Charlotte Field Office Violent Crimes Safe Streets Task Force (SSTF), opened a [redacted] Investigation. TFO [redacted]'s duties on the SSTF were to conduct violent fugitive investigations. This investigation was opened to allow investigative steps to be conducted to determine if [redacted] did in fact flee the state to avoid prosecution. b6 -4,7 b7C -4,7 b7E -2

U//~~FOUO~~) On January 7, 2014, at approximately 6:12 a.m., TFOs [redacted] and [redacted] accompanied by three CMPD Violent Criminal Apprehension Team (VCAT) officers and four deputies from the York County, South Carolina, Sheriff's Office (YCSO), drove to [redacted] South Carolina. A vehicle known to belong to [redacted] the known [redacted] was in the driveway of the residence. For approximately 25 minutes, the Charlotte TFOs attempted to get [redacted] to answer the front door. These attempts included repeated knocks on the door, verbal requests through an open bedroom window, and the use of a police Long Range Acoustical Device (LRAD), a device which amplified and directed speech. [redacted] answered the door at approximately 6:37 a.m. [redacted] told the TFOs [redacted] was not in the residence and provided verbal consent to a cursory search. b6 -4,7 b7C -4,7

(U//~~FOUO~~) TFO [redacted] CMPD, North Carolina, Officers [redacted] Lieutenant [redacted] and YCSO, South Carolina, Deputy [redacted] entered the residence. TFO [redacted] Officers [redacted] accompanied by Deputy [redacted] proceeded upstairs to clear two bedrooms. TFO [redacted] and Officers [redacted] entered the bedroom located on the left side of the stairway. TFO [redacted] saw an individual seated or crouched on a bed b6 -4 b7C -4



NYT-786

with a handgun drawn and pointed at TFO [redacted] TFO [redacted] recognized this individual as [redacted] from a previously viewed photograph. TFO [redacted] immediately fired his weapon at [redacted] firing four rounds, striking [redacted] twice, once in each leg. Simultaneously, [redacted] discharged four rounds from a .22 caliber handgun at TFO [redacted] Two of the .22 caliber rounds struck TFO [redacted] one in the left shoulder and one in the pelvic region. TFO [redacted] was assisted out of the room by other officers. Two YCSO, South Carolina, deputies entered the room following the shooting, handcuffed [redacted] and secured [redacted]'s weapon without further incident. During the arrest, [redacted] told the deputies he wanted to die and wished the officers had killed him.

b6 -4,7
b7C -4,7

(U//~~FOUO~~) The shooting scene was processed by the South Carolina Law Enforcement Division (SLED), who, at the request of the York County, South Carolina, Sheriff, took the lead on the investigation. Voluntary statements were obtained by SLED from all officers and deputies involved in the incident, with the exception of TFOs [redacted] whose statements were documented through FD-302s. All voluntary statements, evidentiary reports, and photos were provided to the SIRT by the SLED and the York County Sheriff's Office.

b6 -4
b7C -4

## II. Incident Details

### a. Substantive Case Files and Background Information

(U//~~FOUO~~) Prior to the shooting incident, the following substantive 88A case was opened:

Title: [redacted]
UFAP-ROBBERY WITH A;
DEADLY WEAPON (GUN);
[redacted]
CHARLOTTE, NC
12/18/2013

b6 -7
b7C -7
b7E -2

File number: 88A-CE-3900107
Case Agent: TFO [redacted]

b6 -4
b7C -4

(U//~~FOUO~~) As a result of the Agent-Involved Shooting, the Columbia Field Office opened the following Assault on a Federal Officer Investigation:

Title: [redacted]
ASSAULT ON A FEDERAL OFFICER;
TFO-INVOLVED SHOOTING
COLUMBIA, SC
01/07/2014

b6 -1,7
b7C -1,7

File number: 89B-CO-4050113
Case Agent: SA [redacted]

**b. Listing of Personnel Involved in the Incident**

1. TFO [redacted] (discharged weapon) – FBI CE, CMPD, North Carolina
2. TFO [redacted] – FBI CE, CMPD, North Carolina
3. LT [redacted] – CMPD, North Carolina
4. Deputy [redacted] – CMPD, North Carolina
5. SGT [redacted] – CMPD, North Carolina
6. Detective [redacted] – CMPD, North Carolina
7. Detective [redacted] – CMPD, North Carolina
8. SGT [redacted] – YCSO, South Carolina
9. Deputy [redacted] – YCSO, South Carolina

b6 -4
b7C -4

**c. Case Review and Operational Briefings**

(U//~~FOUO~~) On December 12, 2013, investigation by the CMPD, North Carolina, developed probable cause that [redacted] committed the offense of Robbery with a Dangerous Weapon (Gun), a felony offense punishable by up to 10 years in prison under the laws of the State of North Carolina. CMPD, North Carolina, detectives obtained an arrest warrant for the subject on December 12, 2013, for the Armed Robbery of a Jack in the Box restaurant located in Pineville, North Carolina. Initial law enforcement efforts to locate the subject in and around Charlotte, North Carolina were unsuccessful. Based on unsuccessful investigative efforts and the belief the subject may have traveled interstate to South Carolina with the intent to avoid prosecution, FBI Charlotte opened a unlawful flight to avoid prosecution (UFAP) [redacted] Investigation (88A-CE-3900107). This investigation was opened to allow investigative steps to be conducted to determine if [redacted] did in fact flee the state to avoid prosecution.

b6 -7
b7C -7
b7E -2

(U//~~FOUO~~) Per Fugitive Policy Implementation Guide Criminal Investigative Division 0404PG dated April 30, 2011:

[redacted]

b7E -5



NYT-788

(U//~~FOUO~~) A review of the opening communication showed that an arrest warrant was Obtained on December 12, 2013, charging [redacted] with Robbery With a Deadly Weapon. The communication did not cite a specific reason why [redacted] was believed to have traveled interstate with the intent to avoid prosecution, only it was reasonable to believe he did. SIRT interviews revealed the basis for the belief [redacted] may have traveled interstate was due to the close proximity to the South Carolina state line (approximately four miles) and [redacted] had a [redacted] who resided in South Carolina. The opening communication did not address any of the other criteria outlined in Sections 3.4.2 and 4.2.2.

b6 -2,7
b7C -2,7

**d. Events Leading Up to the Day of the Shooting**

(U//~~FOUO~~) On January 3, 2014, at 7:33 a.m., TFO [redacted] sent an unclassified E-mail to SSA [redacted], Charlotte Squad CE08/SSTF, indicating he and TFO [redacted] were heading to [redacted], South Carolina to conduct an investigation on [redacted]. A wanted poster of [redacted] was attached to the E-mail. TFO [redacted] noted in the E-mail they would also be driving by an address in [redacted] South Carolina to look for a [redacted] suspect connected to one of TFO [redacted]'s SSTF fugitive investigations. TFO [redacted] wrote in the E-mail they would be meeting up with SLED, and FBI investigative cases were open on both, [redacted] and the [redacted] subject. SSA [redacted] requested both addresses, which were provided by TFO [redacted]. During the interview of SSA [redacted] by SIRT members, SSA [redacted] advised he had reminded TFO [redacted] he needed to give him more notice of potential operations so proper notification could be made to the Columbia Division and his ASAC. At 8:04 a.m., SSA [redacted] sent an unclassified E-mail to SSA [redacted] Columbia Field Office and requested permission for his TFOs to travel into the Columbia Division area of responsibility (AOR) to conduct the investigations. SSA [redacted] acknowledged receipt of SSA [redacted]'s E-mail. TFOs [redacted] met with members of the Chester County, South Carolina, Sheriff's Office (CCSO) at [redacted] South Carolina. The residence belonged to [redacted] and was identified through open source record checks. TFOs [redacted] along with members of the CCSO, conducted a consent search of the residence. [redacted] was not located, and [redacted] did not provide any information on [redacted]' whereabouts.

b6 -1,2,4,7
b7C -1,2,4,7

(U//~~FOUO~~) On January 6, 2014, TFOs from the SSTF made contact with management at the [redacted] located off [redacted] South Carolina. [redacted] was previously employed at this [redacted]. The manager identified [redacted] date of birth [redacted] The information provided led to the identification of [redacted]'s residence, [redacted] South Carolina.

b6 -1,4,7
b7C -1,4,7

(U//~~FOUO~~) On January 6, 2014, at 10:34 a.m., SSA [redacted] sent an unclassified E-mail to SSA [redacted] advising him his TFOs received a lead on [redacted] and they were en route to [redacted] South Carolina. At 10:41 a.m., TFO [redacted] sent an unclassified E-mail to SSA [redacted] advising they drove by the residence and there were no vehicles in the driveway. TFO [redacted] notified SSA [redacted] they would attempt contact the morning of January 7, 2014. During the SIRT interview of SSA [redacted] SSA [redacted] believed he notified ASAC [redacted] via instant messenger (IM) the TFOs would be traveling to the [redacted].

[redacted] South Carolina address on January 7, 2014. SIRT investigation could not corroborate if this IM was sent, and ASAC [redacted] could not state for certain he received the IM. During the SIRT interview, SSA [redacted] advised cross border travel occurred frequently with Charlotte personnel traveling into South Carolina and South Carolina personnel, to include TFOs, traveling into North Carolina. This travel was common due to the close proximity of the state line to downtown Charlotte. SSA [redacted] and SSA [redacted] routinely coordinated the travel through unclassified E-mail, which although not documented via EC, was approved by Charlotte and Columbia SACs.

b6 -1,7
b7C -1,7

**e. Shooting Incident Details**

(U//~~FOUO~~) There was no Arrest or Operations Plan prepared prior to the incident. An operational briefing was conducted the morning of the shooting incident, January 7, 2014. The briefing was conducted by TFO [redacted] in a parking lot near [redacted] South Carolina. TFO [redacted] briefed all personnel that a "Knock and Talk" would be conducted at the residence to determine if [redacted] was present and could provide any information on the whereabouts of [redacted] As customary with fugitive-related "Knock and Talks" conducted by the VCAT, the TFOs planned for the possibility [redacted] could be in the residence. This planning consisted of [redacted]

b6 -4,7
b7C -4,7
b7E -1

(U//~~FOUO~~) On January 7, 2014, at approximately 6:12 a.m., TFOs [redacted] accompanied by three CMPD, North Carolina VCAT officers and four YCSO, South Carolina deputies drove to [redacted] South Carolina. A vehicle known to belong to [redacted] was in the driveway of the residence. For approximately 25 minutes, the Charlotte TFOs attempted to get [redacted] to answer the front door. These attempts included repeated knocks on the door and verbal requests through an open bedroom window. TFO [redacted] through the use of a LRAD, called out the address, identified the persons present outside the house as law enforcement officers of the "York County Sheriff's Office," and directed the occupant(s) to answer the front door. Using the LRAD and believing [redacted] was present, TFO [redacted] called her out by name. After using the LRAD for approximately 15 minutes, [redacted] answered the front door. [redacted] identified as [redacted] told the TFOs [redacted] was not in the residence, and she provided verbal consent to a cursory search. [redacted] told the officers [redacted] were upstairs in their bedroom of the residence.

b6 -4,7
b7C -4,7

(U//~~FOUO~~) TFOs [redacted] CMPD, North Carolina Officers [redacted] Lieutenant [redacted] and YCSO, South Carolina Deputy [redacted] entered the residence. [redacted] repeated she had no knowledge regarding [redacted]'s whereabouts. A search of the first floor was negative. [redacted] reiterated [redacted] were upstairs. [redacted] requested [redacted] come to the first floor. According to [redacted] was a heavy sleeper, on medication, and likely would not wake up and come down.

b6 -2,4,7
b7C -2,4,7

(U//~~FOUO~~) TFO [redacted] Officer [redacted] Officer [redacted] and Deputy [redacted] continued on to search the second floor of the residence. TFO [redacted] and Deputy [redacted] remained on the

b6 -4
b7C -4

first floor with [redacted] TFO [redacted] searched and cleared the upstairs hallway bathroom before TFO [redacted] and Officer [redacted] assumed a position of cover on the door of the bedroom located on the left at the top of the stairs. The door to this room was closed, but not locked. Simultaneously, Officer [redacted] and Deputy [redacted] entered the bedroom located on the right at the top of the stairs. They confirmed the [redacted] was in the bedroom on the right, and spoke with him briefly. Officers decided they would not move the [redacted] to the first floor. b6 -2,4,7 b7C -2,4,7

(U//~~FOUO~~) While watching the door of the bedroom on the left of the stairs, TFO [redacted] heard the presence of a dog. TFO [redacted] directed Officer [redacted] to contact [redacted] downstairs and request she remove the dog. [redacted] complied with the request, and while she was in the bedroom spoke to no one. [redacted] provided no information to TFO [redacted] or other officers regarding the presence of anyone in the bedroom.

(U//~~FOUO~~) TFO [redacted], Officer [redacted] and Officer [redacted] then entered the bedroom at the left of the stairs. TFO [redacted] was the first person through the door with his Smith and Wesson M & P .40 caliber semi-automatic hand gun drawn. The weapon was loaded with 15 rounds in the magazine and one in the chamber and it was equipped with a flashlight. TFO [redacted] was also wearing a ballistic protection vest with visible police markings. Upon entering, TFO [redacted] noted the lights were not turned on in the bedroom and the area was completely dark except from the light on his weapon. Due to a recess in the wall, TFO [redacted]'s view of the room was limited. TFO [redacted] could not see all of the room to the right due to the bedroom door and restriction of its movement by the wall or furniture. Limited space in the entryway of the room prohibited either of the other officers from entering the room with TFO [redacted] TFO [redacted] progressed further into the room and cleared the portion to the left and observed no one present. Upon sweeping to the right, TFO [redacted] saw an individual seated or crouched on a bed. He had a handgun drawn and pointed at TFO [redacted] TFO [redacted] recognized this individual as [redacted] from a previously viewed photograph. TFO [redacted] immediately fired his weapon at [redacted] four times, striking him twice, once in each leg. Simultaneously, [redacted] fired a .22 caliber handgun at TFO [redacted] discharging four rounds. Two rounds struck TFO [redacted], one in the left shoulder and one in the pelvic region. TFO [redacted] believed he fired first. TFO [redacted] attempted to re-holster his weapon, but dropped the weapon on the floor. TFO [redacted] retreated from the room, notified the other officers he had been shot, and he had dropped his weapon in the room. He then moved downstairs assisted by other officers to seek medical attention. YCSO, South Carolina Deputies [redacted] then entered the room following the shooting, handcuffed [redacted] and secured [redacted] weapon, a Ruger .22 caliber pistol, without further incident. During his arrest, [redacted] told the deputies he wanted to die and wished the officers had killed him. The YCSO, South Carolina deputies also recovered TFO [redacted]'s weapon from the room. b6 -4,7 b7C -4,7

**f. Post Shooting Details**

(U//~~FOUO~~) Emergency Medical Technicians (EMTs) responded to [redacted] [redacted] South Carolina and transported TFO [redacted] across state line, to Carolina's Health Care System in Charlotte, North Carolina. b6 -4,7 b7C -4,7

(U//~~FOUO~~) The shooting scene at [redacted] South Carolina, was processed by the SLED, who, at the request of the York County, South Carolina Sheriff, took

lead on the investigation. Voluntary statements were obtained by SLED from all officers and deputies involved in the incident, with the exception of TFOs [redacted] whose statements were documented through FD-302s. All voluntary statements were provided to the SIRT. All other evidentiary reports and photos were provided to the SIRT by SLED and the YCSO. FBI Charlotte Agents conducted a canvass of the neighborhood for the SIRT. b6 -4,7 b7C -4,7

(U//~~FOUO~~) Statements taken from officers and deputies who observed the actions taken by TFO [redacted] corroborated his account of the shooting. No other law enforcement officers fired their weapons, and no other officers or deputies were injured. A loaded .22 caliber handgun was recovered in the bedroom.

(U//~~FOUO~~) On January 7, 2014, [redacted] was arrested and charged with Obstruction of Justice by the YCSO, South Carolina.

(U//~~FOUO~~) On January 8, 2014, [redacted] was interviewed at the hospital by SLED Agent [redacted] and SA [redacted] Columbia Division. [redacted] admitted to pointing his gun at TFO [redacted] and stated the officer had a right to shoot him. [redacted] said TFO [redacted] shot him in the legs first and he fired at TFO [redacted] to get him to shoot higher. [redacted] advised he wanted the officers to kill him. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) On January 9, 2014, after being released from the hospital, [redacted] was taken into federal custody for the December 12, 2013, Armed Robbery of the Jack in the Box restaurant.

(U//~~FOUO~~) On January 10, 2014, a criminal complaint was signed by United States Magistrate Judge David S. Cayer, for the United States District Court in the Western District of North Carolina, charging [redacted] for Hobbs Act Robbery in violation of Title 18 USC Section 1951, related to the robbery of the Pineville, North Carolina Jack in the Box restaurant he committed on December 12, 2013.

**g. Accounting of Shots Fired**

(U//~~FOUO~~) TFO [redacted] fired four .40 caliber rounds at [redacted] striking him twice, once in each leg. The remaining two rounds were recovered from the bedroom wall behind the bed. Four .40 caliber shell casings were recovered at the scene. The number of rounds fired (four) and the number of rounds remaining in TFO [redacted]'s firearm (twelve) corroborated he carried his semi-automatic handgun fully loaded with 15 rounds in the magazine and one round in the chamber. A round count was conducted by SLED investigators of all TFOs, CMPD officers, and YCSO, South Carolina deputies in the proximity of the scene to verify no other personnel fired their weapon. b6 -4,7 b7C -4,7

**h. Subject Information**

Name: [redacted]
Position: N/A
Sex: Male
Race: [redacted]



NYT-793

Height:
Weight:
Hair:
Eyes:
DOB:
SSAN
FBI #:

b6 -7
b7C -7

(U//~~FOUO~~) A National Crime Information Center (NCIC) criminal history check revealed multiple entries for [redacted] The documents contained multiple entries for [redacted] to include six arrests for offenses to include narcotics and weapon violations, robbery with a dangerous weapon, and domestic violence. [redacted] was convicted two times, most recently on [redacted] The other conviction was for [redacted]

(U//~~FOUO~~) At the time of the NCIC query, [redacted] had an active North Carolina state warrant for Armed Robbery, dated December 12, 2013.

**i. Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) All personnel wore body armor, tactical gear, and clothing clearly identifying them as law enforcement. No member of the entry team wore clothing with FBI markings.

**j. Forensic Summary**

b6 -4,7
b7C -4,7

(U//~~FOUO~~) At approximately 9:00 a.m., on January 7, 2014, SLED Crime Scene Investigator, [redacted] collected TFO [redacted] s Smith & Wesson M&P .40 caliber handgun, serial number [redacted], from Officer [redacted] at the incident scene located at [redacted] South Carolina. There were 12 rounds of Winchester .40 caliber service ammunition in the Smith & Wesson .40 caliber handgun, 11 rounds in the inserted magazine, and one chambered round. Two additional magazines for the Smith and Wesson .40 caliber handgun, with 15 rounds each of Winchester .40 caliber service ammunition, were retrieved from TFO [redacted] s ballistic vest. Investigator [redacted] collected a Ruger .22 caliber pistol, serial number [redacted] from Officer [redacted] which was the weapon secured from [redacted] There were five rounds of .22 caliber "Rem" ammunition in the Ruger pistol, four rounds in the inserted magazine and one chambered round.

b6 -7
b7C -7

(U//~~FOUO~~) The Charlotte Field Office provided the SIRT with one compact disk (labeled 89B-CO-4050113, Spherical Photography, [redacted] South Carolina, 01.07.2014). This disk contained 187 photographs (JPEG image files) and 28 spherical photographs (QuickTime movie files) with an accompanying photo log. These photographs depicted the shooting incident scene located at [redacted] South Carolina [redacted]

(U//~~FOUO~~) The Charlotte Field Office provided the SIRT with one compact disk (labeled 297I-HQ-A4046109, YORK Crime Scene Photos, 1/7/2014) containing 94 photographs.



NYT-794

These photographs depict the shooting incident scene located at [redacted] South Carolina [redacted]. b6 -7 b7C -7

(U//~~FOUO~~) An inventory of all recovered evidentiary items follows (All item numbers are SLED inventory numbers):

| | |
|---|---|
| 001 | One Smith and Wesson M&P .40 handgun with mounted light. Serial Number [redacted] with one magazine containing 11 cartridges and one cartridge from the chamber headstamped "Winchester 40 S&W. SN [redacted] |
| 002 | One Ruger .22 cal Long Rifle Automatic Pistol with one magazine containing four cartridges and one cartridge headstamped " Rem" from the chamber, SN [redacted] |
| 003 | One Traditions Lightning Lightweight .50 caliber 1.32 " rifle (muzzleloader) with one BSA Classic scope contained in a green and black gun case with one Stanley screwdriver and miscellaneous tools, SN [redacted] b6 -4,7 b7C -4,7 |
| 004 | One cartridge case headstamped "Winchester 40 S&W" from marker one |
| 005 | One cartridge case headstamped "Winchester 40 S&W" from marker two |
| 006 | One cartridge case headstamped "Winchester 40 S&W" from marker three |
| 007 | One cartridge case headstamped "Winchester 40 S&W": from behind white table in bedroom |
| 008 | One cartridge case headstamped "Rem" from marker five |
| 009 | One cartridge case headstamped "Super X" from marker eight |
| 010 | One cartridge case headstamped "Rem" from marker nine |
| 011 | One cartridge case headstamped "Rem" from marker 10 |
| 012 | One unfired cartridge headstamped "Super X" from marker 12 |
| 013 | One projectile from marker four |
| 013.1 | One piece of fiber taken from tip of item 13 |
| 014 | One projectile from pillow on bed |
| 015 | One projectile from wall below hole # 2 |
| 016 | One jacket from wall near hole # 2 |
| 017 | One fragment from wall near hole # 1 |
| 018 | Two pieces of fragment from Marker 11 on bed |
| 019 | One magazine with ten cartridges from marker six |
| 020 | One clear plastic ammo case with three unfired cartridges from backpack |
| 021 | One camo backpack containing miscellaneous items found in bedroom |
| 022 | One camo mask from backpack |
| 023 | One camo hat with bill from underneath loveseat |
| 024 | One black hat with bill from floor between mattress and wall |
| 025 | One cell phone with from foot stool in bedroom |
| 026 | One cell phone from bed |
| 027 | Two swabs from suspected blood on steps |
| 028 | Two swabs from suspected blood on carpet in bedroom |
| 029 | One notebook from closet |
| 030 | One pair of blue boxer underwear with suspected blood |
| 031 | One black "Call of Duty" shirt |
| 032 | One GSR kit from [redacted] b6 -7 b7C -7 |



NYT-795

| | |
|---|---|
| 033 | Two buccal swabs from [redacted] |
| 034 | One pair of brown Lowa boots, size 10.5 |
| 035 | One pair of socks |
| 036 | One black ballistic vest |
| 037 | One pair of black tactical gloves |
| 038 | One black ballistic vest |
| 039 | One wanted photo of [redacted] |
| 040 | One pair of Haines underwear |
| 041 | One pair of black Under Armour pants |
| 042 | One pair of fleece Patagonia pants |
| 043 | One black sweatshirt |
| 044 | One black shirt |
| 045 | One pair of black Kohl pants |
| 046 | One green 5.11 coat |
| 047 | One gray t-shirt |
| 048 | One Patagonia shirt |
| 049 | One tactical vest |
| 050 | Two pair of handcuffs |
| 051 | One taser X2, serial number X29000V7V |
| 052 | Two magazines containing 15 cartridges each |
| 053 | One LRAD remote headphone |
| 054 | One flashlight |
| 055 | One medical pouch |
| 056 | One ASP baton |
| 057 | One holster |
| 058 | One knife |
| 059 | One DVD of photographs taken of [redacted] at the hospital |
| 060 | One DVD of photographs taken by Deputy [redacted] at scene |
| 061 | One DVD of photographs taken by SLED at scene |
| 062 | One purple blanket from bed |

b6 -7
b7C -7

b6 -4,7
b7C -4,7

**k. Medical Summary**

FBI Agents involved in the shooting:

None; TFO [redacted] is a full-time Charlotte SSTF TFO.

b6 -2,4,7
b7C -2,4,7

(U//~~FOUO~~) At 6:47 a.m. on January 7, 2014, Piedmont, South Carolina EMS Division received notification via YCSO, South Carolina radio dispatch of a police-involved shooting at [redacted] South Carolina [redacted] EMS Technicians were dispatched at 6:48 a.m. in ambulance EMS 7. EMS 7 arrived on scene at 6:57 a.m. and rendered aid to TFO [redacted] who was suffering from two gunshot wounds, one to the pelvic region and one to the left shoulder. At 7:06 a.m., EMS 7 transported TFO [redacted] across state lines, to Carolina's Health Care System in Charlotte, North Carolina, arriving at 7:30 a.m. TFO [redacted] s care was transferred to Emergency Room Doctor [redacted]

(U//~~FOUO~~) A review of the hospital examination records of TFO [redacted] indicated his neurological state was "...alert and oriented to person, place, time, and situation, normal sensory observed, normal motor observed, normal speech observed." The hospital examination detailed the "Differential Diagnosis" as a "...gunshot wound, penetrating injury, traumatic shock, puncture wound, hemothorax, solid organ injury, hollow organ injury, internal hemorrhage." b6 -4 b7C -4

(U//~~FOUO~~) TFO [redacted] was discharged from the hospital on January 13, 2014, and was expected to make a full recovery.

Subjects:

(U//~~FOUO~~) Ambulance EMS F211 arrived on scene at 7:04 a.m. and took control of [redacted] who was suffering from two gunshot wounds, one to each leg. At 7:17 a.m., EMS F211 transported [redacted] across state lines, to Carolina's Health Care System in Charlotte, North Carolina, arriving at 7:44 a.m. [redacted]'s care was transferred to Emergency Room Doctor [redacted] Due to privacy laws, medical records for [redacted] were not obtained by the SIRT. b6 -2,7 b7C -2,7

(U//~~FOUO~~) On January 9, 2014, [redacted] was discharged from the hospital and taken into federal custody by FBI Charlotte.

## III. Shooting Incident Review Team Details

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Gregory T. Bretzing
Assistant Inspector / Team Leader (TL) [redacted] b6 -1 b7C -1
AI/TL [redacted]
AI/TL
Assistant Inspector-in-Place (AIP) [redacted]
AIP [redacted]
AIP
AIP

**b. The FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:**

None

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On January 7, 2014, Charlotte Field Office SAC [redacted] spoke with Chief Inspector Robert J. Shields and submitted a FD-1015, Executive Situation Report to the Director. IIC Bretzing spoke with SAC [redacted] to arrange logistics prior to arriving in Charlotte, North Carolina. b6 -1 b7C -1



NYT-797

(U//~~FOUO~~) On January 7, 2014, the SIRT traveled to Charlotte and reviewed the Inspection Division shooting review protocol.

(U//~~FOUO~~) On the evening of January 7, 2014, IIC Bretzing and the SIRT members met with Charlotte and Columbia Field Office EM and ERT personnel. The SIRT also viewed the shooting scene which occurred at [redacted] South Carolina. b6 -7 b7C -7

(U//~~FOUO~~) On January 8, 2014, IIC Bretzing and SIRT members met with Charlotte Field Office EM, Columbia Field Office EM, and members of the SLED and the YCSO to explain the SIRT process and protocols.

(U//~~FOUO~~) On 01/09/2014, IIC Bretzing met with CMPD EM at the Charlotte Field Office.

(U//~~FOUO~~) In total, five FBI interviews were conducted of Charlotte Field Office management and of both primary TFOs, to include the TFO who was shot. These interviews were documented via FD-302. Additionally, seven voluntary statements of officers at the scene were taken by SLED and provided to the SIRT.

(U//~~FOUO~~) On 01/09/2014, IIC Bretzing provided an exit brief to SAC [redacted] b6 -1 b7C -1

## V. Administrative

### a. Firearms Training

(U//~~FOUO~~) TFO [redacted] last qualified with his service weapon on November 11, 2013 and completed law enforcement training sessions documented on 21 pages bearing the Charlotte-Mecklenburg Police, North Carolina Training Academy Official Seal b6 -4 b7C -4

### b. Deadly Force Training

(U//~~FOUO~~) CMPD, North Carolina provided the SIRT with its Use of Deadly Force Policy, which was dated effective 12/31/2004. Records indicated TFO [redacted] attended Use of Force Training sessions in 2006, 2007, 2009, 2011, 2012, and most recently, with a completion date of 12/31/2013.

### c. DOJ Civil Rights Division Prosecutorial Decision

(U//~~FOUO~~) INSD provided [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division, SLED Memorandum of Interviews of [redacted] and [redacted] Mr. [redacted] reviewed the interviews and provided INSD a prosecutorial declination on January 15, 2014. b6 -2,3,7 b7C -2,3,7



NYT-798

**d. Local Prosecutorial Decision**

(U//~~FOUO~~) On January 7, 2014, IIC Bretzing and TL [redacted] met with District Attorney (DA) for the Sixteenth Judicial Circuit York and Union Counties, Kevin S. Brackett. Based on the facts presented, the DA did not see any issues regarding the use of deadly force. b6 -4,7 b7C -4,7

(U//~~FOUO~~) On March 3, 2014, DA Brackett (also known as "Solicitor") notified INSD via E-mail, based on his review of the SLED investigative reports, the officers were justified in their use of force and level of force employed by them was appropriate given the nature of threat posed by [redacted] An official declination letter was received by INSD on March 27, 2014.

## VI. Inspector's Draft Observations

(U//~~FOUO~~) **Observation 1**: The [redacted] UFAP investigation lacked managerial oversight, and was not conducted in accordance with CID Fugitive Policy. b6 -7 b7C -7

(U//~~FOUO~~) **Analysis 1**: Squad CE08 responsibilities included supervision of the Violent Crime SSTF and the following threat issues: 1) Transnational Organized Crime West (TOC-West); 2) Transnational Organized Crime East (TOC-East); 3) Violent Incident Crimes-Domestic. Fugitive investigations were worked under the Violent Incident-Domestic threat issue.

(U//~~FOUO~~) Charlotte Squad CE08 was led by SSA [redacted] and comprised of nine Agents and 14 full-time TFOs assigned to the Safe Streets Task Force (SSTF). Two of the 14 full-time TFOs were CMPD, North Carolina officers [redacted] Prior to being assigned to the SSTF, TFOs [redacted] were assigned to CMPD, North Carolina's Violent Criminal Apprehension Team (VCAT). As members of the SSTF, their mission was to focus on the apprehension of dangerous fugitives where a federal investigative interest existed, and develop probable cause necessary to obtain UFAP warrants. There were no FBI Agents assigned to work fugitive investigations on Squad CE08. As such, TFOs [redacted] relied on other non-SSTF VCAT team members who were federally deputized to pursue FBI UFAP investigations. TFOs [redacted] also provided support to VCAT members in non-federal cases as needed. Both [redacted] participated in approximately 400 arrests during the past year. In contrast, Squad CE08 had 14 federal fugitive investigations pending during INSD's on-site review. b6 -1,4 b7C -1,4

(U//~~FOUO~~) TFO [redacted] opened [redacted] as a [redacted] Investigation (88A-CE-3900107) on December 18, 2013. The predication for this investigation was a state arrest warrant for [redacted] based on an Armed Robbery of a fast food restaurant where [redacted] On Friday, January 3, 2014, TFO [redacted] notified CE08 SSA [redacted] via UNET E-mail, that he and TFO [redacted] were traveling to [redacted] South Carolina to pursue a lead on the [redacted] UFAP investigation. TFO [redacted] also stated they would be pursuing a lead in an unrelated [redacted] case ( [redacted] in [redacted] South Carolina and meeting with the South Carolina Law Enforcement Division (SLED). SSA [redacted] acknowledged receipt of TFO [redacted] 's E-mail and requested specific addresses at which the TFOs would be pursuing the leads. SSA [redacted] reminded TFO [redacted] he needed to provide more advanced notice of potential b6 -1,4,7 b7C -1,4,7



NYT-799

operations to SSA [redacted] so he could make the necessary notifications to the Columbia Field Office and the Charlotte Criminal ASAC. b6 -1 b7C -1

(U//~~FOUO~~) After being notified of the above activity on January 3, 2014, SSA [redacted] immediately notified SSA [redacted] his counterpart in the Columbia Field Office, via FBI UNET E-mail. SSA [redacted] and SSA [redacted] had an arrangement whereby they notified each other in this manner when their squads needed to pursue leads in the other's AOR. It was also SSA [redacted] s practice to notify his ASAC via telephone, E-mail, or Instant Messaging, although he does not recall notifying his ASAC of the activity on January 3, 2014. On occasion, SSA [redacted] 's ASAC would seek additional information on a matter after electronically acknowledging receipt. The SIRT was unable to determine if such notification was made to the ASAC by SSA [redacted]

(U//~~FOUO~~) On Monday, January 6, 2014, TFOs [redacted] traveled to a [redacted] in [redacted] South Carolina to pursue another lead on [redacted] SSA [redacted] was not notified by the TFOs prior to going to the [redacted] At the [redacted] TFOs [redacted] learned a [redacted] lived at [redacted] South Carolina. [redacted] was known to drive a [redacted] minivan. TFO [redacted] notified SSA [redacted] via UNET E-mail of the investigation's developments, indicated he had requested assistance from the York County Sheriff's Office, and was proceeding to the [redacted] address. Since no vehicles were parked in the driveway when the TFOs drove by, TFO [redacted] notified SSA [redacted] they were going to make contact the following morning. SSA [redacted] again notified SSA [redacted] of these developments. However, SSA [redacted] was not certain if he notified ASAC [redacted] ASAC [redacted] was also uncertain if he received an Instant Message from SSA [redacted] on January 6, 2014, regarding the noted investigation and the intended investigative steps. ASAC [redacted] remembered no other communications with SSA [redacted] including E-mail, telephonic, or otherwise, regarding this investigation, prior to January 7, 2014. SSA [redacted] recalled after TFOs [redacted] obtained the information from the [redacted] they did meet in person at the Charlotte Field Office and discussed the information obtained regarding the [redacted] address. SSA [redacted] viewed the TFOs going to the residence as following up on lead information, as they had done on January 3, 2014 and January 6, 2014. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) As per DIOG 7.1, a Full Investigation may be opened if there is an "*articulable factual basis*" of possible federal criminal or national threat activity. Per CID Electronic Communication (319W-HQ-A1487699-CID) dated April 14, 2014, regarding Fugitive Investigation Policy, the Violent Crimes Unit (VCU) instructed fugitive matters be opened as [redacted] once the following standards were met: b7E -2,5

- [redacted]



NYT-800

- [redacted] b7E -5

(U//~~FOUO~~) The Charlotte UFAP opening Electronic Communication (EC) verified an outstanding felony arrest warrant existed on [redacted] for Robbery With a Deadly Weapon. The EC did not articulate a factual basis for possible violations of federal law, did not document contact with the USAO, did not confirm a request for assistance from a local prosecutive authority, and did not set a lead to FBIHQ/VC/MOU for [redacted] factual review. b6 -7 b7C -7 b7E -5

(U//~~FOUO~~) There was no arrest plan prepared prior to the January 7, 2014 incident. Although there was not definitive information indicating [redacted] was at the residence, the TFOs acknowledged his presence was a possibility. As per DIOG 19.2.3 ARREST PLANS: b6 -7 b7C -7

> *(U) The ADIC/SAC is responsible to ensure that careful and thorough planning is conducted for the successful execution of a high risk arrest operation involving a potentially dangerous situation or subject. The arrest plan must be adapted to each situation and must include relevant details to enhance the safety and effectiveness of the agents and officers involved in the search operation. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees.*
>
> *(U) Prior to conducting an arrest operation deemed a high risk, the agent must prepare a written [redacted] to include the five critical categories: Situation, Mission, Execution, Administration and Equipment, and Control and Communication (SMEAC), and must utilize the [redacted] Form [redacted]. In situations where an FBI SWAT Team(s) or the Critical Incident Response Group's (CIRG), Tactical Section is involved, the [redacted] Template must be used in lieu of the [redacted] See the Special Weapons and Tactics Policy Implementation Guide (PG), 0444PG and Hostage Rescue Team PG, 0501PG for more on the use of the SWAT Teams and CIRG, Tactical Section in high risk operations.* b7E -5
>
> *(U) The written [redacted] must be presented in an oral briefing to all personnel involved in the execution of the arrest warrant(s) prior to the operation. During the briefing, the briefing Agent should stress to the participants of the operation that the arrest(s) has the potential to become dangerous. At the discretion of the field office approving official, the CDC/ADC may review the [redacted] and/or*

*participate in providing the FBI deadly force briefing to the arrest operation participants.*

*(U) Exigent circumstances (i.e., emergency, pressing necessity requiring immediate action) may necessitate an oral briefing in lieu of the written* [redacted] *The ASAC or designee must approve the use of an oral briefing in lieu of a written and approved* [redacted] *in exigent circumstances. An oral briefing must follow the requirements of a written* [redacted] *to address the SMEAC categories identified above. Documentation of the oral briefing must occur as soon as possible following the operation by preparing and filing the* [redacted] *Template, whichever is appropriate for the situation.* b7E -5

*(U) The SSA may consider utilizing, and/or alerting local authorities to the planned arrest, if appropriate under the circumstances. Although the time of notification is left to the discretion of the SSA, he/she must consider the jurisdiction of local law enforcement, its responsibility to its community and its need to be aware of law enforcement actions in its jurisdiction.*

*(U) The term "Agent" in the context of this section includes FBI Special Agents and other federal, state, tribal, or local law enforcement officers who have been deputized under either Title 18 or 21 of the United States Code and are working on behalf of or at the direction of the FBI, e.g. task force officer, JTTF, etc.*

(U//~~FOUO~~) INSD determined there was informal communication between TFOs and FBI personnel regarding the fugitive investigation prior to the incident on January 7, 2014. However, Charlotte lacked sufficient guidance or documentation outlining a strategy or expectations for TFOs while conducting federal investigations, to include a process by which detailed and timely information from TFOs was received to facilitate informed decisions and appropriate oversight. There was no documented squad policy or protocol regarding fugitive investigations or specific responsibilities of VCAT and FBI personnel. The current FBI-CMPD Memorandum of Understanding signed on May 1, 2013, did not adequately address the TFOs responsibilities to communicate with FBI personnel during potential arrest situations.

(U//~~FOUO~~) Based on intelligence obtained from the interviews of [redacted], [redacted] prior intelligence [redacted] worked in South Carolina, and the actions taken by the TFOs on site (use of LRAD and large law enforcement team), INSD assessed there was a reasonable presumption [redacted] would be at the residence. SSA [redacted] neglected his managerial responsibility to ensure there was logical operational planning with consideration of contingencies by permitting FBI TFOs to conduct FBI fugitive investigations with little more than an expectation of cursory notification of their investigative activities. SSA [redacted] acted as a mere conduit to the adjacent Field Office by only notifying the Columbia SSA via E-mail his TFOs would be in the Columbia AOR conducting a fugitive investigation. SSA [redacted] in his capacity as the SSA of the TFOs, should have been more engaged in the discussion and planning for what could have reasonably been expected to be an arrest scenario. b6 -1,2,7 b7C -1,2,7

(U//~~FOUO~~) **Instruction 1a:** SAC, Charlotte should ensure UFAP investigations are worked in accordance with existing DIOG policy, the Fugitive Policy Guide, and recent CID guidance (319W-HQ-A1487699-CID, Serial 1081) on fugitive investigations.

(U//~~FOUO~~) **Recommendation 1b:** [redacted] b5 -1,2

[redacted]

(U//~~FOUO~~) **Recommendation 1c:** SAC, Charlotte should ensure communications between supervisors and EM regarding TFO investigative actions are appropriately documented.

(U//~~FOUO~~) **Recommendation 1d:** SAC, Charlotte should ensure an operations plan is utilized when conducting a high risk arrest.

(U//~~FOUO~~) **Observation 2:** There was no documentation of SAC or designee approval for travel into another field office's area of responsibility for operational activity.

(U//~~FOUO~~) **Analysis 2:** Manual of Investigative Operations and Guidelines (MIOG) Part 2, Section 23-3.1 stated, "*Investigative information from another field office is to be obtained by that office unless extraordinary haste requires direct communication. When the exigencies of a case, emergencies, or economy and common sense dictate, an employee, if authorized by his/her SAC, may enter the territory of another field office. The concurrence of the SAC of the entered office is to be obtained prior to the travel.*"

(U//~~FOUO~~) SSA [redacted] advised cross border travel occurred frequently with Charlotte personnel traveling into South Carolina and South Carolina personnel, to include TFOs, traveling into North Carolina. This travel was common due to the close proximity of the state line to downtown Charlotte. SSA [redacted] and SSA [redacted] routinely coordinated the travel through unclassified E-mail. Per Charlotte, this practice was verbally approved by Charlotte and Columbia SACs, but not documented via EC. b6 -1 b7C -1

(U//~~FOUO~~) **Instruction 2:** SAC, Charlotte will ensure SAC or designee approval is appropriately documented prior to operational travel into another field office's area of responsibility.



NYT-803

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) SHOOTING INCIDENT SPRINGFIELD FIELD OFFICE 06/14/2014 **Date:** 11/14/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** R Justin Tolomeo
STROUD SHAWN W
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A5065721 (U) Springfield-Peoria Shooting Incident Review 06-14-2014

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned Agent-involved shooting incident following the SIRG meeting held on 10/21/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division (INSD) Shooting Incident Report dated 09/18/2014, prepared by Inspector R. Justin Tolomeo. A copy of the complete INSD Shooting Incident Report was uploaded to the captioned file.

**Details:**

(U//~~FOUO~~) On 10/21/2014, the SIRG reviewed an Agent-involved shooting incident that occurred on 06/14/2014 involving Special Agent (SA) [redacted] Springfield Field Office. At approximately 7:30 P.M., SA [redacted] (a TFO) arrived at The b6 -1,4 b7C -1,4

Title: (U//~~FOUO~~) SHOOTING INCIDENT SPRINGFIELD FIELD OFFICE 06/14/2014
Re: 297I-HQ-A5065721, 11/14/2014

Fifth Quarter Sports Bar & Pizzeria in East Peoria, Illinois. The purpose of the visit was to attend [redacted]'s high school reunion. b6 -4 b7C -4

(U//~~FOUO~~) Jason A. Moore, born 10/12/1973, entered the establishment at about 7:45 P.M. and had a brief conversation with the greeter at the door. At approximately 7:49 P.M., he drew a Sig Sauer 9mm handgun with a laser sight, walked a short distance into the bar, and shot his ex-wife, Lori A. Moore, and her boyfriend, Lance Griffel, once each in the head. Jason Moore then walked back to the greeting area. Jason Moore pointed his handgun at his own head as well as at a crowded dining area where SA [redacted] was standing. While the weapon was pointed at his head, Jason Moore fired one round in what appeared to be a suicide attempt; however, the bullet only grazed his left cheek. As Jason Moore pointed the weapon at the crowded dining area, SA [redacted] fired two rounds from his Bureau-issued Glock 23 .40 caliber handgun hitting Jason Moore once in the shoulder and once in the upper right side of his torso. Jason Moore died at the scene. Lori Moore and Lance Griffel were transported to the Order of Saint Francis Medical Center in Peoria, Illinois, where they were pronounced dead. There were no other injuries. b6 -1 b7C -1

(U//~~FOUO~~) An autopsy of Jason Moore determined the cause of death to be a gunshot wound which punctured his aorta. Jason Moore's toxicology report listed the ethanol alcohol level in his blood as 0.354. The report also indicated the presence of a prescription antidepressant. Interviews conducted by local authorities indicated Jason Moore had ongoing issues with Lori Moore regarding their divorce, which occurred about one year earlier. Text messages reviewed from the day of the incident revealed several messages between Jason Moore and Lori Moore where Jason complained of matters such as child custody, support payments, and Lori Moore's new boyfriend. The last text message from Jason Moore to Lori Moore was sent at 7:14 P.M. and read, "anywho, I'm gonna show up just to piss you off." Another interview with a friend of Lori Moore indicated at about the same time Lori stated Jason was going to ruin her night.

Title: (U//~~FOUO~~) SHOOTING INCIDENT SPRINGFIELD FIELD OFFICE 06/14/2014
Re: 297I-HQ-A5065721, 11/14/2014

**SIRG Observations**

(U//~~FOUO~~) On 10/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG voted unanimously the application of deadly force by SA [redacted] on 06/14/2014 was in compliance with the Department of Justice Deadly Force Policy. **b6 -1 b7C -1**

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG determined SA [redacted] took appropriate actions to protect himself and others from the imminent threat posed by Jason Moore. Therefore, the SIRG did not propose any observations.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in the 06/14/2014 shooting incident. **b6 -1 b7C -1**

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Acting Chief Inspector Shawn W. Stroud, Office of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, United States Department of Justice (USDOJ); Trial Attorney [redacted] Criminal Division, USDOJ; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted], Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, **b6 -1,3 b7C -1,3**

Title: (U//~~FOUO~~) SHOOTING INCIDENT SPRINGFIELD FIELD OFFICE 06/14/2014
Re: 297I-HQ-A5065721, 11/14/2014

Critical Incident Response Group (CIRG); UC [redacted], New Agent Training Program Section, Defensive Systems Unit (DSU), TD; and SC Roger A. Coe, CD-2, Global Section, Counterintelligence Division. The following non-voting individuals were also in attendance: Gunsmith [redacted] SWAT Operations Unit, CIRG; SSA [redacted] Ballistics Research Facility, DSU; SSA [redacted], Protective Operations Unit, Security Division; UC [redacted] Firearms and Toolmarks Unit, Laboratory Division; Inspectors Trent R. Teyema, R. Justin Tolomeo, Paul D. Delacourt, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] OI, INSD; Special Assistant [redacted], OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted], Inspection Management Unit (IMU), INSD; and MAPA [redacted], Inspection Analysis Unit (IAU), INSD.

b6 -1
b7C -1

♦♦

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Date: 09/18/2014

Report of: IIC R. Justin Tolomeo Office: FBIHQ-INSD

Case ID#: 297I-HQ-A5065721

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
SPRINGFIELD FIELD OFFICE
PEORIA RESIDENT AGENCY
06/14/2014

Investigative Period: 06/14/2014 – 09/25/2014

---

## I. Executive Summary

(U//~~FOUO~~) On 06/14/2014, at approximately 7:36 p.m., SA [redacted] and [redacted] an FBI Task Force Officer (TFO), arrived at The Fifth Quarter Sports Bar & Pizzeria, 1110 North Main Street, East Peoria, Illinois 61611. SA [redacted] were at the bar to attend [redacted] high school reunion. SA [redacted] was at the bar for only a few minutes when Jason A. Moore, DOB 10/12/1973, entered the establishment. Jason Moore had a brief conversation with the greeter at the door. At approximately 7:45 p.m., Moore drew a 9 mm handgun, walked a short distance into the bar, and shot his ex-wife, Lori A. Moore, and her boyfriend, Lance Griffel, once each in the head. Lori Moore and Lance Griffel were also at the bar to attend the high school reunion. Jason Moore then walked back towards the front door of the establishment. He stopped just inside the doorway and faced a crowded dining area of the bar. Moore pointed his handgun at his own head as well as a crowded dining area where SA [redacted] was standing. Jason Moore fired one round while the weapon was pointed at his head in what appeared to be a suicide attempt; however, the bullet only grazed his left cheek. SA [redacted] fired two rounds from his Glock .40 caliber handgun hitting Jason Moore once in the shoulder and once in the upper right side of the torso. Jason Moore died at the scene.

b6 -1,4
b7C -1,4

(U//~~FOUO~~) Lori Moore and Lance Griffel were transported to the Order of Saint Francis Medical Center in Peoria, Illinois, where they were pronounced dead. No others in the bar or surrounding area were injured. An autopsy of Jason Moore was performed on 06/15/2014 by Coroner's Physician Dr. [redacted] who determined the cause of death to be a gunshot wound where the projectile entered the right side of Jason Moore's body and traversed to the left side of his chest and punctured the aorta. Two other gunshot wounds, one to the right shoulder and another to the left cheek (self inflicted) were superficial. A review of available video from

b6 -4
b7C -4

the bar as well as witness interviews and SA [redacted]'s Signed Sworn Statement were all consistent. b6 -1 b7C -1

(U//~~FOUO~~) Interviews conducted by local authorities indicated Jason Moore had an ongoing issue with his divorce from Lori Moore. Text messages reviewed from the day of the incident revealed several messages between Jason Moore and Lori Moore where Jason complained of matters relating to his divorce such as child custody, support payments, and Lori Moore's new boyfriend. The last text message from Jason Moore to Lori Moore was sent at 7:14 p.m., and read "anywho, I'm gonna show up just to piss you off." Another interview with a friend of Lori Moore indicated at about the same time, Lori stated, "Jason was going to ruin her night."

## II. Incident Details

### A. Substantive Case Files and Background Information

There was no substantive case which predated this shooting incident.

After the shooting incident, the following substantive case was opened:

| | |
|---|---|
| CASE ID: | 89B-SI-5069714 |
| CASE TITLE: | JASON A MOORE;<br>SA [redacted] - VICTIM;<br>EAST PEORIA, IL.<br>ASSAULT ON A FEDERAL OFFICER (AFO) |
| DATE OPENED: | 06/15/2014 |

b6 -1
b7C -1

### B. Listing of Personnel Involved in the Incident

FBI
SA [redacted]

b6 -1,4
b7C -1,4

TFO
[redacted] East Peoria Police Department

### C. Briefings

(U//~~FOUO~~) This incident was a response to an active shooter scenario and not a substantive case. There was no briefing associated with this incident.

### D. Initial Entry/First Contact

(U//~~FOUO~~) On 06/14/2014, at approximately 7:36 p.m., SA [redacted] and [redacted] arrived at The Fifth Quarter Sports Bar & Pizzeria in East Peoria, Illinois. SA [redacted] were off duty and the purpose of the visit was to attend

b6 -1,4
b7C -1,4

[redacted] high school reunion. At approximately 7:40 p.m., Jason A. Moore entered the bar and spoke with two female greeters at the door for several minutes. Shortly after, at approximately 7:45 p.m., he drew a 9 mm Sig Sauer handgun, walked a short distance into the bar, and shot his ex-wife, Lori A. Moore, and her boyfriend, Lance Griffel, once each in the head. b6 -1,4 b7C -1,4

**E. Shooting Incident**

(U//~~FOUO~~) Subsequent to shooting his ex-wife and her boyfriend, Jason Moore walked back toward the front door of the establishment. He stopped just inside the door and faced a crowded dining area of the bar. Moore pointed his handgun at his own head as well as a crowded dining area where SA [redacted] was standing. There were over 100 people in the bar at the time of the incident. Jason Moore fired one round while the gun was pointed at his head in what appeared to be a suicide attempt; however, the bullet only grazed his left cheek. As Moore continued to manipulate the gun, SA [redacted] fired two rounds from his Glock .40 caliber service handgun hitting Jason Moore once in the shoulder and once in the upper right side of the torso. Initial response to the scene was by the Fondulac Park Police Department and the East Peoria Police Department. Jason Moore died at the scene. Lori Moore and Lance Griffel were transported to the Order of Saint Francis Medical Center in Peoria, Illinois, where they were pronounced dead. No others in the bar or surrounding area were injured. Tazewell County Deputy Coroner [redacted] arrived at the scene of the shooting and pronounced Jason Moore dead at 11:20 p.m. A review of available video from the bar as well as witness interviews and SA [redacted]'s Signed Sworn Statement were all consistent. TFO [redacted] was not carrying a firearm at the time of the incident.

**F. Post-shooting**

(U//~~FOUO~~) A/SSRA [redacted] was notified of the shooting via telephone by [redacted] at approximately 7:56 p.m. Since A/SSRA [redacted] was not in the area, he designated SA [redacted] as the acting supervisor and directed him to the scene. SA [redacted] contacted SA [redacted] and they responded to the scene, arriving at approximately 8:46 p.m. SA [redacted] took possession of SA [redacted]'s firearm and ammunition which included his Glock 23 and the Glock 23 magazine which was in the weapon along with a Glock 22 magazine SA [redacted] had in his pocket at the time of the shooting. A round count taken indicated a total of four rounds were missing including one from the spare Glock 22 magazine. SA [redacted] advised and evidence confirms he fired two rounds. SA [redacted] further advised he intentionally carries his magazines with one less round than they are designed to hold. SA [redacted] carries the Glock 23 magazine with 12 of the possible 13 round capacity and the Glock 22 magazine with 14 of the possible 15 round capacity. b6 -1,4 b7C -1,4

Springfield ASAC [redacted] SSA [redacted] the Springfield ERT coordinator, and a firearms instructor as well as other ERT members from the Springfield HQ city office also responded to the scene. They coordinated with the East Peoria Police Department (EPPD) and the Illinois State Police (ISP) regarding scene processing and investigative responsibilities. It was agreed the ISP would process the scene and complete a digital 3D mapping of the location b6 -1 b7C -1

with the assistance of the Springfield Field Office ERT. An FBI Chicago ERT photographer [redacted] conducted spherical photography of the scene. The ISP seized all pertinent evidence at the scene and later signed over the evidence to the East Peoria Police Department, which then provided all requested evidence to FBI Springfield for processing at the FBI Laboratory. There were 114 patrons at the bar of which approximately 37 were identified as witnesses with the majority of these interviewed by EPPD. Additionally, a video taken from the establishment's video surveillance system was obtained and reviewed. Although there were several cameras in the bar, only four recorded. A review of this video revealed the four cameras did not directly capture the incident with the exception of Jason Moore being shot while SA [redacted] is off camera. b6 -1 b7C -1

**G. Accounting of Shots Fired**

(U//~~FOUO~~) There were a total of five rounds fired during this incident, three by Jason Moore and two by SA [redacted] Jason Moore fired one round into the head of Lori Moore and one round into the head of Lance Griffel. Each round passed through the heads of the victims. One round was recovered from an interior glass partition behind the victims in the middle of the bar. The impact location of the second round was observed by the ISP in a partition wall in the middle of the bar. However, they were unable to locate and recover the round. The third round fired by Moore, in an apparent suicide attempt, went through the roof and was not recovered. Both rounds fired by SA [redacted] struck Jason Moore and both were recovered from Moore's body at autopsy. b6 -1 b7C -1

**H. Subject Information**

(U//~~FOUO~~) The Shooting Incident Review Team (SIRT) was provided with the results of the National Crime Information Center (NCIC) warrant and arrest record check for Jason A. Moore. NCIC showed Moore, a White Male; DOB, 10/12/1973; address: 632 Carola Street, Creve Coeur, IL 61610, had no criminal history. A U.S. Military record for Moore was located and revealed he was discharged by the U.S. Army after four months and seven days of service. The record indicated the reason for separation was "chronic right ankle pain."

**I. Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) SA [redacted] was not wearing body armor at the time of the incident. b6 -1 b7C -1

**J. Forensic Summary**

(U//~~FOUO~~) FBI Laboratory report dated 09/25/2014 revealed both weapons functioned in the testing environment. The Laboratory confirmed the two .40 caliber bullet fragments recovered from the body of Jason Moore were fired from SA [redacted]'s service weapon. Additionally, the .38 caliber/9 mm bullet fragment recovered from the bar was fired from the Sig Sauer weapon used by Jason Moore.

**K. Medical Summary**

(U//~~FOUO~~) An autopsy of Jason Moore was performed on 06/15/2014 at 12:00 p.m. by Coroner's Physician Dr. [redacted] Dr [redacted] determined the cause of death to be a gunshot wound where the projectile entered the right side of Moore's body and traversed to the left side of his chest and punctured the aorta. Two other gunshot wounds, one to the right shoulder and another to the left cheek (self inflicted) were superficial. A toxicology report indicated Jason Moore had a blood alcohol level of 0.354 at the time of his death. b6 -4 b7C -4

## III. Shooting Incident Review Team Details

**A. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) R. Justin Tolomeo
Inspector Trent R. Teyema
Assistant Inspector/Team Leader (AI/TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On 06/15/2014, Inspector Teyema communicated with Springfield Field Office ASAC [redacted] to arrange logistics for the SIRT. ASAC [redacted] and AO [redacted] served as the points of contact for the SIRT. b6 -1 b7C -1

(U//~~FOUO~~) On 06/15/2014, IIC Tolomeo, Inspector Teyema, and AI/TLs [redacted] and [redacted] traveled to Peoria, IL. They were met at the Peoria Regional Airport by SA [redacted] and transported to the Peoria Resident Agency (PRA). Three of the four AIIPs arrived at the PRA at this time as well. One AIIP arrived later in the evening.

(U//~~FOUO~~) IIC Tolomeo and Inspector Teyema provided a preliminary briefing to ASAC [redacted] on 06/15/2014 and to A/SAC [redacted] on 06/16/2014. Additionally, on 06/15/2014, IIC Tolomeo and Inspector Teyema met with ASAC [redacted] and the Agent involved, [redacted] and provided a description and overview of the SIRT process. Subsequently, on 06/15/2014, IIC Tolomeo convened a meeting involving the SIRT, ASAC Smith, PRA Agents, the EPPD, and the ISP. A full brief between the law enforcement agencies and FBI components was provided relative to the shooting incident and the responsibilities and expectation of the various agencies and the SIRT. There was an opportunity for dialogue between the SIRT team, the involved personnel, and outside law enforcement agencies to address concerns, to provide clarification, and to answer questions prior to the investigation commencing. The SIRT then went to the shooting scene where SA [redacted] provided a walk- b6 -1 b7C -1

through of the shooting incident. The scene had been processed by the ISP with the assistance of the Springfield Field Office ERT.

(U//~~FOUO~~) During the SIRT investigation, a Signed Sworn Statement (SSS) was taken from SA [redacted] SA [redacted] was represented by [redacted] Esq. An interview with TFO [redacted] took place at her residence and was documented in an FD-302. [redacted] was also represented by Mr. [redacted] Other interviews, events, and observations were documented via FD-302s. The majority of the witness interviews were conducted by the EPPD, who provided copies of their written reports and, when available, copies of audio and video recordings of the interviews. The SSS and interviews of witnesses were conducted voluntarily. An FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by SA [redacted]

b6 -1,2,4
b7C -1,2,4

(U//~~FOUO~~) On 06/16/2014, IIC Tolomeo contacted [redacted] Special Legal Counsel, DOJ Civil Rights Division, and briefed him on the shooting incident.

b6 -1,3
b7C -1,3

(U//~~FOUO~~) On 06/16/2014, IIC Tolomeo and Inspector Teyema met with Supervisory Assistant United States Attorney (AUSA) [redacted] to brief her on the SIRT investigation.

(U//~~FOUO~~) On 06/16/2014, IIC Tolomeo and Inspector Teyema met with Tazewell County Chief Assistant State's Attorney [redacted] to brief him on the SIRT investigation.

(U//~~FOUO~~) On 06/18/2014, an exit brief was provided by IIC Tolomeo to ASAC [redacted] EPPD, and ISP.

## V. Administrative

### A. Firearms Training

(U//~~FOUO~~) The Springfield Field Office provided qualification records for SA [redacted] SA [redacted] used his issued Glock 23 during the shooting incident. A review of SA [redacted] s record revealed SA [redacted] was current in all qualifications.

b6 -1
b7C -1

### B. Deadly Force Training

(U//~~FOUO~~) Documentation provided by the Springfield Field Office indicated SA [redacted] legal advisor, provided deadly force training to Squad 7, the Peoria and Quad Cities Criminal Squad, on 04/19/2014. SA [redacted] was present for this training. Additionally, SA [redacted] was present for Deadly Force Policy and Judgmental Shooting training for SWAT personnel provided by Chief Division Council [redacted] on 05/08/2014.

### C. DOJ Civil Rights Division Prosecutorial Decision

(U//~~FOUO~~) An E-mail from Special Legal Counsel [redacted] DOJ Civil Rights Division, was received by IIC Tolomeo on 06/27/2014. Mr. [redacted] advised the facts suggested the Agent, who may or may not have been acting under the color of law, fired his weapon to protect himself and others from potentially more deadly gunfire from the subject. Based on these and additional facts known to him at the time, Mr. [redacted] advised a criminal civil rights investigation was not warranted. b6 -3 b7C -3

### D. Local Prosecutorial Decision

(U//~~FOUO~~) IIC Tolomeo received a letter dated September 10, 2014, from Tazewell County State's Attorney Stewart J. Umholtz. The letter noted Umholtz completed his review of the incident and assessed SA [redacted] acted appropriately and his actions were lawful. Additionally, Umholtz advised SA [redacted] should be commended for his actions. b6 -1 b7C -1

## VI. Inspector's Observations

None.

# STEWART J. UMHOLTZ
TAZEWELL COUNTY STATE'S ATTORNEY

TAZEWELL COUNTY COURTHOUSE
342 COURT STREET, SUITE 6
PEKIN, ILLINOIS 61554-3298

TELEPHONE: 309-477-2205
FACSIMILE: 309-477-2241
HTTP://WWW.TAZEWELL.COM


September 10, 2014

R. Justin Tolomeo
Inspector
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Inspector Tolomeo:

I have reviewed the incident reports and investigation surrounding the shooting incident which took place on June 14, 2014, at The 5th Quarter Sports Bar & Pizzeria, 1110 North Main Street, E. Peoria, Illinois. Specifically, I have reviewed Special Agent [redacted]'s use of deadly force which resulted in the death of Jason A. Moore. b6 -1 b7C -1

Based upon my review of this incident I am of the opinion that Spec. Agent [redacted]s use of deadly force was lawful in that it was based upon a reasonable belief that Jason A. Moore had caused the infliction of death or great bodily harm to two other persons, that deadly force was necessary to prevent death or great bodily harm to another person and that such force was necessary to prevent the arrest from being defeated by resistance or escape.

Every police officer knows that in every situation in which an officer must discharge his weapon that he will face intensive review of his conduct which may result in civil and/or criminal litigation. Despite these concerns, Special Agent [redacted] responded in a way that he had been trained by taking decisive action in response to Jason A. Moore's act of executing two innocent citizens: Lori A. Moore and Lance E. Griffel. b6 -1 b7C -1

Spec. Agent [redacted] should be commended for taking appropriate action in a difficult situation while maintaining concern for the safety of bystanders.

Sincerely,

Stewart J. Umholtz
State's Attorney

NYT-815

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ | FBIHQ | 09/05/2013 | 03/04/2013 – 03/07/2013 |

| TITLE OF CASE | REPORT MADE BY | TYPED BY |
|---|---|---|
| SHOOTING INQUIRY;<br>REPORT OF SHOOTING INCIDENT;<br>CHARLOTTE FIELD OFFICE;<br>03/04/2013 | IIC Dena E. Choucair | |

b6 -1
b7C -1

CHARACTER OF CASE
SHOOTING INCIDENT REVIEW

REFERENCES:

Telephone call on 03/04/2013 from Charlotte A/SAC [redacted] to Chief Inspector Robert J. Shields.

APPROVED ASSISTANT DIRECTOR

DO NOT WRITE IN SPACES BELOW

COPIES MADE:
14 – Inspection (Attn: SIRG)
1 – TD (Attn: FTU)
1 – Charlotte (297-HQ-A1270968-D)
1 – 297-HQ-A1270968-D

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

Notations

A
Cover Page

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 09/05/2013

Report of: IIC Dena E. Choucair Office: FBIHQ – INSD

Case ID#: 297-HQ-A1270968-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
CHARLOTTE FIELD OFFICE
03/04/2013

Investigative Period: 03/04/2013 – 03/07/2013

Reference: (U) Telephone call on 03/04/2013 from Charlotte A/SAC [redacted] to Chief Inspector Robert J. Shields. b6 -1 b7C -1

---

**Synopsis**

(U//~~FOUO~~) On 03/04/2013, at approximately 7:00 a.m., FBI Special Agent [redacted] was assisting the U.S. Marshals Service Task Force (USMSTF), Middle District of North Carolina, Charlotte Office, with the arrest of Anthony Meeks, a known violent felon. SA [redacted], was providing [redacted] Once his position was determined, the USMSTF planned to execute his arrest. [redacted] located Meeks at 357 Freedom Street Southwest, Apartment 6B, Concord, NC. The USMSTF took positions at the front door and along the perimeter of the building. [redacted] positioned himself on the rear perimeter on a corner of the building while Deputy Marshals of the USMSTF knocked and announced their presence. Within seconds of the knock, Meeks broke a window in the rear of the apartment and exited with a handgun. b6 -1 b7C -1 b7E -1,4

(U//~~FOUO~~) Meeks' actions were observed by USMSTF members and [redacted] As Meeks exited the window, [redacted] observed Meeks point the handgun at other USMSTF members on the perimeter positioned on the opposite corner. [redacted] yelled "Gun!" multiple times while simultaneously drawing his FBI issued Glock 27 handgun, and fired four times at Meeks. Deputy U.S. Marshal (DM) [redacted] who had moved alongside [redacted]'s position, also fired his U.S. Marshal service issued weapon, an AR-15/M3 rifle, two times at Meeks. Out of the six shots fired, Meeks was struck twice, once by [redacted] and once by DM [redacted] and died at the scene. The FBI Laboratory Division and the Charlotte Field Office ERT processed the scene. Four pistol and two rifle shell casings were located near b6 -1,3 b7C -1,3 b7E -1



NYT-817

[redacted] and Deputy Marshal [redacted]'s position. A loaded Taurus Judge .410/.45 Long Colt pistol was located near the broken window Meeks had exited. A fully loaded .380 HIPOINT handgun was located in the apartment Meeks had exited, along with approximately 14 grams of marijuana.

b6 -1,3
b7C -1,3
b7E -1

**Details**

(U//~~FOUO~~) On 03/04/2013, at approximately 7:00 A.M., members of a U.S. Marshals Service Task Force (USMSTF), Middle District of North Carolina, Charlotte Office, were attempting to arrest Anthony DeShon Meeks, date of birth 09/27/1990, on six local arrest warrants for numerous state violations to include narcotics, robbery with a dangerous weapon, assault, and felony probation. Meeks was a known member of the "Eastside 9 Tre Bloods," a local chapter of the national "Bloods" gang, and was involved in various illegal activities to include drug and weapons trafficking.

(U//~~FOUO~~) On 07/05/2012, Meeks' was found guilty on two felony counts for possession of narcotics with intent to sell and possession of a stolen weapon, and two misdemeanor charges for possession of drug paraphernalia and resisting arrest. He was given a sentence of eight to 19 months of confinement which was suspended, and 30 months of supervised probation. On 12/20/2012, NC Probation/Parole Officer [redacted] and local law enforcement officers conducted a warrantless search of Meeks' residence, located at [redacted] The search was authorized as a condition of Meeks' probation and was conducted in his presence. Narcotics and other drug paraphernalia were discovered. As such, Meeks was subject to additional charges in addition to probation violation. The new charges were: one count for simple possession of 5 Xanax tablets; one count of possession with the intent to sell and deliver 8.8 grams of marijuana; and one count for knowingly and intentionally keeping and maintaining a dwelling house used for selling controlled substances.

b6 -1,2,4
b7C -1,2,4
b7D -1

[redacted]

b7A -1
b7D -1

(U//~~FOUO~~) [redacted]

[redacted]

[redacted]

b6 -2
b7C -2
b7D -1

(U//~~FOUO~~) On 02/13/2013, Meeks called TFO [redacted] CMPD and Sergeant [redacted] Cabarrus County Sheriff's Office (CCSO), and threatened to kill anyone who attempted to arrest him. Sergeant [redacted] distributed an interstate law enforcement notification of Meeks' threats and notified Concord and Kannapolis, NC Police Departments as well, since Meeks was known to reside in their jurisdictions. [redacted] the three local arrest warrants for the 12/20/2012 narcotics charges were sworn out against Meeks by Sergeant [redacted]

b6 -4
b7C -4
b7D -1
b7E -4

(U//~~FOUO~~) On 02/18/2013, a fourth arrest warrant was issued for Meeks for felony probation violation. On 02/25/2013, [redacted] Police were responding to a domestic violence call between Meeks and [redacted] at her residence, [redacted] Before they arrived, Meeks had fled. Meeks was described as having in his possession a handgun and had stolen [redacted]'s cellular phone as she called 911. Subsequently, on 02/25/2013, two additional local arrest warrants were sworn out against Meeks. One was for robbery with a dangerous weapon and the second was for domestic criminal trespass, assault on a female, and interference with emergency communication.

b6 -2
b7C -2

(U//~~FOUO~~) On [redacted] Sergeant [redacted] obtained court authorized [redacted] Agent [redacted] requested [redacted]'s assistance in locating Meeks.

b6 -1,4
b7C -1,4
b7D -1
b7E -4

(U//~~FOUO~~) On 02/27/2013, [redacted] identified Meeks in the vicinity of Concord, NC. Also on 02/27/2013, [redacted] received a call from CMPD Detective [redacted] regarding Meeks. Detective [redacted] was a member of the CMPD Violent Criminal Apprehension Team and the USMSTF. Through his association with these two task forces, Detective [redacted] had learned [redacted] Meeks and offered to have the USMSTF apprehend him based on the outstanding arrest warrants and Meeks' felony probation violation. [redacted] had worked with Detective [redacted] before and was confident in his and the USMSTF abilities. SA [redacted] concurred with utilizing the USMSTF and requested Sergeant [redacted] be included on the apprehension team due to his knowledge of Meeks. [redacted] agreed and began coordination with Deputy U.S. Marshal (DM) [redacted] of the USMSTF on possible locations for Meeks. DM [redacted] served as the team leader of the USMSTF for Meeks' apprehension. According to [redacted] on 02/28/2013, he advised his supervisor, SSA [redacted] he was working with the USMSTF to

b6 -1,3,4
b7C -1,3,4
b7E -1,4

locate Meeks. On Friday, 03/01/2013, [redacted] and Detective [redacted] agreed to meet on Monday, 03/04/2013 at 6:00 A.M. to try to locate and apprehend Meeks.

b6 -1,3,4
b7C -1,3,4
b7E -1,4

(U//~~FOUO~~) At approximately 5:00 A.M. on 03/04/2013, [redacted] and identified a previously unknown location of Meeks, 357 Freedom St. SW, Concord, NC (hereinafter 357 Freedom St.). DM [redacted] was notified and indicated he would conduct surveillance of this location. At approximately 6:30 A.M., members of the USMSTF and other law enforcement officers supporting Meeks's arrest, met in a church parking lot near Meeks' suspected location for an operational briefing. As this was a USMSTF operation, the briefing was in accordance with U.S. Marshal's protocols. The following is a list of those who participated:

1. Deputy Marshal (DM) [redacted] – USMSTF/Team Leader
2. Deputy Marshal (DM) [redacted] – USMSTF
3. Deputy Marshal (DM) [redacted] – USMSTF
4. Deputy Marshal (DM) [redacted] – USMSTF
5. N.C. Department of Public Safety Corrections Officer [redacted] – USMSTF
6. N.C. Department of Public Safety Corrections Officer [redacted] – USMSTF
7. N.C. Department of Public Safety Corrections Officer [redacted] – USMSTF
8. Charlotte-Mecklenburg Police Department Detective [redacted] – USMSTF
9. Mecklenburg County Deputy Sheriff [redacted] – USMSTF
10. [redacted] – FBI Charlotte
11. Officer [redacted] – Cabarrus County Sheriff's Office
12. Sergeant [redacted] – Cabarrus County Sheriff's Office

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) During this briefing, DM [redacted] briefed the team on Meeks probable location and provided aerial photographs from the internet of 357 Freedom St. Concord, N.C. DM [redacted] also introduced [redacted] to other members of the team. Several of the members were new to the USMSTF and had not worked together before. [redacted] described to the team [redacted] Sergeant [redacted] provided a briefing on Meeks's violent background to include his threats to law enforcement and the likelihood he was in possession of a .410/.45 Long Colt Taurus "Judge" revolver. DM [redacted] and [redacted] discussed [redacted]'s primary role was to locate Meeks and, as such, he was not assigned any specific arrest duties. After the brief, all participants proceeded to Meeks' suspected location.

b6 -1,3,4
b7C -1,3,4
b7E -1,4

(U//~~FOUO~~) At approximately 7:00 A.M., all members of the arrest team arrived at 357 Freedom St., a two-story multiple unit apartment complex shaped like a horseshoe. Upon arrival, [redacted] determined Meeks was more than likely located in one of the apartments on the right side (South end) of the building. [redacted] put on a ballistic vest with police markings and he and Detective [redacted] exited their vehicle to locate Meeks [redacted]

b6 -1,4
b7C -1,4
b7E -1,4

[redacted] As the rest of the arrest team took positions around the perimeter, [redacted] and Detective [redacted] walked around the South end of the building [redacted] [redacted] determined Meeks was located on the second floor in apartment 6B. He informed Detective [redacted] who radioed Meeks' location to DM [redacted] who in turn, had all members take their assigned positions. Rather than walk across an unsecured open area around the apartment, [redacted] proceeded to the southeast corner of the building on the perimeter.

b6 -1,3,4
b7C -1,3,4
b7E -1,4

(U//~~FOUO~~) According to the operational plan, [redacted] DM's [redacted] were positioned to the left of the door to apartment 6B and DM's [redacted] were on the right. Sergeant [redacted] and Officer [redacted] were positioned at the bottom of the landing leading up to apartment 6B near DM's [redacted] Detective [redacted] was positioned on the opposite side of the landing nearest DM's [redacted] N.C. Corrections officer [redacted] was positioned on the east perimeter of the building between Detective [redacted] and [redacted] covering a potential exit for Meeks. N.C. Corrections officers [redacted] and Mecklenburg County Sheriff's Deputy [redacted] were positioned on the southwest perimeter corner of the building opposite [redacted]

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) Once everyone was in position, DM [redacted] conducted a knock and announce at apartment 6B stating clearly "Police, U.S. Marshals. Anthony Meeks, come to the door." A voice responded "who is it" whereby DM [redacted] restated clearly "Police, U.S. Marshals." At this point, DM [redacted] heard movement in the apartment. Shortly thereafter, DM [redacted] heard Deputy Sheriff [redacted] announce over her handheld radio Meeks was trying to exit through a rear window and he had a gun. Meeks had broken the rear window to apartment 6B and jumped to the ground. As he was standing up, he faced N.C. Corrections officers [redacted] and Deputy Sheriff [redacted] brandishing a handgun. As all three retreated to position of cover, [redacted] who was located on the corner directly opposite, observed Meeks' actions and loudly announced "Gun"! According to [redacted]'s Signed Sworn Statement, he "....saw glass breaking and a gun protrude from the window followed by a male who held the gun. I yelled gun multiple times....I knew the officers on the opposite side of the building were exposed to the threat posed by the armed subject. I felt they were in imminent danger". [redacted] recalled Meeks was bladed at an angle to him and in a runner's stance pointing his handgun at the officers located across from [redacted] Taking into consideration Meeks' violent history and fearing for his fellow officer's safety, [redacted] fired four rounds from his FBI issued Glock 27 at Meeks. One round struck Meeks in his lower left buttock causing Meeks to fall to the ground where he rolled down a small embankment into the street (Freedom Way); one round missed Meeks and was not recovered; another round missed Meeks and struck a vehicle parked in a drive way across the street [redacted] and was recovered; a fourth round missed Meeks and entered the residence located at [redacted] through a first floor window and embedded into a wall. This round was also recovered. The residence at [redacted] was occupied but no one was injured.

b6 -1,3,4
b7C -1,3,4
b7E -1

b6 -2
b7C -2

(U//~~FOUO~~) As Deputy Sheriff [redacted] announced Meeks' exit through the rear window, DM [redacted] left the entry team and proceeded toward [redacted]'s position. According to DM [redacted], he did so as he realized the rear perimeter was secured with only TFOs and they may need assistance. As he neared [redacted]'s position, he heard [redacted] yell "Gun!" several times and observed him fire three to four rounds. DM [redacted] took position beside [redacted] and aimed his U.S. Marshal AR-15/M3 at Meeks. DM [redacted] observed Meeks reaching toward his waistband and issued several verbal commands to Meeks, who was non-compliant and continued to reach toward his waistband. Fearing Meeks still possessed a handgun; DM [redacted] fired two rounds at Meeks from his AR-15/M3. One round missed Meeks and was not recovered. The second round entered Meeks's left chest and was recovered. By this time, all the U.S. Marshals on the entry team had moved to the rear of the apartment near [redacted] and DM [redacted]'s location.

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) DM's [redacted] approached Meeks and handcuffed him. Officer [redacted] called for emergency services (EMS) and back up units from CCSO. EMS units from Cabarrus County were notified at approximately 07:23 A.M. and arrived on scene at approximately 07:33 A.M. EMS reports from the scene indicated Meeks was unresponsive and was determined to be deceased. The scene was secured and [redacted]'s Glock 27 was rendered safe and entered into evidence. DM [redacted]'s AR-15/M3 was rendered safe, secured by the U.S. Marshals, and was entered into evidence by FBI Charlotte on 03/05/2013. The scene was processed by FBI ERT Charlotte and a FBI Laboratory Division Shooting Reconstruction Team. Four .40 caliber casings and two .223 casings were recovered from the scene. One .40 caliber round and one .223 round were recovered from Meeks' body. One fully loaded .410/.45 Long Colt Taurus "Judge" revolver was recovered on the ground outside the window Meeks had exited. Additionally, a fully loaded HIPOINT .380 automatic pistol and 14 grams of marijuana were located inside the apartment.

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) FBI Charlotte conducted neighborhood interviews. Two individuals witnessed the event. Their statements corroborated the statements made by the law enforcement officers involved in the operation. A separate interview was conducted of a juvenile who was in the apartment with Meeks before the USMSTF attempted entry. According to him, he had gone to Meeks' apartment to purchase marijuana and arrived at the apartment at approximately 7:30 A.M. Once inside, he went to use the bathroom. While there, he heard loud banging at the front door. He quickly finished and, as he opened the bathroom door, Meeks told him it was "the Marshals". The juvenile noticed Meeks held a silver handgun and watched him use the butt of the weapon to break the window and jump through it. The juvenile then exited the apartment through the front door where he was detained by officers.

(U//~~FOUO~~) All law enforcement officers present during the operation were interviewed as well as FBI Charlotte EM,



NYT-822

(U//~~FOUO~~) **Substantive Case Files**

The following substantive matters were under investigation at the time of the shooting on 03/04/2013:

[redacted]

b6 -9
b7C -9
b7A -1

After the shooting incident, the following substantive case was opened:

ANTHONY MEEKS - DECESEAD;
357 FREEDON ST SW;
CONCORD, NC;
ASSISTANCE PROVIDED TO USMS
[redacted]

b7A -1

(U//~~FOUO~~) **Enclosures**

(U//~~FOUO~~) All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. (U//~~FOUO~~) **Administrative**

The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Dena E. Choucair
Inspector Gregory T. Bretzing
Assistant Inspector/Team Leader (AI/TL) [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP [redacted]

b6 -1
b7C -1



NYT-823

B. (U//~~FOUO~~) **Shooting Incident Review Protocol**

(U//~~FOUO~~) All members of the SIRT reviewed the FBI produced videotape entitled, "The Rain After the Storm - Shooting Incident Investigations," and the INSD Shooting Review Protocol.

(U//~~FOUO~~) On 03/04/2013, IIC Choucair communicated with Charlotte A/SAC [redacted] to arrange logistics for the SIRT. A/SAC [redacted] ASAC [redacted] and A/ASAC [redacted] served as the points of contact for the SIRT. IIC Choucair, Inspector Bretzing, and AI/TLs [redacted] traveled directly to the scene, where they were briefed by A/SAC [redacted] The scene was secured and forensic processing had been started but was not completed. The local Concord Police Department provided security but did not participate in any aspects of the investigation. The remaining members of the SIRT arrived later in the evening.

b6 -1
b7C -1

(U//~~FOUO~~) On 03/05/2013, IIC Choucair met with Charlotte EM and separately with all SIRT personnel to discuss SIRT procedures. IIC Choucair also discussed SIRT procedures with the local District Attorney, Ms. Roxann Vaneekhoven, and representatives of the North Carolina Bureau of Investigation. In all instances, there was an opportunity for dialogue between the SIRT and the involved personnel to address concerns, provide clarification, and answer questions throughout the SIRT investigation.

(U//~~FOUO~~) During the SIRT, one Signed Sworn Statement (SSS) was taken from the FBI Agent directly involved in the shooting, [redacted] who was represented by [redacted] Esq. Other interviews, events, and observations were documented via FD-302s. All personnel were allowed to read the FD-302 summarizing their interview to confirm the accuracy of the information provided. The SSS and interviews of witnesses were conducted voluntarily. A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was executed by all those interviewed.

b6 -1,2
b7C -1,2
b7E -1

(U//~~FOUO~~) On 03/07/2013, IIC Choucair conducted an exit brief with Charlotte EM and the District Attorney and reiterated the SIRT process.

C. (U//~~FOUO~~) **Personnel Involved in the Shooting**

1. FBI SA [redacted]
2. Deputy U.S. Marshal [redacted]

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) **Other Participants in the Operation**

1. Deputy U.S. Marshal [redacted]
2. Deputy U.S. Marshal
3. Deputy U.S. Marshal
4. NC Department of Public Safety Community Corrections Officer [redacted]
5. NC Department of Public Safety Community Corrections Officer
6. NC Department of Public Safety Community Corrections Officer



NYT-824

7. Charlotte-Mecklenburg Police Department Detective [redacted] b6 -4
8. Mecklenburg County Deputy Sheriff [redacted] b7C -4
9. Cabarrus County Officer [redacted]
10. Cabarrus County Sergeant [redacted]

D. (U//~~FOUO~~) **Firearms Training**

(U//~~FOUO~~) A review of field office training records for [redacted] who discharged his weapon, revealed he was in compliance with firearms qualifications requirements. These records indicated [redacted] last qualified with his FBI issued weapon, a Glock model 27, serial number [redacted] on 10/10/2012. b6 -1 b7C -1 b7E -1

E. (U//~~FOUO~~) **Deadly Force Training**

(U//~~FOUO~~) Associate Chief Division Counsel [redacted] indicated training on FBI Deadly Force policy is provided yearly during the all employee conference. For the past two years, this conference was held on 12/09/2011 and 12/07/2012. There is no documentation [redacted] attended either conference nor had he conducted any make up training. [redacted] stated he had last received training on the FBI's Deadly Force Policy on 02/04/2013 while he was at firearms. Prior to this, [redacted] recalled receiving Deadly Force Training during an operational brief in support of the gang takedown Operation '[redacted]'. According to FBI Charlotte, this briefing occurred on 05/17/2012. b6 -1 b7C -1 b7E -1 b7A -1

F. (U//~~FOUO~~) **Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) [redacted] wore FBI issued body armor with law enforcement identifiers clearly visible on the outside of his clothing. b6 -1 b7C -1 b7E -1

G. (U//~~FOUO~~) **FBI Indices and National Crime Information Center (NCIC)**

(U//~~FOUO~~) [redacted] b7A -1 b7D -1

(U//~~FOUO~~) NCIC revealed three outstanding local warrants for Meeks. Anthony Meeks had a prior criminal history dating from 08/24/2008 through 03/04/2013. Violations included possession of a concealed weapon, possession of a stolen weapon, assault of a government official, assault of a woman, resisting arrest, robbery, parole violations, and several other narcotic related charges.

H. (U//~~FOUO~~) **ERT Report**

(U//~~FOUO~~) A comprehensive ERT Casebook report was completed and is attached.



NYT-825

I. (U//~~FOUO~~) **FBI Lab Report**

(U//~~FOUO~~) Meeks's, [redacted]'s, and DM[redacted]'s weapons as well as all recovered bullets, cartridge casings, magazines, and unfired ammunitions were examined by the FBI LD Firearms/Toolmarks Unit. As detailed in LD report 130322003 PM KG dated 07/09/3013, all weapons functioned normally and the casings were physically consistent with the unfired ammunition. The three recovered .40 caliber bullets were fired from a six grooved rifled barrel with a right twist similar to [redacted]'s Glock 27. However, due to insufficient microscopic marks, the LD could not make a conclusion they were fired from [redacted]'s weapon. The recovered bullet from DM[redacted]'s AR-15/M3 was positively identified as being fired from his weapon. A Shooting Incident Reconstruction examination, report number 130415008 AEL dated 09/27/2013 is attached.

b6 -1,3
b7C -1,3
b7E -1

J. (U//~~FOUO~~) **Medical Reports**

(U//~~FOUO~~) Anthony Meeks was treated on scene by Emergency Medical Service (EMS) personnel from Cabarrus County. EMS records indicate they were notified of the incident at 07:23 A.M. and arrived at 07:31 A.M. According to their report, Meeks was unresponsive. He was placed on a cardiac monitor which showed he had Pulseless Electrical Activity. He was pronounced dead and no further resuscitation efforts were conducted.

(U//~~FOUO~~) On 03/05/2013, an autopsy of Anthony Meeks was conducted by Dr.[redacted] of the Mecklenburg County Medical Examiners Office. Preliminary results indicated Meeks was struck by two bullets. One was consistent with a rifle round and one was consistent with a pistol round. The rifle round appeared to have entered into Meeks' upper left chest, traveling through the heart, coming to rest in the lower right back. The pistol round appeared to have entered Meeks through his lower left buttocks area, traveling through the femoral artery and came to rest in the Meeks' mid-right hip area. Both rounds were considered fatal and were recovered from the body. A final report, dated 08/11/2013 and signed by Dr.[redacted] confirmed Meeks' injuries and listed the cause of death as gunshot wounds.

b6 -4
b7C -4

K. (U//~~FOUO~~) **Declination by the Civil Rights Division**

(U//~~FOUO~~) Upon completion of the on-site inquiry, IIC Choucair coordinated SIRT investigative findings with [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division who was provided an incident summary and copies of all interviews. On 08/12/2013, Mr.[redacted] advised the circumstances of the shooting involving [redacted] and DM[redacted] "does not warrant federal criminal investigation of whether the federal criminal civil rights statutes were violated".

b6 -1,3
b7C -1,3
b7E -1

L. (U//~~FOUO~~) **Local Prosecutive Opinion**

(U//~~FOUO~~) IIC Choucair coordinated SIRT investigative findings with Ms. Roxann Vaneekhoven, District Attorney for Cabarrus County, North Carolina. On 03/07/2013, she was provided an incident summary and copies of all interviews. On 04/19/2013, Ms. Vaneekhoven provided a letter indicating neither SA[redacted] nor Deputy Marshal[redacted] utilized excessive force while attempting to arrest Meeks and, as such, she would not be pursuing any criminal charges against either of them.

b6 -1,3
b7C -1,3



NYT-826

M. (U//~~FOUO~~) **Inspector's Observations**

(U//~~FOUO~~) **Observation 1:** Charlotte did not ensure a thorough arrest plan was established prior to the operation.

(U//~~FOUO~~) **Analysis 1:** DIOG Section 19.2.3 provided policy regarding arrest plans:

(U) *The SAC is responsible for ensuring that arrests are carefully and thoroughly planned....Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications.*

(U//~~FOUO~~) In addition, DIOG Section 19.2.4 provided policy guidance regarding joint arrests:

*(U) An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan.*

(U//~~FOUO~~) On 02/27/2013, [redacted] located Meeks in the general vicinity of Concord, N.C. On the same day, he received a call from CMPD Detective [redacted] Detective [redacted] was a member of both the CMPD Violent Criminal Apprehension Team and the USMSTF and offered to have the USMSTF apprehend Meeks based on his outstanding local arrest warrants. [redacted] agreed and began coordinating with DM [redacted], team leader of the USMSTF. On 02/28/2013, [redacted] verbally advised his supervisor, SSA [redacted] he would be providing technical support to the USMSTF in locating Meeks to facilitate his immediate arrest. This was confirmed by SSA [redacted] during her interview. However, she stated [redacted] did not provide specific details of the operation, only that it was pending and would occur within the next few days. On 03/01/2013, Detective [redacted] contacted [redacted] to discuss a plan to locate and arrest Meeks on 03/04/2013 at approximately 6:00 A.M.

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) On 03/04/2013, [redacted] and Detective [redacted] participated in the USMSTF operations brief conducted by DM [redacted] This brief included Meeks' violent history, aerial photographs of his suspected location, and team assignments. [redacted] was introduced and his primary function was described as only providing technical support in locating Meeks. As such, he was not assigned any arrest duties but was aware Meeks would be arrested immediately upon location. His role in the operation was not further defined.

b6 -1,3,4
b7C -1,3,4
b7E -1

(U//~~FOUO~~) [redacted] determined Meeks' location at 357 Freedom St [redacted] After he

b6 -1
b7C -1
b7E -1,4

accomplished this, [redacted] stationed himself on a far corner of the building. Even though he was not assigned any arrest duties, his position was near the perimeter which allowed him to actively participate in the operation if needed. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) SSA [redacted] advised detailed briefings of technical operations in support of other law enforcement operations were not required to be briefed to Charlotte EM. Instead, she would provide weekly reports to the ASAC outlining the prior week's tracking activity as well as any upcoming events. For the Meeks arrest, the FBI was providing technical assistance because the U.S. Marshals Service did not have available resources.

(U//~~FOUO~~) When interviewed, A/SAC [redacted] indicated requests for assistance from outside agencies did not rise to either the ASAC or SAC levels. Though this was not an FBI led operation subject to the requirements in DIOG Section 19.2.3, interviews of Charlotte EM indicated they were unaware [redacted] was supporting the USMSTF in Meeks' arrest on 03/04/2013. As such, they were not in a position to ensure the USMSTF arrest plan was adequate as it pertained to [redacted] in accordance with DIOG Section 19.2.4. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) Interviews of ASAC [redacted] who previously had EM oversight of the [redacted] program, and SSA [redacted] indicated it was not standard practice for [redacted] According to ASAC [redacted] once the [redacted] provided technical assistance, they would retreat to their vehicle. SSA [redacted] stated [redacted] is not often an active part of an arrest plan. He is either in the [redacted] vehicle or on the perimeter. b6 -1 b7C -1 b7E -1,4

(U//~~FOUO~~) **Instruction 1a:** SAC, Charlotte will ensure joint arrest plans in support of other law enforcement agencies are well-considered in accordance with DIOG Section 19.2.4.

(U//~~FOUO~~) **Recommendation 1b:** AD, OTD should promulgate policy regarding [redacted] support in conducting electronic surveillance and actively participating in the operation. b7E -1

(U//~~FOUO~~) **Observation 2:** Charlotte did not document FBI technical assistance provided to other law enforcement agencies in accordance with FBI Operational Technology Division Corporate Policy Directive (OTD CPD) 0189D and DIOG.

(U//~~FOUO~~) **Analysis 2:** OTD CPD 0189D Section 8 (5.a) requires all requests for FBI technical assistance to be submitted in writing by an executive level official of the requesting agency. The request may be via letterhead, e-mail, facsimile, or other similar means. Furthermore, DIOG Section 12.5.3 requires the use of the FD-999 when any technical assistance is provided to other agencies (domestic of foreign). In support of this requirement, [redacted] b7E -5

[redacted]



NYT-828

| |
|---|
| |

b6 -1
b7C -1
b7E -5

(U//~~FOUO~~) **Instruction 2a:** SAC, Charlotte will ensure requests for FBI technical assistance are submitted in accordance with CPD 0189D.

(U//~~FOUO~~) **Instruction 2b:** SAC, Charlotte will ensure the FD-999 is utilized for FBI technical assistance provided to other agencies in accordance with OTD CPD 0189D and DIOG.

(U//~~FOUO~~) **Observation 3:** Charlotte did not utilize electronic surveillance (ELSUR) resources appropriately in accordance with FBI OTD CPD 0189D.

(U//~~FOUO~~) **Analysis 3:** OTD CPD 0189D Section 8 (4.a – d) outlines the requirements when the FBI may provide technical assistance to other agencies.

b7E -5
b6 -1
b7C -1

| |
|---|
| |

(U//~~FOUO~~) **Instruction 3:** SAC, Charlotte will ensure all requests for technical assistance by local/state agencies are an appropriate use of resources in accordance with OTD CPD 0189D.

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Charlotte Field Office 03/04/2013 **Date:** 04/21/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297-HQ-A1271656-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 11/20/2013.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 9/5/2013 by former Inspector Dena E. Choucair. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Summary of Charlotte Shooting Incident

**Details:**

(U//~~FOUO~~) On 11/20/2013, the SIRG convened to review a shooting incident which occurred on 03/04/2013, involving [redacted] Charlotte Field Office (CE). SA [redacted] assisted the U.S. Marshals Service Task Force (USMSTF), Middle District of North Carolina, Charlotte Office, with the arrest of Anthony Meeks, b6 -1 b7C -1 b7E -1

a known violent felon. SA [redacted] and was not included as part of the arrest plan for perimeter security. Once his position was determined, the USMSTF took positions at the front door and along the perimeter of the building in which Meeks was believed to be located. SA [redacted] positioned himself on the rear perimeter on a corner of the building while Deputy Marshals (DM) of the USMSTF knocked and announced their presence. Within seconds of the knock, Meeks broke a window in the rear of the apartment and exited with a handgun. As Meeks exited the window, SA [redacted] observed Meeks point the handgun at other USMSTF members on the perimeter positioned on the opposite corner. SA [redacted] yelled "Gun!" multiple times while simultaneously drawing his FBI-issued Glock 27 handgun and fired four times at Meeks.

b6 -1
b7C -1
b7E -6

**Result of the SIRG**

(U//~~FOUO~~) On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. (U//~~FOUO~~) **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 03/04/2013 was in compliance with the Department of Justice's deadly force policy.

b6 -1
b7C -1

2. (U//~~FOUO~~) **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made the following operational observations.

**Observation 1:** SA [redacted]'s role in the arrest of subject was not clearly defined or known by the SSA and EM.

b6 -1
b7C -1

**Analysis 1:** DIOG Section 19.2.3 provided policy regarding arrest plans:

"*The SAC is responsible for ensuring that arrests are carefully*

*and thoroughly planned…. Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications."*

In addition, DIOG Section 19.2.4 provided policy guidance regarding joint arrests:

"*An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan.*"

(U//~~FOUO~~) On 02/27/2013, SA [redacted] located Meeks in the general vicinity of Concord, N.C. On the same day, he received a call from Charlotte-Mecklenburg Police Department (CMPD) Detective [redacted] Detective [redacted] was a member of both the CMPD Violent Criminal Apprehension Team and the USMSTF and offered to have the USMSTF apprehend Meeks based on his outstanding local arrest warrants. SA [redacted] agreed and began coordinating with DM [redacted] team leader of the USMSTF. On 02/28/2013, SA [redacted] verbally advised his supervisor, SSA [redacted] he would be providing technical support to the USMSTF in locating Meeks to facilitate his immediate arrest. This was confirmed by SSA [redacted] during her interview. However, she stated SA [redacted] did not provide specific details of the operation, only that it was pending and would occur within the next few days. On 03/01/2013, Detective [redacted] contacted SA [redacted] to discuss a plan to locate and arrest Meeks on 03/04/2013 at approximately 6:00 A.M.

**b6 -1,3,4**
**b7C -1,3,4**

(U//~~FOUO~~) On 03/04/2013, SA [redacted] and Detective [redacted] participated in the USMSTF operations brief conducted by DM [redacted] This brief included Meeks' violent history, aerial photographs of his suspected location, and team assignments. SA [redacted] was introduced and his primary function was described as only providing technical support

**b6 -1,3,4**
**b7C -1,3,4**

in locating Meeks. As such, he was not assigned any arrest duties but was aware Meeks would be arrested immediately upon location. His role in the operation was not further defined.

(U//~~FOUO~~) SA [redacted] determined Meeks' location at 357 Freedom St. [redacted] After he accomplished this, SA [redacted] stationed himself on a far corner of the building. Even though he was not assigned any arrest duties, his position was near the perimeter which allowed him to actively participate in the operation if needed. b6 -1 b7C -1 b7E -1,4

(U//~~FOUO~~) SSA [redacted] advised detailed briefings of technical operations in support of other law enforcement operations were not required to be briefed to Charlotte EM. Instead, she would provide weekly reports to the ASAC outlining the prior week's [redacted] as well as any upcoming events. For the Meeks arrest, the FBI was providing technical assistance because the U.S. Marshals Service did not have available resources. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) When interviewed, A/SAC [redacted] indicated requests for assistance from outside agencies did not rise to either the ASAC or SAC levels. Though this was not an FBI-led operation subject to the requirements in DIOG Section 19.2.3, interviews of Charlotte EM indicated they were unaware [redacted] was supporting the USMSTF in Meeks' arrest on 03/04/2013. As such, they were not in a position to ensure the USMSTF arrest plan was adequate as it pertained to [redacted] in accordance with DIOG Section 19.2.4. b6 -1 b7C -1 b7E -1

(U//~~FOUO~~) Interviews of ASAC [redacted] who previously had EM oversight of the [redacted] program, and SSA [redacted] indicated it was not standard practice for [redacted] According to ASAC [redacted], once [redacted] provided technical assistance, they would go back to their vehicle. b6 -1 b7C -1 b7E -1,4

SSA [redacted] stated SA [redacted] was not often an active part of an arrest plan. He was either in the armored technical vehicle or on the perimeter. b6 -1 b7C -1

(U//~~FOUO~~) OTD CPD 0189D was used to support the observations and recommendations. Charlotte should be aware of the superseding CPD and PIG (0554DPG) published on 01/27/2014.

**Instruction 1**: SAC, Charlotte, will ensure well considered arrest plans are prepared when supporting joint law enforcement agency arrest operations in accordance with DIOG Section 19.2.4.

**Recommendation 1a**: SAC, Charlotte, should ensure effective oversight of [redacted] in support of joint operations. b7E -1

**Recommendation 1b**: AD, Operational Technology Division, should promulgate policy regarding [redacted] involvement in arrest operations following completion of electronic technical support to pre-arrest operations.

**Observation 2**: Charlotte did not obtain a request for FBI technical assistance provided to other law enforcement agencies from a Requesting Agency Official (RAO) in accordance with FBI Operational Technology Division Corporate Policy Directive (OTD CPD) 0189D and DIOG.

**Analysis 2**: OTD CPD 0189D Section 8 (5.a) required all requests for FBI technical assistance to be submitted in writing by an executive level official of the requesting agency. The request could be via letterhead, e-mail, facsimile, or other similar means. Furthermore, DIOG Section 12.5.3 required the use of the FD-999 when any technical assistance was provided to other agencies (domestic of foreign). In support of this requirement, [redacted] b7E -5

[redacted] b7E -5

**Instruction 2a:** SAC, Charlotte, will ensure requests for FBI technical assistance are submitted in accordance with CPD and PIG 0554DPG, which superseded CPD 0189D.

**Instruction 2b:** SAC, Charlotte, will ensure the FD-999 is utilized for FBI technical assistance provided to other agencies in accordance with OTD PIG 0554DPG and DIOG.

**Observation 3:** SAC, Charlotte, did not authorize the provision of FBI technical assistance to the USMS.

**Analysis 3:** OTD CPD 0189D Section 11 (1.a) required all requests for FBI technical assistance to other law enforcement agencies be approved by the SAC. [redacted]

[redacted] b7E -5

**Instruction 3:** SAC, Charlotte, will ensure all requests for FBI technical assistance are reviewed by his office and the CDC.

3. (U//~~FOUO~~) **Provide recommendations concerning training and safety issues.** The SIRG made the following observation requesting additional training.

**Observation 4:** SA [redacted]'s Glock 27 backup magazine was for a Glock 22 weapon. b6 -1 b7C -1

**Analysis 4:** When SA [redacted] relinquished his FBI-issued Glock 27 weapon and two magazines after the shooting incident, it was determined one of SA [redacted]'s magazines was for his FBI-issued Glock 22 weapon. b6 -1 b7C -1

**Recommendation 4a:** SAC, Charlotte, should ensure SA [redacted] carry the proper backup magazine for the weapon utilized.

**Recommendation 4b:** SAC, Charlotte, should ensure the Principle Firearms Instructor reminds all Agents, during firearms training, about carrying the proper backup magazines for the model of weapon being utilized.

4. (U//~~FOUO~~) **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted], Squad CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted], Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors David Paul Gelios and Shawn W. Stroud, OI, INSD; Team Leaders [redacted] and b6 -1,3 b7C -1,3

Title: (U) Shooting Incident Charlotte Field Office 03/04/2013
Re: 297-HQ-A1271656-D, 04/21/2014

[redacted] OI, INSD; SSA [redacted], ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst MPA [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

**Procedures for Responding to the Observations**

(U//~~FOUO~~) SAC, CE, and AD, Operational Technology Division, are responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, CE, and AD, Operational Technology Division, are required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow- up EC responses must be directed to Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted]. b6 -1 b7C -1

**From:** [redacted] (CRT) <[redacted]@usdoj.gov>
**To:** Choucair, Dena E.
**Cc:** [redacted] (CRT); [redacted] (CRT)
**Sent:** Mon Aug 12 16:02:01 2013
**Subject:** Charlotte

b6 -3
b7C -3

Inspector Dena Choucair
FBI Inspection Division

Based upon the information provided in your Shooting Incident Report, we have determined that the FBI agent and DUSM shooting during the execution of an arrest warrant in Concord, N.C., on March 4, 2013, resulting in the death of Anthony Meeks, does not warrant federal criminal investigation of whether the federal criminal civil rights statutes were violated. The local district attorney has declined the matter as well.

FBI agents and DUSMs were attempting to arrest a suspected armed robber at an apartment. The arrest team was composed of a number of task force members who had been briefed that the subject could be expected to be armed and dangerous. Task force members were positioned around the apartment when the entry team knocked. A civilian eye witness was inside the apartment and another was near his vehicles outside in the parking lot.

According to a civilian witness inside the apartment, Meeks immediately armed himself with a silver handgun and broke a back window through which he exited to escape. Several agents, DUSMs and a civilian witness outside the apartment saw Meeks exit the window with the hand gun. An FBI agent who was nearer to the subject and saw his escape – gun-first – through the window, yelled "gun" and called for the subject to "drop it." Others gave similar warnings and commands. Meeks did not heed the warnings and ran with the gun in hand, posing a risk to the arrest team, as well as to the civilian witness towards whom the subject ran. Several agents and DUSMs saw or heard the window break, heard the yell, "gun" and saw Meeks running. Some of them also saw the gun in Meek's hand.

The FBI agent who saw Meeks exit the window, gun-first, and yelled the warning and commands, advised that he feared Meeks would shoot at him or at other more exposed and vulnerable agents. He fired four times with his Glock handgun, striking Meeks in the buttock and femoral artery and causing him to fall to the ground and drop the handgun. A DUSM armed with an M3 rifle, who had heard the glass break and heard the warning yells "gun" and the commands, joined the agent at his position and also fired at the running subject, missing him.

Once Meeks was down the agent, who had seen the gun drop from his hand, did not fire again. Some task force members saw the gun drop; others did not. The DUSM, who had fired his M3, maintains that he did not see the victim's hands as he ran and as the DUSM fired in support of the agent who was firing and yelling gun and also did see the subject's gun fall to the ground. The DUSM was also not aware that the subject had never returned fire. The DUSM maintained that he watched the subject attempt to rise from the ground while commands were

being yelled for him to show his hands and stay down. He further maintains that, when Meeks reach for his waist band, he feared that he was reaching for a weapon and the threat increased. The DUSM fire one shot, striking Meeks in the chest.

Other DUSM witnesses corroborate the DUSM's account of what he claimed that he observed after the subject fell. Also, the first gunshot wound was located so as to explain a hand movement toward the waist band. The forensic evidence is consistent with the various witness accounts. Task Force members attempted to render aid to the mortally wounded subject.

Under the totality of the circumstances, there is insufficient evidence to establish that either shooter willfully used more force than was reasonably necessary and that he believed was reasonably necessary to prevent death or grievous bodily harm to himself and others. Accordingly, there is insufficient evidence to warrant a criminal investigation of this shooting of an armed fugitive attempting to escape the execution of an arrest warrant. Please advise if you have a contact in the USMS to whom we can forward this finding. Also, please complete your administrative action.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

[redacted]
cell - [redacted]

601 D Street, N.W.
Room [redacted]
Washington D.C. 20004

b6 -3
b7C -3

State of North Carolina
General Court of Justice
19A Prosecutorial District

ROXANN L. VANEEKHOVEN
DISTRICT ATTORNEY

TELEPHONE: (704) 262-5510
FAX: (704) 262-5511

77 UNION STREET
P.O. BOX 70
CABARRUS COUNTY COURTHOUSE
CONCORD, NC 28026

Ms. Dena E. Choucair, Inspector
Federal Bureau of Investigation
Office of Inspections
935 Pennsylvania Avenue, NW
Washington, DC 20535

April 19, 2013

Dear Inspector Choucair,

I have completed my review of the materials the FBI provided regarding the officer involved shooting case on March 4, 2013, in Cabarrus County involving Anthony Meeks. Based on all of the facts contained in the investigative report, it is the District Attorneys Office's conclusion that neither Special Agent [redacted] nor Deputy Marshall [redacted] used excessive force in the performance of their duties when attempting to arrest Anthony Meeks. Therefore the Cabarrus County District Attorney's Office will not be pursuing any criminal charges against either of these officers in this case. Please forward this letter to anyone else in your agency that may need a copy for their file. If you have any questions regarding this matter, do not hesitate to contact me.

b6 -1,3
b7C -1,3

Sincerely,

Roxann Vaneekhoven

Roxann Vaneekhoven
District Attorney – 19A

**EXECUTIVE SUMMARY**
**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 06/04/2014

Report of: IIC Ron Twersky/IIC Paul Delacourt Office: FBIHQ – INSD

Case ID#: 297I-HQ-A2950869

Title: SHOOTING INCIDENT REVIEW;
REPORT OF SHOOTING INCIDENT;
PHILADELPHIA FIELD OFFICE;
07/22/2013

Investigative Period: 07/22/2013 – 07/27/2013

## I. Executive Summary

On 07/22/2013, two Philadelphia (PH) FBI Agents and a Philadelphia PD (PPD) Task Force Officer (TFO), all assigned to PH's Violent Crimes Task Force (VCTF), Squad C-4, were involved in a shooting incident with two subjects in northwest Philadelphia. One subject was shot and killed, and the other shot and wounded.

The PH VCTF personnel were engaged in a surveillance operation related to a Federal fugitive case. The subject, [redacted] was charged by the Commonwealth of Pennsylvania with murder and robbery, and was considered a suspect in additional murders. [redacted] 21-year-old Tevin Hammond, were subjects of a PPD Officer Safety Bulletin which recommended officers use extreme caution. VCTF intelligence determined [redacted] and Hammond were aware they were being pursued by law enforcement and intended to engage police when confronted.

b6 -7
b7C -7

Analysis of [redacted] and members of the VCTF deployed in an attempt to identify a specific location. Additional [redacted] resolved to [redacted] SA [redacted] and TFO [redacted] were parked in a minivan on [redacted] with a view of the rear alley of [redacted] The other three VCTF members, SA [redacted] SA [redacted] and TFO [redacted] were in a second minivan on [redacted]

b6 -1,4,7
b7C -1,4,7
b7E -4,6

Shortly after the VCTF members staged their vehicles, Hammond and [redacted] exited the rear of [redacted] and walked slowly down a narrow alley toward the minivan occupied by TFO [redacted] (driver) and SA [redacted] TFO [redacted] and SA [redacted] observed the two, with Hammond leading the way down the narrow alley. Hammond and [redacted] were described as "creeping" down the alley in what appeared to be an attempt to conceal themselves.

b6 -1,4,7
b7C -1,4,7



NYT-841

As Hammond and [redacted] approached [redacted] and closed the distance between themselves and the VCTF minivan, Hammond reached toward his waistband as if to retrieve a weapon. Fearing an ambush, SA [redacted] exited the vehicle to address the threat. TFO [redacted] also exited the vehicle and an exchange of gunfire ensued. During the gunfight, [redacted] and Hammond retreated back down the narrow alley and wound up near the end of the fenced-in alley, where the gunfight continued. The three VCTF personnel in the other minivan, who had been alerted to the presence of the subjects via radio, responded to the shooting.

b6 -1,4,7
b7C -1,4,7

Witness accounts and review of ballistic evidence determined TFO [redacted] engaged the subjects with his Glock 21 upon exiting the driver-side of the minivan on [redacted] Shell casings from a Glock 26 possessed by Hammond were also recovered near the entrance (northwest) of the alley where the initial exchange of gunfire occurred. After [redacted] and Hammond retreated to the end (southeast) of the alley, TFO [redacted] proceeded down the alley and sought a position of cover in the backyard of [redacted] and Hammond initially exited. TFO [redacted] continued to discharge his weapon, while SA [redacted] assumed a tactical position at the entrance of the alley along [redacted]

b6 -1,4,7
b7C -1,4,7

Hammond took a position of cover behind a pole at the southeast end of the alley. After which, SA [redacted] observed Hammond raise his arms holding the gun, and appeared to fire at SA [redacted] In response, SA [redacted] discharged his Glock 22 at Hammond in a series of three volleys (two to three shots each) from a kneeling position. After SA [redacted] fired seven total rounds, Hammond fell toward the ground and out of sight of SA [redacted] SA [redacted] recalled observing [redacted] as being low to the ground in the alley, a few feet away from Hammond.

b6 -1,7
b7C -1,7

SA [redacted] who assumed a position near the kneeling SA [redacted] approximately 35-40 yards from the subjects, gave commands to [redacted] to show his hands. [redacted] did not comply and appeared to SA [redacted] to be attempting to get up. Over [redacted] s left shoulder, SA [redacted] observed a black handgun pointed in the direction of the Agents. SA [redacted] also heard TFO [redacted] yell, "They are still firing at us." After telling TFO [redacted] to move out of the line of fire in the alley, SA [redacted] continued to see the black handgun. Believing [redacted] posed a deadly threat, SA [redacted] fired his M-4 rifle at [redacted] until [redacted] fell to the ground.

b6 -1,4,7
b7C -1,4,7

During the gunfight with the VCTF, Hammond was struck three times, including a round which penetrated his neck. He died at the scene, and the black Glock 26 weapon was recovered from underneath his body. [redacted] was struck approximately eight or nine times (in the neck, back, and buttocks), and ended up on top of Hammond.

b6 -7
b7C -7

Two days later while still at the hospital, [redacted] was in stable condition and consented to an in-custody interview. During the interview, [redacted] admitted direct involvement in four murders. Under Miranda, he also provided details of the confrontation with the VCTF. [redacted] stated he and [redacted] intended to kill police officers, and [redacted] said Hammond fired the Glock 26 during the gunfight with the VCTF.

A total of 33 shell casings were recovered by the PPD's Crime Scene Unit: six .40 caliber casings; eight .223 caliber casings; 15 .45 caliber casings; and four 9 millimeter caliber casings. It was estimated approximately 37 rounds were fired during the incident by TFO [redacted] SA [redacted] SA [redacted] and Hammond. SA [redacted] and TFO [redacted] did not discharge their weapons. [redacted] was determined not to have fired a weapon.

b6 -1,4,7
b7C -1,4,7



NYT-842

## II. Incident Details

### a. Substantive Case Files and Background Information

Prior to the shooting incident, the following substantive fugitive (88) case was opened. As a result of the Agent-involved shooting, the Philadelphia Field Office opened an Assault on a Federal Officer (89) investigation.

| | | | |
|---|---|---|---|
| Title: | [redacted] FUGITIVE: [redacted] UFAP-ATTEMPTED MURDER 7/22/2013 | [redacted] TEVIN HAMMOND (DECEASED); VICTIMS: SA [redacted] SA [redacted] TFO [redacted] VC-AFO [redacted] | b6 -1,4,7<br>b7C -1,4,7<br>b7E -2 |
| File number: | 88A-PH-2950507 | 89B-PH-2964179 | |
| Case Agent: | SA [redacted] TFO [redacted] | SA [redacted] SA [redacted] | |

### b. Listing of Personnel Involved in the Incident

1. SA [redacted] (discharged weapon)
2. SA [redacted] discharged weapon)
3. SA [redacted]
4. TFO [redacted] (discharged weapon)
5. TFO [redacted]

b6 -1,4
b7C -1,4

### c. Case Review and Operational Briefings

During the first week of July 2013, Lieutenant [redacted] a PPD TFO assigned to the VCTF, advised Squad C-4 PPD Homicide was looking for [redacted] a suspect in multiple homicides who had threatened to shoot law enforcement officers. The information was summarized in a PPD Criminal Intelligence Unit officer safety bulletin on two subjects, [redacted] and Hammond. There was an active warrant for [redacted] s arrest.

b6 -4,7
b7C -4,7

On 07/19/2013, TFO [redacted] informed SA [redacted] about information obtained from a confidential human source (CHS) regarding [redacted] On [redacted] TFO [redacted] learned through a CHS [redacted] planned to [redacted] TFO [redacted] interpreted this phrase to mean [redacted] intended to shoot and kill a police officer. TFO [redacted] opened a fugitive investigation (88A-PH-2950507) on [redacted] several hours later. Although Hammond was suspected of involvement in some of the same homicides [redacted] was believed to have committed, there was no arrest warrant for Hammond on 07/22/2013. [redacted] and Hammond

b6 -1,4,7,8
b7C -1,4,7,8
b7D -1



NYT-843

were known to be close associates (subsequently determined ) who were hiding from police together.

b6 -1,4,7
b7C -1,4,7
b7E -4,6

After discussions with SSA Intelligence Operations Specialist (IOA) assisted TFO in obtaining information On resolved to the vicinity of Preliminary PPD investigative information revealed no known contacts of the subject in this area.

SA briefed SSA on the general location, and SSA concurred with a plan to conduct surveillance in the area, as the VCTF did not have the precise address identified. TFO called PPD Homicide to give them the information. The VCTF surveillance consisted of TFO SA and SA in a minivan, and TFO and SA in a minivan.

b6 -1,4
b7C -1,4
b7E -6

Prior to departure, the team reviewed the law enforcement bulletin regarding and Hammond. The bulletin contained recent facial pictures of both and Hammond. TFO briefed to the surveillance team both subjects were considered armed and dangerous. Additionally, the team was advised was wanted for robbery and homicide, and intelligence revealed recently stated he wanted to " " The surveillance team departed the office at approximately

b6 -7
b7C -7
b7D -1
b7E -6

While driving to the area, TFO was periodically receiving TFO The investigative plan called for surveillance in the general area to determine a location of the subject(s).

b6 -4,7
b7C -4,7
b7E -1,4,6

TFO was in charge of the fugitive investigation and SA was tasked with directing the surveillance. If more information regarding the subjects was gathered, a detailed arrest plan, to possibly include the utilization of SWAT, was to be completed.

b6 -1,4
b7C -1,4

**d. Events Leading Up to the Shooting**

Prior to arriving in the area of SA was advised by IOA Additionally, IOA ascertained

b6 -1,7
b7C -1,7
b7E -1,4,6

TFO received information from Lieutenant that an attempt to arrest the two subjects would be made by PPD SWAT (also known as " "). SA stated Lieutenant determined the violent history and threats to kill police officers warranted the use of the PPD SWAT. The VCTF mission was to conduct surveillance to ascertain the location of the subjects, and hold the position until SWAT arrived. The VCTF members utilized PPD radio channel " " The task force typically carried PPD radios in order to communicate with the PPD.

b6 -1,4
b7C -1,4
b7E -1

At [redacted], SA [redacted] forwarded to his VCTF partners an updated photograph of [redacted] in an attached E-mail, originally sent by IOA [redacted] At approximately [redacted] both surveillance vehicles were in the area. The [redacted] minivan ([redacted] and [redacted] parked on [redacted] with a view of both the [redacted] residences. The [redacted] mini-van ([redacted] parked on [redacted] with a view of the alley behind the [redacted] residences.

b6 -1,4,7
b7C -1,4,7
b7E -6

The three occupants of the [redacted] mini-van donned their ballistic vests and SA [redacted] retrieved his M-4 from the middle of the vehicle's interior. TFO [redacted] and SA [redacted] did not wear their ballistic vests.

b6 -1,4
b7C -1,4
b7E -6

**e. Shooting Incident Details**

Approximately five to ten minutes after parking, both surveillance vehicles observed a [redacted] male walk to the corner of [redacted] talking on a cellular phone. The [redacted] male stopped and made eye contact with SA [redacted] The individual did not match the description of either of the two subjects, but acted as though he was possibly a lookout. After making eye contact with SA [redacted] the individual turned around and went back toward [redacted]

b6 -1,2,7
b7C -1,2,7

Within a minute of seeing the [redacted] male on the cellular phone, SA [redacted] looked to his left and observed two [redacted] males, one wearing an orange shirt, walking slowly down the alley toward their [redacted] minivan. They were hugging the right side of a wall and "creeping" down the alley in what appeared to be an attempt to conceal themselves. TFO [redacted] reported over the radio there were two men who resembled the subjects walking his way, one wearing a white shirt, and one wearing an orange shirt. TFO [redacted] then said he was "100 percent sure these were our guys."

b6 -1,2,4,7
b7C -1,2,4,7
b7E -6

SA [redacted] also believed the two men resembled Hammond and [redacted] respectively. They were walking in a single file, with the individual wearing orange leading the way. TFO [redacted] and SA [redacted] both reclined their seats to conceal themselves. However, SA [redacted] ultimately made eye contact with the man wearing the orange shirt, who SA [redacted] recognized to be Hammond. Additionally, SA [redacted] recognized the second man as [redacted]

b6 -1,4,7
b7C -1,4,7

As Hammond and [redacted] approached [redacted] and closed the distance between themselves and the [redacted] minivan, SA [redacted] observed Hammond reach for his waistband. SA [redacted] believed it was the intent of both men to ambush the police surveillance. TFO [redacted] and SA [redacted] opened their doors simultaneously. As SA [redacted] placed his foot onto the sidewalk to exit the car, he heard the distinct sound of gunshots. The gunshots sounded like they were coming from more than one gun. Though his back was turned away from the approaching men as he exited the passenger side of the vehicle, SA [redacted] believed TFO [redacted] was involved in an exchange of gunfire. SA [redacted] heard approximately a dozen shots before he came around the rear of the minivan and observed TFO [redacted] taking cover near the concrete steps of a residence with a vantage point of the alley. SA [redacted] saw TFO [redacted] from a position of cover, firing his Glock 21 down the alley, though SA [redacted] could not see

b6 -1,4,7
b7C -1,4,7



NYT-845

Hammond and [redacted] from his position. As SA [redacted] paused at the rear of the [redacted] minivan, he observed TFO [redacted] sprint down the alley.

b6 -1,4,7
b7C -1,4,7

SA [redacted] moved to the same position of cover formerly held by TFO [redacted] near the concrete stairway. When SA [redacted] reached this position, he saw TFO [redacted] duck into a yard to the southwest side of the alley. SA [redacted] looked down the alley and observed Hammond had taken cover behind a pole at the end of the alley. SA [redacted] could clearly see Hammond's orange shirt. SA [redacted] also observed [redacted] who appeared to be injured and kneeling close to the ground at the end of the alley, a few feet from Hammond.

Hammond raised his arm holding a 9mm Glock 26 and, according to SA [redacted] began shooting at SA [redacted] While no 9mm shell casings were recovered in the vicinity of Hammond, SA [redacted] stated he saw smoke and heard gun shots. In response, SA [redacted] fired approximately two shots at Hammond. SA [redacted] paused behind cover before leaning out and firing two or three additional shots at Hammond, who continued to point his Glock 26 at SA [redacted] SA [redacted] regained cover again before leaning out and firing his last two or three rounds at Hammond. [NOTE: The PPD forensics unit processed the scene with assistance from the FBI Evidence Response Team. No shell casings were recovered in the vicinity of the pole behind which Hammond reportedly fired his Glock 26 at SA [redacted] Four 9mm shell casings were recovered from Hammond's Glock 26 where the first exchange occurred with TFO [redacted].

b6 -1,4
b7C -1,4

After SA [redacted] s last shot, he saw Hammond fall toward the ground and disappear from view (the area where Hammond fell was an area of unkempt foliage and uneven ground). SA [redacted] was unsure if Hammond had gone down, or left the alley and was attempting to flee. SA [redacted] saw [redacted] was still low to, or kneeling on, the ground.

b6 -1,7
b7C -1,7

TFO [redacted] SA [redacted] and SA [redacted] approached from the intersection of [redacted] though SA [redacted] was unaware of their presence while he was firing at Hammond. SA [redacted] ran to the location where SA [redacted] was kneeling, and asked him, "What do we have?" SA [redacted] stated there were two [redacted] males and words to the effect, "they're shooting at us." SA [redacted] moved to the other side of the alley with his M-4 out. SA [redacted] looked down the alley and saw a [redacted] male wearing a white shirt ([redacted]) near the far end. [redacted] was on his knees with his back towards SA [redacted] and appeared to be trying to get up. SA [redacted] could not see his hands, nor was [redacted] complying with SA [redacted] s orders to "show his hands." Over [redacted] s left shoulder, SA [redacted] could see a black handgun pointed at him. SA [redacted] did not see anyone else, including Hammond or anyone wearing an orange shirt. SA [redacted] turned to TFO [redacted] and asked him to broadcast "the shooter in the orange shirt [Hammond] was gone."

b6 -1,4,7
b7C -1,4,7

Simultaneously with SA [redacted] s observation of a gun, he heard TFO [redacted] yelling, "They are still firing at us!" SA [redacted] was getting ready to shoot when TFO [redacted] appeared midway in the alley, from a backyard. Both SA [redacted] and SA [redacted] yelled at TFO [redacted] to get out of the line of fire. TFO [redacted] immediately moved out of the way. SA [redacted] again looked down the alley and continued to see the black handgun over [redacted] s shoulder. SA [redacted] yelled, "Show me your hands, show me your hands!" When [redacted] did not comply, SA [redacted] discharged his M4 rifle. SA [redacted] fired between eight and 10 rounds until he observed [redacted] fall to the ground.

b6 -1,4,7
b7C -1,4,7



NYT-846

After a brief pause, TFO [redacted] yelled if it was "OK to come out," to which SA [redacted] replied, "Yes." TFO [redacted] retraced his steps and joined SA [redacted] at the entrance of the alley. Hammond's whereabouts were still unknown as SA [redacted] continued to cover the alley with his M-4. After yelling commands such as "Don't move," and "show me your hands," and receiving no response, SA [redacted] reloaded his M-4 with a full magazine, even though he only fired approximately 10 rounds. This procedure to "top-off" his weapon with a fully loaded magazine was standard protocol in the event there may have been a further engagement. There were no more shots fired. b6 -1,4 b7C -1,4

**f. Post Shooting Details**

SA [redacted] TFO [redacted] and SA [redacted] were concerned Hammond may have run from the area, as SA [redacted] told them Hammond had disappeared from sight after SA [redacted] shot him. SA [redacted] TFO [redacted] and SA [redacted] proceeded southeast down [redacted] toward a group of police officers who just arrived and were standing in the street. SAs [redacted] and TFO [redacted] continued to move along [redacted] toward [redacted] in an attempt to locate Hammond. Their plan was to circle the area of houses until they reached the end of the alley from the opposite side. b6 -1,4,7 b7C -1,4,7

Meanwhile, SA [redacted] and TFO [redacted] moved slowly down the alley to where they could see one subject on top of the other. The male with the white shirt ([redacted]) was on top of the male with the orange shirt (Hammond). SA [redacted] asked [redacted] "Where is the gun?" [redacted] replied he did not have it. TFO [redacted] handcuffed [redacted] TFO [redacted] also asked [redacted] if he had been shot and [redacted] responded, "All over." SA [redacted] arrived in time to hear [redacted]'s response. b6 -1,4,7 b7C -1,4,7

Knowing Hammond and [redacted] were accounted for, TFOs [redacted] and SAs [redacted] walked back to their vehicles and waited for their supervisors to arrive. Other officers remained with the two subjects. SAs [redacted] were soon met by SAC Edward Hanko, CDC [redacted] and SSA [redacted] SA [redacted] drove them back to the office. b6 -1,4,7 b7C -1,4,7

On 07/25/2013, in a Mirandized statement, [redacted] admitted he and [redacted] Hammond were staying on [redacted]. During their stay, they took turns watching out the windows to determine if the police were outside, and at all times had a loaded Glock handgun. [redacted] stated he had arrived at [redacted]'s house the day before and had checked out the alley behind the house and knew the only clear exit from the alley was out onto [redacted] knew the alley going in the other direction was overgrown with trees and bushes. b6 -2,7 b7C -2,7

[redacted] stated when he and Hammond exited [redacted]'s house, Hammond had the gun (Glock 26) in his possession. When they got to the rear gate of [redacted]'s residence, [redacted] saw two police officers in a mini-van parked at the end of the alley on [redacted] stated he pointed them out to Hammond and said to Hammond, "There go the cops right there." [redacted] stated the police officers jumped out of the mini-van when "they seen (sic) [redacted] with the gun." b6 -2,7 b7C -2,7



NYT-847

[redacted] relayed after he and Hammond fled back up the alley, [redacted] was hit by gunfire and fell. [redacted] stated Hammond, who had already been shooting at the police officers, ran past him and was still shooting at the police officers from the back of the alley. [redacted] heard the police yelling "get down." b6 -7 b7C -7

[redacted] admitted before the shooting, he told his family members and other people he was not going to let the cops lock him up. [redacted] boldly proclaimed the police were going to have to kill him or he would kill the police officers. [redacted] and Hammond agreed they would "not let the cops lock them up" and would shoot it out with the police. [redacted] stated he believed he could not fight these cases (homicides) and he was "in too deep." [redacted] felt if he had a gun on the morning of July 22, 2013, he never would have let the police officers exit their mini-van because he would have shot them while they were still in the van. b6 -7 b7C -7

[redacted] stated they only had one magazine for the Glock. [redacted] knew he had ten bullets in the magazine on the morning of July 22, 2013, because he had 13 bullets before he shot "Tef" in the face three times. [redacted] stated after he shot "Tef" (Otif Wright) he knew there were 10 bullets left because several days before July 22, 2013, [redacted] unloaded the magazine and reloaded the bullets to ensure his fingerprints were on each bullet so people would know what he did. b6 -7 b7C -7

[redacted] was subsequently charged with three homicides by the Commonwealth of Pennsylvania:

1. 07/09/2013 Murder of Carlos Barnes
2. 07/15/2013 Murder of Tyrone Hayes
3. 07/18/2013 Murder of Otif Wright

### g. Accounting of Shots Fired

| Involved Agent or TFO | Weapon | # of Mags | Mag capacity | Rounds carried | Rounds collected w/ gun | Rounds expended |
|---|---|---|---|---|---|---|
| SA [redacted] | Glock 22 (.40) | 1 | 15 | 15 | 7 mag/1 chamber | 7 |
| SA [redacted] | M4 (.223) | 2 | 30 | 50 | 1 mag/16<br>1 mag/24 | 10 |
| De [redacted] | Glock 21 (.45) | 2 | 13 | Not interviewed | 11 (in PPD report)[1] | 16 |

b6 -1,4 b7C -1,4

| Subject | Weapon | # of Mags | Mag capacity | Rounds carried | Rounds collected w/ gun | Rounds expended |
|---|---|---|---|---|---|---|
| Tevin Hammond | Glock 26<br>9 mm | 1 | 10 | in custody interview (10) | 5 in mag/1 chamber | 4 |

[1] Detective [redacted] was not formally interviewed as per PPD policy. He provided information to Sergeant [redacted] He carried a Glock 21 and at most 27 rounds (two 13-round magazines loaded at capacity with one round in the chamber (13 x 2 plus 1 = 27). Eleven live rounds were recovered from his weapon or magazines at the scene and 15 shell casings were found at the scene (27 rounds carried – 11 rounds still on his person = 16 rounds fired). If he did not "top-off" his weapon, this could explain the possible missing shell casing in the next chart. b6 -4 b7C -4

**Accounting of shots fired by ammunition type**

| Ammo Type | Individual who fired | Shell casings recovered | Rounds fired (based on interviews and collected evidence) | Shell casings not recovered |
|---|---|---|---|---|
| .40 caliber | SA [redacted] | 6 | 7 | 1 |
| .223 caliber | SA [redacted] | 8 | 10 | 2 |
| .45 caliber | TFO [redacted] | 15 | 16 | 1 |
| 9mm | Hammond (subject) | 4 | 4 | 0 |
| Total | | 33 | 37 | 4 |

b6 -1,4,7
b7C -1,4,7

### h. Subject Information

| | | | |
|---|---|---|---|
| Name | Tevin Hammond (deceased) | | |
| Sex | Male | | |
| Race | Black | | |
| Height | 5' 6" | | |
| Weight | 140 lbs. | | |
| Hair | Black | | |
| Eyes | Brown | | |
| DOB | 5/04/1992 | | |
| SSAN | 159-74-3879 | | |
| FBI # | 856494HD5 | | |

b6 -7
b7C -7

A National Crime Information Center (NCIC) criminal history check for Tevin Hammond included five arrests; the offenses included narcotics possession with intent to deliver, and assault. Hammond was convicted most recently on February 14, 2012, for Possession with intent to deliver. There were no active arrest warrants located for Hammond, though he was on state probation for the 2012 narcotics conviction.

The Commonwealth of Philadelphia Criminal History check for [redacted] included four arrests; the offenses included murder, assault, robbery, recklessly endangering, unlawful restraint, possessing an instrument of a crime, and criminal homicide. A PPD Bulletin reflected active warrants for [redacted]'s arrest for murder (warrant #134783, dated 7/18/2013) and robbery (warrant #133688, dated 6/10/2013).

b6 -7
b7C -7

### i. Use of Body Armor and Law Enforcement Identifiers

SAs [redacted] and TFO [redacted] wore their "FBI/Police" labeled ballistic vest (front and back). They donned them immediately after parking their mini-van in the surveillance location.

b6 -1,4
b7C -1,4

SA [redacted] and TFO [redacted] did not wear their ballistic vests or clothing with law enforcement/police markings. Both TFO [redacted] and SA [redacted] had their badges displayed on their belts.



NYT-849

**j. Forensic Summary**

SA [redacted] ERT Team Leader assigned to the Philadelphia Field Office, furnished to the Shooting Incident Review Team (SIRT) four FBI documents, a CD, and three Philadelphia Police Department (PPD) documents pertaining to the 07/22/2013 Agent-involved shooting. The CD and the three PPD documents were products of the PPD Crime Scene Unit (CSU), which processed the scene of the shooting with assistance from FBI ERT. The FBI documents, the CD, and the PPD documents revealed the following: b6 -1 b7C -1

The FBI documents consisted of a three-page sketch of the scene prepared by SA [redacted] on 07/22/22013; FD-302 prepared by SA [redacted] dated 07/23/2013 detailing the date and time the FBI weapons were collected from SAs [redacted] (07/22/2013 at 3:12 p.m.); and the corresponding FD-1087s for the weapon retrievals for storage in the FBI Evidence Control Room. The FBI weapons were transferred to PPD custody for examination on 07/24/2013 at 2:22 p.m. b6 -1 b7C -1

The PPD CD contained 212 files of photographs depicting the scene of the shooting, and evidence located and tagged for collection.

The three PPD documents were Property Receipts and represented a log of the evidence items collected at the scene. The receipts were:

1. 9015566 for items #1 – 57, being all items collected on 07/22/2013 and 07/23/2013. Some of the items included are 33 total fired casings, comprised of 15 .45 caliber casings, six .40 caliber casings, eight 5.56 mm casings, and four 9 mm casings.
2. 9015567 for item #58, being a Glock 26, 9mm handgun, serial number #KAA0744, with one magazine containing five live 9mm cartridges and one live 9mm cartridge in the chamber.
3. 9015577 for items D and E, being two cotton-tipped applicators used to swab the above Glock and the accompanying magazine and live cartridges.

According to the PPD Property Receipts, on 07/22/2013 at 7:00 p.m., CSU concluded processing of the scene.

Additionally, the PPD Office of Forensic Science, Firearms Identification Unit (FIU), provided a final Laboratory Report dated 04/24/2014. The FIU Laboratory Report is part of this report in Tab 9 – Shooting Scene.

**k. Medical Summary**

FBI Agents/TFOs involved in the shooting:

No injuries.

Subjects:



NYT-850

Both subjects sustained injuries as a result of the Agent-involved shooting; Hammond died at the scene as a result of his wounds. [redacted] was transported via ambulance to the [redacted] Medical Center. The arrival time to the emergency room was 1:41 p.m. The body injury chart for [redacted] was prepared by PPD Detectives [redacted] at 2:40 p.m. Noted on the body diagram were nine gunshot wounds to the back, neck and buttocks, and an abrasion/scratch to the left elbow. [redacted] had surgery on 07/23/2013 and recovered from his wounds; he signed a Health Information Privacy Act form consenting to release his medical records. No ballistics evidence was removed from [redacted] by doctors. b6 -7 b7C -7

An autopsy was conducted of Hammond on July 23, 2013. The autopsy was conducted by Dr. [redacted] at the City of Philadelphia Office of the Medical Examiner, 321 University Avenue, Philadelphia, Pennsylvania 19104 (case number 13-02997). According to a Findings and Opinions document provided by Dr. [redacted] Hammond sustained one gunshot wound to the volar left forearm (palm-side), one gunshot wound to the posteromedial (back) left thigh, and one gunshot wound to the right upper back with exit on the right side of the neck region. The cause of death was listed as "Gunshot Wound to the Back Involving Neck," and the manner of death was listed as "Homicide." During the autopsy, projectiles and bullet fragments were recovered from both the left forearm and the left thigh. The gunshot wound to the shoulder was a through and through wound, with the projectile exiting through the neck. Detective [redacted] took custody of the projectiles and fragments recovered from Hammond. b6 -4 b7C -4

## III. Shooting Incident Review Team Details

### a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Ronald Twersky
Assistant Inspector / Team Leader (TL) [redacted] b6 -1
AI/TL [redacted] b7C -1
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP

### b. The FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:

The LSRT did not deploy. The scene was processed by PPD.

## IV. Shooting Incident Review Protocol

On 07/22/2013 Philadelphia SAC Edward J. Hanko spoke with Chief Inspector Robert J. Shields Jr., and submitted a FD-1085, Executive Situation Report to the Director. IIC Twersky spoke with Philadelphia ASAC [redacted] to arrange logistics prior to the SIRT arrival in Philadelphia. b6 -1 b7C -1

On 07/22/2013, the SIRT traveled to Philadelphia and members were briefed on the Inspection Division shooting review protocol by IIC Twersky.

On the morning of 07/23/2013, IIC Twersky and the SIRT members met with Philadelphia EM and SSA personnel. The SIRT also viewed the shooting scene, which occurred in the vicinity of an alley behind the residences at [redacted] Philadelphia. b6 -7 b7C -7

On 07/23/2013, IIC Twersky met with the involved FBI Agents and management personnel to explain the SIRT process and protocols. IIC Twersky and TL [redacted] met with PPD Lieutenant [redacted] (Internal Affairs Division) and Detective [redacted] (Homicide) regarding interagency cooperation and evidence collection processing. b6 -1,4 b7C -1,4

In total, three Signed Sworn Statements (SSS) were taken from the FBI Agents involved in the shooting incident. Other interviews, events, and observations were documented via FD-302s. The SSSs and interviews of witnesses were conducted voluntarily. A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was signed by the Agents interviewed via SSS.

On 07/25/2013, IIC Twersky telephonically contacted Special Legal Counsel Attorney [redacted] Department of Justice, Civil Rights Division to provide an update on the investigation. b6 -4,3 b7C -4,3

On 07/26/2013, IIC Twersky conducted outbriefs with the SAC, ASACs, and squad SSA. The IIC met with [redacted] an Assistant Chief in the District Attorney's Office, to provide a briefing of the investigation. IIC Twersky also telephonically provided a briefing to AUSA [redacted] from the Eastern District of Pennsylvania. A copy of the reports created by the SIRT were provided to PPD Lt. [redacted]

## V. Administrative

### a. Firearms Training

Firearms qualifications records for SA [redacted] and SA [redacted] were provided to the SIRT by Philadelphia PFI [redacted] A review of the training records reflected SA [redacted]'s most recent qualification with his FBI-issued Glock 22 was on 6/24/2013. SA [redacted] last qualified on his FBI-issued M4 on 03/11/2013. They were both in compliance with the firearms qualifications requirements. b6 -1 b7C -1

### b. Deadly Force Training

CDC [redacted] advised FBI Deadly Force Policy training was conducted on May 30, 2012 during the Philadelphia Division's Annual Employee Conference. CDC [redacted] was the presenter of this training, which was memorialized via EC dated 05/30/2012, under 1Y-PH-90415 Serial 767. The PowerPoint presentation utilized by CDC [redacted] was also E-mailed to all field office Agents on 05/31/2012. Subsequent deadly force policy training was provided to Agents during the fourth quarter firearms training session. A review of the Philadelphia Division b6 -1 b7C -1



NYT-852

Firearms training log revealed SA [redacted] was present during the session held on September 9, 2013. SA [redacted] was not present for the Deadly Force Policy review during the fourth quarter firearms training session. The Deadly Force Policy was not discussed prior to this surveillance; however the Deadly Force Policy is on all operational plans. Squad C-4 averages at least one operational plan per week. b6 -1 b7C -1

**c. DOJ Civil Rights Division Prosecutorial Decision**

On 02/18/2014, Special Counsel [redacted] advised via E-mail, "there is insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by two FBI agents and a local police task force officer in Philadelphia on July 22, 2013, resulting in the death of Tevin Hammond and the wounding of [redacted] in order to arrest them on homicide related charges." b6 -3,7 b7C -3,7

**d. Local Prosecutorial Decision**

District Attorney (DA) R. Seth Williams reviewed the interviews and investigation reports of the PPD, the FBI, the Office of the Medical Examiner and the Internal Affairs Division, and concluded no criminal charges were warranted. Accordingly, the DA's office terminated their investigation on 11/27/2013.

## VI. Inspector's Draft Observations

**Proposed Observation 1:** SA [redacted] did not wear his ballistic vest during the operation. b6 -1 b7C -1

**Analysis:** The MIOG, Section 12-13.1 states in part: "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subjects."

At approximately [redacted] before departing on the surveillance, TFO [redacted] and SA [redacted] gathered their gear, which included their ballistic vests containing additional magazines of ammunition, handcuffs, and law enforcement identifiers. They placed their ballistic vests in the minivan's rear seat within arm's reach from the front seats. Surveillances are inherently dangerous, especially when searching for a suspect in multiple homicides who had threatened to shoot law enforcement officers. When the circumstances of the surveillance necessitated SA [redacted] quickly exit his vehicle, he placed himself in a situation where he lacked adequate ballistic protection, and was forced to abandon the extra magazines attached to the vest. TFO [redacted] similarly exited the minivan without his ballistic vest. b6 -1,4 b7C -1,4 b7E -6

**Proposed Instruction 1:** SAC, Philadelphia will ensure all personnel wear ballistic protective vests during planned activity which can be reasonably expected to culminate in a confrontation with armed and dangerous subjects.



NYT-853

**Proposed Observation 2:** A specific operational plan was not formulated to account for a potential arrest.

**Analysis:** DIOG, Section 19.2.3 states in part:

*"Proper planning and preparation for arrest situations can greatly enhance the safety and effectiveness of Agents and officers during ... high-risk situations. Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications. The [redacted] must be utilized whenever possible. When briefing the arrest plan, the briefing Agent should stress to the participants of the operation that any arrest has the potential to become dangerous. Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans."*

b7E -5

On the morning of 07/22/2013, the investigation of [redacted] was opened, and the case Agent, TFO [redacted] briefed SSA [redacted] on information he received. They discussed several investigative strategies, to include [redacted] Ultimately, it was intended PPD SWAT would arrest [redacted] but the initial idea was for the VCTF to determine if the information received from [redacted] SSA [redacted] concurred with the initial strategy and ensured each team member saw the subjects' photographs and the Officer Safety Bulletin. Five experienced agents and TFOs went to survey the site: PPD TFO [redacted] TFO [redacted] SA [redacted] SA [redacted] and SA [redacted]

b6 -1,4,7
b7C -1,4,7
b7E -1,6

SA [redacted] understood an attempt to arrest the subject(s) would be made by PPD SWAT. SA [redacted] stated, the VCTF's "mission was to hold and conduct surveillance until SWAT arrived." SA [redacted] said, "The plan was to drive out to the [redacted] location, scout the area, and call PPD SWAT when the suspects' location was identified." SA [redacted] was "clear regarding the general plan to conduct surveillance to locate the subjects." SA [redacted] "understood if more information regarding the subjects was gathered, a more detailed plan, to possibly include SWAT, would be developed."

b6 -1,7
b7C -1,7

The intent to conduct more detailed planning did not fully account for the possibility that time and circumstances would necessitate the VCTF to effect an arrest.

**Proposed Recommendation 2:** SAC, Philadelphia should ensure a surveillance plan which involves a high risk subject with an active arrest warrant, addresses the potential for an arrest scenario, consistant with the five topics in written arrest plans.

**Proposed Observation 3:** The Philadelphia Agent-Involved Shooting Response Plan (AISRP) was not implemented.

**Analysis:** On 07/23/2013, the SIRT reviewed the Philadelphia Field Office AISRP. The AISRP was dated June 2012.



NYT-854

As cited in the Philadelphia AISRP Notification Procedures section, "When an Agent becomes involved in a shooting, the Agent, and/or other Agents present, should render emergency medical assistance to any injured persons, or request such assistance. Following whatever logical steps are necessary to control the situation, the Agent should thereafter immediately notify the on-duty personnel in the Communications Unit at the PHHQ Switchboard by calling 215-418-4000." Additionally, AISRP Section III (A) (7) reiterates Agents involved in a shooting have the responsibility to notify PHHQ Switchboard personnel that an AIS has occurred.

The SIRT determined none of the involved Agents provided notification of the incident to the Philadelphia Communications Center (PHHQ Switchboard) as outlined in the AISRP. Nor did anyone in the office who received a call from the involved Agents notify the radio room. An interview of Operational Support Technician (OST) [redacted] determined there was no radio traffic or telephone calls about a shooting incident on July 22, 2013. At approximately 2:00 p.m., OST [redacted] co-worker, OST [redacted] informed her of an article on www.philly.com mentioning information about the referenced shooting. OST [redacted] said the article stated the information was heard via the Philadelphia Police Department's radio traffic. b6 -1 b7C -1

An E-mail from ASAC [redacted] was sent to all employees within the division at 2:20 p.m. on July 22, 2013 with a subject line of "Agent Involved Shooting" and stated "Ladies/Gents, Two C-4 agents were involved in a shooting. All FBI/police personnel are safe. More to follow. [redacted]"

After the shooting, OST [redacted] stated multiple supervisors asked her numerous times if "anything came across the radio" or if "any calls came in." b6 -1 b7C -1

**Proposed Recommendation 3a:** SAC, Philadelphia should ensure field office personnel are appropriately trained regarding the AISRP.

**Proposed Recommendation 3b:** SAC, Philadelphia should ensure the field office AISRP is reviewed annually.



NYT-855

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Philadelphia Field Office 07/22/2013 **Date:** 08/29/2014

**CC:** [redacted]

b6 -1
b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** DELACOURT PAUL D
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A2950869 (U) Shooting (Non-Delegated)

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 07/31/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 06/07/2014 by Inspector Paul Delacourt and former Inspector Ron Twersky. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Philadelphia Field Office Shooting Report

**Details:**

(U//~~FOUO~~) On 07/31/2014, the SIRG convened to review a shooting incident which occurred on 07/22/2013, involving two Philadelphia (PH) FBI Agents and a Philadelphia PD (PPD) Task Force Officer (TFO), all



NYT-856

assigned to PH's Violent Crimes Task Force (VCTF), Squad C-4. The Agents involved in the shooting were SA [redacted] and SA [redacted] The TFO involved in the shooting was TFO [redacted] One subject was shot and killed, and the other shot and wounded. b6 -1,4 b7C -1,4

(U//~~FOUO~~) The PH VCTF personnel were engaged in a surveillance operation related to a Federal fugitive case. The subject, [redacted] was charged by the Commonwealth of Pennsylvania with murder and robbery, and was considered a suspect in additional murders. [redacted] 21-year-old Tevin Hammond, were subjects of a PPD Officer Safety Bulletin which recommended officers use extreme caution. VCTF intelligence determined [redacted] and Hammond were aware they were being pursued by law enforcement and intended to engage police when confronted. b6 -7 b7C -7

(U//~~FOUO~~) Shortly after the VCTF members staged their vehicles, Hammond and [redacted] exited the rear of [redacted] and walked slowly down a narrow alley toward the minivan occupied by TFO [redacted] (driver) and SA [redacted] TFO [redacted] and SA [redacted] observed the two, with Hammond leading the way down the narrow alley. Hammond and [redacted] were described as "creeping" down the alley in what appeared to be an attempt to conceal themselves. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) As Hammond and [redacted] approached [redacted] and closed the distance between themselves and the VCTF minivan, Hammond reached toward his waistband as if to retrieve a weapon. Fearing an ambush, SA [redacted] exited the vehicle to address the threat. TFO [redacted] also exited the vehicle and an exchange of gunfire ensued. During the gunfight, [redacted] and Hammond retreated back down the narrow alley and wound up near the end of the fenced-in alley, where the gunfight continued. The three VCTF personnel in the other minivan, who had been alerted to the presence of the subjects via radio, responded to the shooting. b6 -1,4,7 b7C -1,4,7

(U//~~FOUO~~) During the gunfight with the VCTF, Hammond was struck three times, including a round which penetrated his neck. Hammond died

at the scene, and a black Glock 26 weapon was recovered from underneath his body. [redacted] was struck approximately eight or nine times (in the neck, back, and buttocks), and ended up on top of Hammond. b6 -7 b7C -7

(U//~~FOUO~~) Two days later while still at the hospital, [redacted] was in stable condition and consented to an in-custody interview. [redacted] admitted direct involvement in four murders. Under Miranda, he provided details of the confrontation with the VCTF. [redacted] stated he and [redacted] intended on killing police officers, and [redacted] said Hammond fired the Glock 26 during the gunfight with the VCTF.

**Result of the SIRG**

(U//~~FOUO~~) On 07/31/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. (U//~~FOUO~~) **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by the Agents on 07/22/2013 was in compliance with the Department of Justice's deadly force policy.

2. (U//~~FOUO~~) **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety.** The SIRG made the following operational observations.

(U//~~FOUO~~) **Observation 1**: SA [redacted] did not wear his ballistic vest during the operation. b6 -7 b7C -7

(U//~~FOUO~~) **Analysis 1**: The MIOG, Section 12-13.1 states in part: "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subjects."

(U//~~FOUO~~) At approximately 12:45 p.m. on 07/22/2013, before departing on the surveillance, TFO [redacted] and SA [redacted] gathered b6 -1,4 b7C -1,4

their gear, which included their ballistic vests containing additional magazines of ammunition, handcuffs, and law enforcement identifiers. They placed their ballistic vests in the minivan's rear seat within arm's reach from the front seats. Surveillances are inherently dangerous, especially when searching for a suspect in multiple homicides who had threatened to shoot law enforcement officers. When the circumstances of the surveillance necessitated SA [redacted] quickly exit his vehicle, he placed himself in a situation where he lacked adequate ballistic protection, and was forced to abandon the extra magazines attached to the vest. TFO [redacted] similarly exited the minivan without his ballistic vest. b6 -1,4 b7C -1,4

(U//~~FOUO~~) **Instruction 1**: SAC, Philadelphia will ensure all personnel wear ballistic protective vests during planned activity which can be reasonably expected to culminate in a confrontation with armed and dangerous subjects.

(U//~~FOUO~~) **Observation 2**: A specific operational plan was not formulated to account for a potential arrest.

(U//~~FOUO~~) **Analysis 2**: DIOG, Section 19.2.3 states in part:

*"Proper planning and preparation for arrest situations can greatly enhance the safety and effectiveness of Agents and officers during … high-risk situations. Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications. The* [redacted] *must be utilized whenever possible. When briefing the arrest plan, the briefing Agent should stress to the participants of the operation that any arrest has the potential to become dangerous. Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans."* b7E -5

(U//~~FOUO~~) On the morning of 07/22/2013, the investigation of

Title: (U) Shooting Incident Philadelphia Field Office 07/22/2013
Re: 297I-HQ-A2950869, 08/29/2014

[redacted] was opened, and the case Agent, TFO [redacted] briefed SSA [redacted] on information he received. They discussed several investigative strategies, to include [redacted] Ultimately, it was intended PPD SWAT would arrest [redacted] but the initial idea was for the VCTF to determine if the information received from [redacted] SSA [redacted] concurred with the initial strategy and ensured each team member saw the subjects' photographs and the Officer Safety Bulletin. Five experienced agents and TFOs went to survey the site: PPD TFO [redacted], TFO [redacted] SA [redacted] SA [redacted], and SA [redacted]

b6 -1,4,7
b7C -1,4,7
b7E -1,4,6

(U//~~FOUO~~) SA [redacted] understood an attempt to arrest the subject(s) would be made by PPD SWAT. SA [redacted] stated, the VCTF's "mission was to hold and conduct surveillance until SWAT arrived." SA [redacted] said, "The plan was to drive out to the [redacted] location, scout the area, and call PPD SWAT when the suspects' location was identified." SA [redacted] was "clear regarding the general plan to conduct surveillance to locate the subjects." SA [redacted] "understood if more information regarding the subjects was gathered, a more detailed plan, to possibly include SWAT, would be developed."

b6 -1,7
b7C -1,7

(U//~~FOUO~~) The intent to conduct more detailed planning did not fully account for the possibility that time and circumstances would necessitate the VCTF to effect an arrest.

(U//~~FOUO~~) **Recommendation 2:** SAC, Philadelphia should ensure a surveillance plan which involves a high risk subject with an active arrest warrant, addresses the potential for an arrest scenario, consistent with the five topics in written arrest plans.

(U//~~FOUO~~) **Observation 3:** The Philadelphia Agent-Involved Shooting Response Plan (AISRP) was not implemented.

(U//~~FOUO~~) **Analysis 3:** On 07/23/2013, the SIRT reviewed the Philadelphia Field Office AISRP. The AISRP was dated June 2012. As

cited in the Philadelphia AISRP Notification Procedures section, "When an Agent becomes involved in a shooting, the Agent, and/or other Agents present, should render emergency medical assistance to any injured persons, or request such assistance. Following whatever logical steps are necessary to control the situation, the Agent should thereafter immediately notify the on-duty personnel in the Communications Unit at the PHHQ Switchboard by calling 215-418-4000." Additionally, AISRP Section III (A) (7) reiterates Agents involved in a shooting have the responsibility to notify PHHQ Switchboard personnel that an AIS has occurred.

(U//~~FOUO~~) The SIRT determined none of the involved Agents provided notification of the incident to the Philadelphia Communications Center (PHHQ Switchboard) as outlined in the AISRP. Nor did anyone in the office who received a call from the involved Agents notify the radio room. An interview of Operational Support Technician (OST) [redacted] [redacted] determined there was no radio traffic or telephone calls about a shooting incident on July 22, 2013. At approximately 2:00 p.m., OST [redacted] co-worker, OST [redacted] informed her of an article on www.philly.com mentioning information about the referenced shooting. OST [redacted] said the article stated the information was heard via the Philadelphia Police Department's radio traffic. b6 -1 b7C -1

(U//~~FOUO~~) An E-mail from ASAC [redacted] was sent to all employees within the division at 2:20 p.m. on July 22, 2013 with a subject line of "Agent Involved Shooting" and stated "Ladies/Gents, Two C-4 agents were involved in a shooting. All FBI/police personnel are safe. More to follow. [redacted]" b6 -1 b7C -1

(U//~~FOUO~~) After the shooting, OST [redacted] stated multiple supervisors asked her numerous times if "anything came across the radio" or if "any calls came in."

(U//~~FOUO~~) **Recommendation 3a:** SAC, Philadelphia should ensure field office personnel are appropriately trained regarding the AISRP.

(U//~~FOUO~~) **Recommendation 3b:** SAC, Philadelphia should ensure the

field office AISRP is reviewed annually.

3. (U//~~FOUO~~) **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against the Agents as a result of their involvement in this shooting incident.

(U//~~FOUO~~) Acting Deputy Assistant Director David Paul Gelios, INSD, chaired the meeting and was a non-voting member. The following members were in attendance: Acting Chief Inspector Paul D. Delacourt, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Criminal Investigative Division; Acting SC [redacted] Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Squad CR-2 Washington Field Office; Unit Chief (UC) [redacted], Practical Applications Unit, Training Division (TD); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and UC [redacted] Defensive Systems Unit, TD. The following non-voting individuals were also in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] and [redacted] Office of Inspector General, USDOJ; [redacted] and [redacted] Internal Affairs, Customs and Border Patrol (CBP); [redacted] CBP; UC [redacted] Firearms and Toolmarks Unit, LD; SSA [redacted] ERTU, LD; Inspectors Shawn W. Stroud, Timothy M. Feeney, Trent R. Teyema, R. Justin Tolomeo, Kathryn Peterson, and Douglas A. Leff, OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts (MAPAs) [redacted] and [redacted] Inspection Management Unit (IMU), INSD.

b6 -1,3
b7C -1,3

Title: (U) Shooting Incident Philadelphia Field Office 07/22/2013
Re: 297I-HQ-A2950869, 08/29/2014

**Procedures for Responding to the Observations**

(U//~~FOUO~~) SAC, Philadelphia is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, Philadelphia is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow-up EC responses must be directed to Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MAPA [redacted].

b6 -1
b7C -1



NYT-863

**From:** [redacted](CRT) <[redacted]@usdoj.gov> b6 -3
**To:** Bretzing, Greg T. b7C -3
**Cc:** Shields, Robert J. (CG)(FBI); [redacted](CRT); [redacted]
**Sent:** Tue Feb 18 15:50:15 2014
**Subject:**

FBI Inspector Greg Bretzing
Inspection Division

Based upon a review of materials from your shooting inquiry, we have determined that there is insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by two FBI agents and a local police task force officer in Philadelphia on July 22, 2013, resulting in the death of Tevin Hammond and the wounding of [redacted] Members of an FBI Task Force on Violent Crime were searching for Hammond and [redacted] in order to arrest them on homicide related charges. Recent informant information advised that the two men were armed and intended to resist arrest. Hammond, who was in fact armed with a handgun and fired it, was killed. [redacted] was wounded. The District Attorney declined prosecution. The United States Attorney's Office for the District of Pennsylvania is prosecuting the surviving subject and has thus recused its office from this decision. b6 -7 b7C -7

Attempting to evade arrest, the two subjects were sneaking along a wall down a narrow alleyway unknowingly toward an FBI agent and task force officer seated inside a car parked on an adjoining street. Both pairs of men observed each other at about the same time. The law enforcement officers quickly exited their car when they saw Hammond reach to his waist band. The agent and task force officer exchanged gunfire with Hammond as he and [redacted] retreated down the confined area of the alleyway. The task force officer followed and took cover partway down the alley and continued to fire. Soon, a second FBI agent joined the first agent at the front of the alley and also fired at the two [redacted] By then, they had moved to the far end of the alley next to and behind a utility pole and were down on the ground. The task force officer, closer to the subjects, yelled at the men to "show your hands" and warned the agents that the subjects were still shooting. b6 -7 b7C -7

Hammond sustained three wounds and died at the scene. [redacted] was struck with at least eight bullets and survived. No law enforcement officer was wounded. Examination of the weapons of the two agents and the task force officer and the handgun found with Hammond revealed that they had all been fired. The visibility in the confined alleyway was limited. It is likely that the sound of echoing of shots among the buildings surrounding the alley impacted a determination of who was firing at any given point in the moving gun battle. b6 -7 b7C -7

The law enforcement officers related consistent accounts and explained that they fired their weapons because an armed subject was firing at them. They stated that they thus feared the imminent threat of the subject's use of deadly force. [redacted] corroborated the law enforcement officers' accounts. He stated that the law enforcement officers jumped out of their car when they "seen my [redacted] with a gun." Further, he stated that Hammond fired at the officers because he wanted to die rather than be incarcerated for his crimes. Also according to [redacted] he and Hammond had agreed to either kill the police or be killed by them and were planning to kill another young man in order to get a second gun. b6 -7 b7C -7

The evidence does not establishes that any of the three law enforcement officers willfully intended to use force that he knew to be unreasonable and unwarranted under the exigent and extremely dangerous circumstances in violation of the criminal civil rights statutes. A criminal investigation is not warranted and the administrative review of the agents' conduct should be completed.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

b6 -3
b7C -3

DISTRICT ATTORNEY'S OFFICE
THREE SOUTH PENN SQUARE
PHILADELPHIA, PENNSYLVANIA 19107-3499
(215) 686-8000

R. SETH WILLIAMS
DISTRICT ATTORNEY

November 27, 2013

The Honorable Charles Ramsey
Police Commissioner
Philadelphia Police Department
Police Headquarters Building
8th and Race Streets, Room 312
Philadelphia, PA 19106

**Re: PS # [ ] Police Discharge by Philadelphia Police Detective [ ] Badge # [ ] PR # [ ] FBI Task Force, and FBI Special Agents [ ] resulting in the death of Tevin Hammond and wounding of [ ]**

b6 -1,4,7
b7C -1,4,7

Dear Police Commissioner Ramsey:

On Monday, 7/22/13, at approximately 1:15 PM, Detective [ ] was dressed in civilian clothing and assigned to conduct surveillance with Special Agents [ ] in the area of the [ ]. The Violent Crimes Task Force had been searching for [ ] and Tevin Hammond, one of whom was wanted in connection with the recent shooting and robbery of a [ ] on 6/4/13) and the shooting death of Tyrone Hayes (on 7/15/13). [ ] both armed and willing to shoot it out with police who confronted them.

b6 -1,4,5,7
b7C -1,4,5,7
b7D -1

Upon arrival on [ ] which is adjacent to the rear yards of the [ ] Detective [ ] and Special Agent [ ] saw [ ] and Hammond attempting to leave through a small alley behind the houses on the [ ] As the officers identified themselves, Hammond fired a 9mm Glock Model 26 handgun several times at them. Detective [ ] returned fire and took cover in a nearby yard. As [ ] and Hammond ran southbound through the alley, more gunfire erupted from them. Detective [ ] fired again and the males fell to the ground. As Detective [ ] approached Hammond and [ ] yelling for them to show their hands,

b6 -1,4,7
b7C -1,4,7

Hammond began to fire upon approaching officers. Detective [redacted] and Special Agents [redacted] returned fire. b6 -1,4,7 b7C -1,4,7

The gun fired at the officers was recovered from underneath the body of Hammond, who expired at the scene. [redacted] suffered several gunshot wounds and was transported to [redacted] Medical Center for treatment. No other injuries resulting from this incident were reported.

Our office has carefully reviewed the available interviews of witnesses and the investigation reports of the Philadelphia Police Department, the FBI, the Office of the Medical Examiner and the Internal Affairs Division, and has concluded that no criminal charges are warranted. Accordingly, I have instructed the Investigations Division of the District Attorney's Office to terminate our investigation.

Very truly yours,

R. Seth Williams
District Attorney

cc: [redacted] First Assistant District Attorney b6 -4 b7C -4
[redacted] Deputy, Investigations Division
[redacted] Chief, Special Investigations Unit
[redacted] Assistant District Attorney, Special Investigations Unit
[redacted] Deputy Commissioner, Office of Professional Responsibility
[redacted] Captain, Internal Affairs Division – Shooting Team

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-12C-4131 Date: 9/30/13

To: Chief, Criminal Section

Re: FBI Agent [redacted]
LAPD Officers [redacted] - Subjects
Frank Martinez (decease) - Victim
CIVIL RIGHTS

b6 -1,4
b7C -1,4

This matter should be closed for the reasons described below:

1. Date of the Incident: March 1, 2012

2. Synopsis of the Facts and Reasons for Closing

On March 1, 2012, in La Mirada, California, the Los Angeles Police Department (LAPD) and FBI were attempting to arrest by warrant Frank Martinez for a gang related double-homicide. Mr. Martinez fled to evade capture to a nearby rooftop and was shot and killed by gunfire from three LAPD officers and a special agent of the FBI. The three LAPD officers and the FBI agent fired simultaneously at Martinez after he repeatedly refused to obey their commands to show his hands and to surrender and aggressively respond to those commands. Martinez pretended to be concealing and pointing a handgun at the law enforcement officers, and made a sudden aggressive movement, after saying goodbye to a girl friend on a cell phone. The

/s/
[redacted]
Special Legal Counsel

b6 -3
b7C -3

To: Records Section
Office of Legal Administration

The above numbered file has been closed as of this date.

9/30/13
Date

/s/
Deputy Chief, Criminal Section
FORMERLY CVR-3 FORM CL-3

Cc: USA, Los Angeles, CA Chrono [redacted] Re. T. 9/30/13
\\crt-phb-fs01\home[redacted]myfiles\la mar 1 shoot close.doc

b6 -3
b7C -3

shooters were aware that Martinez was believed to be armed and dangerous [redacted] b3 -3 b7E -1,6 [redacted] After the shooting, however, it was determined that Mr. Martinez had not been armed with a handgun or any weapon.

The events on the roof immediately before and during the shooting were observed by other law enforcement and civilian eye witnesses and recorded on video by an unidentified by-stander. The shooting entailed an initial eight-second volley of heavy gunfire (dozens of overlapping gunshots). After a five-second pause, seven gunshots were separately fired, one-at-a-time, over an eight-second period. Martinez suffered eighteen gunshot wounds, at least eight of which were fatal wounds. Projectiles were extracted from the body of the deceased man, while other wounds were through-and-through gunshot wounds and no bullet slugs were recovered from inside the body. As discussed below, neither forensic nor other evidence can establish beyond a reasonable doubt that Martinez was struck by a gunshot fired from other than in the initial volley. While bullets may be striking Martinez body during the second volley (as possibly reflected in the video and as assumed by at least one witness), the medical examiner cannot opine when any particular wound was inflicted nor whether any wound was inflicted as a result of the second volley of sporadic gunfire. Nor can the medical examiner opine exactly when Martinez expired from his several fatal wounds.

Each of the four law enforcement officers maintains that he fired his weapon during the initial volley of gunfire and again after the initial volley. Each maintains that he thought Martinez had a weapon concealed in his sweat pants, which he was pointing at them, and that Martinez fired first before any officer fired. Each of the four also claims that Martinez attempted to rise after he dropped prone on the roof and thus continued to present an imminent threat to the law enforcement officers.

Since Martinez had no weapon, we now know that he did not fire at the officers. At the same time, the shooters accounts of what they observed and their perceptions regarding their observations are supported by other law enforcement personnel, civilian witnesses, and the video recording. Beside the fact that Martinez did not in fact have a weapon or fire one, there is no other evidence that credibly contradicts these asserted perceptions.

A violation of the federal criminal civil rights statues requires prove beyond a reasonable doubt that a subject law enforcement officer acted willfully, that is, with the intent to do something that he knew to be unlawful. Mistake of fact, and even bad judgment, would not establish such willful intent. Accordingly, the United States Attorney's Office for the Central District of California concurs with a recommendation that the evidence does not support a violation of the applicable federal criminal civil rights statute, 18 United States Code, Section 242.

3. Predication and Allegations Investigated:

The matter was immediately investigated by the FBI Inspections Division, the LAPD, and the Los Angeles District Attorney (LADA). The FBI agent shooter provided a voluntary signed sworn statement. LAPD compelled statements from its shooter officers.

[redacted] b3 -5

The LADA declined prosecution, finding the conduct of the four law enforcement officers justified by self-defense and defense of others. The LAPD found the shooting to be within LAPD policy. After reviewing all the other relevant evidence, we elected to read the compelled statements of the LAPD officer shooters in order to make a fully informed decision in this matter.

A federal civil suit has been initiated by Frank Martinez' successors. The law suit is pending.

4. Subject's Version of the Events: b6 -1,4 per DOJ CRT b7C -1,4 per DOJ CRT

[redacted]

b6 -1,4 per DOJ CRT
b7C -1,4 per DOJ CRT

[redacted]

5. Witness Accounts and Video

b6 -8 per DOJ CRT
b7C -8 per DOJ CRT

A number of other law enforcement personnel and civilian [redacted] observed some or most of the relevant conduct while Martinez was on the roof. An unidentified person a block away from the rooftop began to video tape the events while Martinez was atop the roof and during the gunfire. The LAPD officers are visible on this video behind a wall below the roof. The video has an audio component. The original version was provided to local TV Channel 4 and, pursuant to subpoena, provided to the Department of Justice. The FBI laboratory attempted to enhance the video and its audio. The enhancement resulted in only a slightly improved image of the events. In any event, the video and the other witness accounts are generally consistent with the version of events provided by the shooters.

In the video, Martinez paces back and forth on a slightly slanted roof while he holds one hand inside his pants and holds a cell phone in the other hand. He appears to be talking on the cell phone. Immediately before gunfire is heard on the audio of the recording, Martinez makes a sudden movement in the direction of the officers who then fire their weapons.

Just before the volley of shots, an LAPD officer "racked" his shotgun – he chambered a bean bag round into the gun – preparing to fire the less lethal device at Martinez. An FBI agent saw Martinez react by abruptly moving away from the sound of the shotgun "racking." According to this witness, the gunfire immediately followed this sudden movement by Martinez in the direction of the police officers who fired.

Several other law enforcement officers involved in the attempt to capture Martinez corroborate the accounts of the officers who fired their weapons. For instance, the FBI agent, who described the shotgun racking, corroborated the shooters account of Martinez' conduct and heard the LAPD officers commanding Martinez in both English and Spanish to take his hand out of his pocket. Additionally, that agent spoke with SA [redacted] immediately after the shooting. SA [redacted] told him that "he had his hand in his pocket, he said f**k you, he moved his hand, and I heard a shot."

b6 -1
b7C -1

b6 -8 per DOJ CRT
b7C -8 per DOJ CRT

Significantly, civilian witnesses who observed the events also perceived that Martinez appeared to be concealing a weapon and considered him a threat to the police officers. For example, the [redacted] and observed Martinez on the roof. He described Martinez as pacing while he was holding a cell phone and holding his other hand tucked into his pants like he had a concealed weapon. This [redacted] advised that the police officers repeatedly asked him to surrender and raise his hands. The [redacted] also saw Martinez make a quick move just before he heard a volley of gunshots. Another [redacted] advised that [redacted] saw Martinez repeatedly ignor the police commands and reach for something in his pocket just before the police started shooting.

b6 -1,8 per FBI, DOJ CRT
b7C -1,8 per FBI, DOJ CRT

Additionally, a married couple [redacted] observed the events on the roof together [redacted] The husband, [redacted] saw one of Martinez' hands in his pocket the entire time, as the police yelled show us your hands. Martinez refused to obey the instructions and eventually pointed the hand in his pocket toward the officer with the rifle (SA [redacted]. The husband advised that he perceived Martinez to be a threat and would have shot the subject in response to the threatening gesture. His wife proffered the same factual observations, adding that Martinez started down the roof toward the police immediately before the volley of gunfire. She believed that Martinez had a gun.

b6 -8 per DOJ CRT
b7C -8 per DOJ CRT

Most witnesses ducked or took cover after the initial volley and did not observe the second sporadic volley of shots. However, the husband [redacted] observed the police moving back as they fired those shots and expressed his view that, once the man was down, he stopped moving and that any movement in his body was only the result of bullets striking him.

In the video, Martinez drops to a prone position on the rooftop after the first volley. As he lies with his head higher than his body partially on his side and stomach, the seven shots can be heard fired at a random pace over the eight second period of time. Movements of Martinez' body and arm are visible in the video. It is debatable whether the movements are voluntary, involuntary, or the result of his body being struck by bullets.

6. Forensic Evidence:

A. Ballistics and Autopsy

The four law enforcement officers' weapons had all been fired. The agent was armed with a semi-automatic rifle that fired .223 caliber rounds of ammunition. The LAPD officers were equipped with handguns that fired .40 caliber rounds.

All but one of the bullet projectiles recovered from Martinez' body were .223 caliber projectiles (fired by SA [redacted]'s rifle). The additional projectile recovered from the body was a .40 caliber (fired by Officer [redacted]' handgun). Several of the .223 caliber wounds were fatal and the .40 caliber wound was fatal as well. Accordingly, shots fired by the SA [redacted] and one shot fired by LAPD Officer [redacted] struck Martinez and caused fatal wounds. b6 -1,4 b7C -1,4

The medical examiner could not with scientific certainty determine the order in which the wounds were sustained nor whether a specific wound was sustained during the initial volley or during a shot fired during the second volley. Nor could the medical examiner opine whether any of the wounds were sustained from any of the seven shots fired during the second volley. Finally, the medical examiner further could provide no opinion to scientific certainty as to whether Martinez was still alive if he was struck by a bullet during the second series of shots.

B. The Video

The video is grainy and recorded from a distance greater than the distance that the shooter officers were from the rooftop. The shooters were positioned immediately below the roof. The video recorder was a block away. The recording is obviously not three-dimensional. The FBI Lab enhancement provides a modest improvement in the image. Undoubtedly, the four shooters who were closer to Martinez, and who observed reality in three-dimensions, had a much better view than what can be seen on video.

7. Legal Issues

To prove a violation of 18 U.S.C. § 242, the applicable federal criminal civil rights statute, the government must prove, beyond a reasonable doubt, that a police officer subject willfully used more force than was reasonably necessary under the circumstances. This burden of proof has both an objective and a subjective component. The reasonableness of the amount of force used is determined objectively and from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. Graham v. Connor, 490 U.S. 386, 396 (1989). Allowance must be made for the fact that law enforcement officials are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. Id. 396-97.

Even if there is evidence of unreasonable force, the government must further show that an officer acted willfully, that is with a bad purpose to violate the law. Screws v. United States, 325 U.S. 91 (1945). Accident, mistake, misperception, or even poor judgment, do not constitute willful conduct prosecutable under the statute. The misperceptions that the officers obviously had – Martinez was not armed and not about to shoot them – cannot be proven to be unreasonable perceptions, especially since the same perceptions were held by several witnesses to the events.

Additionally, the statue requires that the victim of unreasonable force be a "person." While we were unable to locate any law relevant to the issue, a jury should be instructed that it would need to determine that Frank Martinez was alive when he was subjected to unreasonable force. This presents a serious problem when evaluating the second volley of shots. As discussed

above, after conducting the autopsy and viewing the video, the medical examiner is unable to opine that Frank Martinez was alive when the seven shots were fired at him during the second volley. Without such proof, a violation of § 242 cannot be established as to those gunshots.

8. Conclusion:

A violation of the applicable federal criminal civil rights statues, 18 U.S.C. § 242 requires prove beyond a reasonable doubt that a subject law enforcement officer acted willfully, that is, with the intent to do something that he knew to be unlawful; that he did what he did knowing it was wrong. Mistake of fact, and even bad judgment, cannot establish the requisite willful intent. Accordingly, the evidence does not support a prosecutable violation of federal law and it is recommended that the matter should be closed. The United States Attorney's Office for the Central District of California concurs with this recommendation.

# LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
## BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
## JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director


February 13, 2013

Captain Robert Lopez
Force Investigation Division
Los Angeles Police Department
100 West First Street, Suite 431
Los Angeles, California 90012

Re: J.S.I.D. File # 12-0154
L.A.P.D. #F011-12

Dear Captain Lopez:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the fatal shooting of Frank Eric Martinez by Los Angeles Police Department (LAPD) Officers Rudolph Rivera, Juan Zendejas, Miguel Contreras and Federal Bureau of Investigation (FBI) Special Agent Matthew Parker. We find that the officers acted lawfully in self-defense and in defense of each other.

The District Attorney's Command Center was notified of the shooting at 8:12 a.m., on March 2, 2012. The District Attorney Response Team, comprised of Deputy District Attorney Stephanie Sparagna and District Attorney Senior Investigator Gregory Frum, responded to the scene and were given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports submitted by LAPD Detective Luis Alarcon, Force Investigation Division (FID). Compelled statements of Officers Rivera, Zendejas and Contreras were not considered in this analysis.[1]

## FACTUAL ANALYSIS

On January 25, 2012, the Los Angeles County District Attorney's Office Hardcore Gang Division filed charges against Frank Martinez and Martin Figueroa for a double homicide and issued felony warrants for their arrest. The murder investigation was conducted by LAPD Hollenbeck Division. The case was featured on "LA's Most Wanted." In an attempt to locate Martinez, detectives monitored telephone calls and electronic communications made between Martinez and his girlfriend, Marlene Mena, who had texted Martinez that he was identified as the murder suspect on the television show. Martinez expressed to Mena his intent to kill the police:

[1] LAPD Sergeant David Gomez obtained Public Safety Statements from Rivera, Zendejas and Contreras in which they acknowledged discharging their weapons.


Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: http://da.co.la.ca.us

| | |
|---|---|
| MARTINEZ: | "I'm going to take one out when they come get me." |
| MENA: | "Who?" |
| MARTINEZ: | "A cop." |
| MENA: | "There are too many. . . [t]hey have bulletproof vests." |
| MARTINEZ: | "I don't care, I'm not going back." |

The telephone tracking continued for over a month. On February 29, 2012, Martinez' phone was pinged to a residence occupied by Gregory Luna and his family located at 15509 Escalona Road in the City of La Mirada.

On March 1, 2012, a task force was assembled and a plan devised for the capture and arrest of Martinez. The task force was comprised of Hollenbeck Division, Career Criminal Detail (CCD) Officers Juan Zendejas, Rudolph Rivera, Miguel Contreras, Ricardo Huerta and Aaron Skiver, FBI Agents Scott Garriola and Matthew Parker and members of LAPD Gang and Narcotics Division (GND), Fugitive Warrant Section. During a briefing, officers were informed that Martinez was a gang member, wanted in a double homicide involving his use of a gun, known to be armed and dangerous, and that he told his girlfriend he would not go back to prison and would be willing to kill an officer if they tried to arrest him.

The task force arrived at the Luna residence where they set up a perimeter and conducted surveillance.[2] The officers detained Gregory Luna as he left the house and learned that Martinez was inside the residence asleep on the couch. GND and FBI personnel maintained the perimeter and surveillance. The CCD officers were assigned to support the surveillance operation and if Martinez left the location they would become the arrest team. CCD officers were dressed in plain clothes with utility belts and wore tactical vests marked "Los Angeles Police" and ballistic helmets. The plan was to surround the location, place a black and white police car in front of the residence and order Martinez out. Air Support Division was requested to respond to the location to assist with the operation.

The officers moved closer to the residence as they waited for Air Support. Some officers placed themselves in a position to observe the rear of the residence. Christine Luna exited the house and looked up and down the street on two occasions causing the officers to speculate that the element of surprise for the operation had been compromised. Christine Luna was ordered to walk away from the house. Within moments, an officer broadcasted that Martinez exited the residence through the rear door, ran along the side of the property toward a side gate and was holding his front waistband as if he were concealing something. Martinez climbed over a fence and onto a shed located north of the fence. From there, he climbed onto the roof of a detached garage on the property next door. Officers surrounded the garage area and commanded Martinez to stop and put his hands up for two to three minutes. Martinez did not comply. He quickly and aggressively moved down the roof toward the officers and appeared to possess a gun in his pocket. Believing Martinez reached for a gun, the officers fired their service weapons killing him.

[2] The immediate area is comprised of single family residences.

**Sworn Statement of Special Agent Matthew Parker**[3]

Parker saw Martinez climb onto the roof of a home next to the residence he exited. Parker identified himself and commanded Martinez to stop and raise his hands. Martinez ignored Parker's commands and climbed on to the roof of the garage. Parker positioned himself in the passageway on the east side of the property near the garage. Parker pointed his rifle toward the roof where Martinez was moving back and forth along the peak. Parker was aware of other officers standing behind him who were also ordering Martinez to raise his hands. Martinez moved to the east side of the roof toward Parker. Martinez tucked his right hand deep inside the front of his pants. Parker believed he was holding something heavy and could see a bulge in his pants where his right hand was concealed. Parker continued to command Martinez in English and Spanish to come off the roof and put his hands up. Martinez did not respond to any commands. Martinez used his left hand to make a call with his cell phone. His right hand remained tucked deep inside the front of his pants. Parker believed Martinez was concealing a weapon.

Parker heard Martinez say, "Hey baby, I'm calling to say goodbye." Parker stated to Martinez, "Don't do that. Come down. Let's talk about it. Just come down and talk to me." Martinez tried to make a second phone call, said "Fuck" and lowered the phone from his ear. He looked directly at Parker who again stated, "Come down and talk to me." Martinez responded, "Fuck you, I'm not talking to you." Martinez looked aggravated, swung around and lunged the right side of his body in Parker's direction. Concurrently, Parker heard a single shot. Fearing for his life, Parker flipped his selector to semiautomatic, raised his rifle and fired. Martinez fell to his left side. Parker continued to fire at Martinez because he was still moving and Parker could not see his hands. Parker was aware that officers positioned behind him had also discharged their weapons.[4]

**Statement of Special Agent Garriola**

Garriola saw Parker kick the gate to enter the area east of the garage. Garriola ordered officers to get a bean bag shotgun.[5] Garriola saw an officer get the bean bag shotgun, heard a shotgun rack and an officer say, "I got the bean bag." Martinez looked in the direction of the sound of the shotgun racking and moved quickly to the east side of the roof. Garriola heard one gunshot followed by thirty to forty shots in rapid succession. Garriola asked Parker what happened. Parker stated, "He had his hand in his pocket. He said 'Fuck you', moved his hand and I heard a shot."

---

[3] Parker was not aware of any statements provided by LAPD officers.
[4] The investigation revealed that Officers Rivera, Zendejas and Contreras were standing along the cinder block wall which ran parallel to the garage and near the shed were Parker stood.
[5] A bean bag shotgun is a shotgun loaded with non-lethal ammunition.

**Statement of Justin Whetsell**

Whetsell was in his living room when he heard the sound of a helicopter circling above his neighborhood. He walked outside, looked toward Luna's property and saw eight officers stacked up along a brick wall and two to three officers standing next to the wooden gate which forms an intersection with the wall. Some of the officers were wearing civilian clothes with vests identifying them as the police and several of them wore Kevlar helmets. The officers commanded Martinez, who was standing on the garage roof walking towards the peak, to show his hands. The officers clearly stated, "Get your hands up." Martinez did not comply, screamed something incomprehensible at the officers and acted extremely belligerent. Martinez wore baggy clothing. He grabbed at his shirt to pull it up and attempted to get something out of his waistband or pocket. Whetsell never saw a weapon. However, based on his experience in the military and as a special agent for the Army, Whetsell believed that Martinez was reaching for a weapon and moving in a threatening manner. Once Martinez' right hand went toward his waistband, the officers discharged their weapons and Martinez went down. Whetsell estimated twenty-five to thirty-five rounds were fired. After the initial burst of fire, Whetsell ran back inside to ensure his family was safe and heard a second burst of gunfire of approximately five to ten rounds. Whetsell opined that Martinez either had a weapon or committed "suicide by cop."

**Statement of Steve DeRuse**

DeRuse's home is located behind the Luna property. DeRuse saw Martinez on the roof and two officers near his shed pointing their rifles at him. They ordered him multiple times to raise his hands and get off the roof. Martinez paced back and forth trying to use his cell. His right hand was in his pants "as if he had a concealed weapon." An officer scaled the fence and went into the backyard. Martinez seemed agitated and quickly moved down the roof away from DeRuse's view. As Martinez came down the roof, DeRuse heard gunfire and lost sight of him. Martinez never complied with the officers' commands and never took his hand out of the waistband of his pants as he ran down the roof out of sight.

**Statement of Gerardo Villa**

Villa, a Downey police officer, resides across from the Luna property. Villa saw Martinez pacing back and forth on the roof with his hands in his pockets. Six officers pointed their guns at Martinez and ordered him to put his hands up. The officers spoke in both English and Spanish. Martinez did not comply with their commands. He used his left hand and pulled a cell phone out of his left pocket. He stopped pacing and stood at the peak of the roof where he made two phone calls. He kept his right hand in his pocket the entire time. Suddenly, Martinez ran down the slope of the roof toward an officer positioned below in a shed located across from the garage. Martinez tilted his hand up as if simulating a firearm. Villa heard a shot followed by ten to twelve shots. Martinez looked like he back pedaled trying to run from the rounds hitting him and fell backward landing on his side. Villa believed that Martinez had a weapon.

**Statement of Tamara Lockhart**

Martinez acted "like there was nobody there...like he was disoriented...he was not listening to anything they were saying." Martinez reached for his pocket to get something out when the officers' yelling escalated and shots were fired.

**Firearms Evidence**

Martinez was not in possession of a gun.

Rivera fired 9 rounds from his .45 caliber Smith and Wesson semiautomatic service weapon.

Zendejas fired 8 rounds from his .45 caliber Smith and Wesson semiautomatic service weapon.

Contreras fired 18 rounds from his .45 caliber Glock semiautomatic service weapon.

Parker fired 22 rounds from his Colt semiautomatic/full-automatic bureau issued rifle.

**Autopsy and Toxicology Reports**

On March 4, 2012, Los Angeles County Associate Deputy Medical Examiner Doctor Cho Lwin performed an autopsy on Martinez and concluded his death was a homicide from multiple gunshots wounds. A toxicology analysis detected the presence of marijuana and alcohol in his body.

**Other Evidence**

An unidentified witness captured the OIS on video from the northwest corner of Escalona Road and Cheshire Street. The National Broadcasting Company (NBC) Television Channel 4 obtained a copy of the video from that witness and broadcasted part of it during their newscast programming. The video depicts Zendejas and Contreras standing along the south portion of Cheshire Street. Martinez is depicted standing on the roof and when gunfire erupts, he collapses. Steve DeRuse videotaped a portion of the incident from his residence. The video depicts some movement by Martinez just prior to the OIS. Martinez is seen with his right hand secreted in his right waistband area.

A forensic analysis was completed on the cell phone belonging to Martinez. He called his mother, Hortencia Castillo, and his girlfriend, Darlene Mena, moments prior to the OIS.

Martinez was a documented member of the "State Street Boys" street gang and was known by the monikers of "Frankie" and "Toker." Martinez has numerous prior arrests and convictions for drug related activity, possession of concealed weapons, and taking hostages. At the time of this incident, Martinez was on parole for possession of a controlled substance in violation of Health and Safety Code section 11350(a) in Case No. GA081018.

## LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, California Criminal Jury Instructions (CALCRIM) No. 505.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal. App.2nd 575.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

"An officer is not constitutionally required to wait until he sets eyes upon the weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun." *Thompson v. Hubbard* (2001) 257 F.3d 896,899

The test of whether the officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others."
*Munoz v. City of Union City* (2004) 120 Cal. App. 4th 1077, 1102

## CONCLUSION

Officers Contreras, Zendejas, Rivera and Agent Parker responded to a residential area attempting to execute a felony arrest warrant. The officers were briefed that Martinez was an armed and dangerous gang member wanted in a double homicide case. They also knew he told his girlfriend he would not go back to prison and would be willing to kill an officer if given the opportunity.

Although mistaken, the officer's belief that Martinez was armed was reasonable under the circumstances not only because of what they had been told, but also because of what they observed. Martinez ran from the officers and recklessly climbed onto the garage roof in an

attempt to escape arrest. Martinez disregarded numerous commands to put his hands up and to come down. Martinez was heard saying goodbye to his girlfriend. He responded to Agent Parker's plea to come down from the roof and talk to him with disdain and furtively moved in a manner with his hand in his waistband which any reasonable person would interpret as a threat. Numerous civilians believed Martinez was armed and that his actions were dangerous justifying the officers' lethal response.

Under the totality of the circumstances, it was reasonable for the officers to fear that Martinez was armed and dangerous with the ability to harm them and the residents in the community. It was also reasonable for the officers to believe Martinez would endanger the lives of others in his attempt to flee when he had shown no regard for his own life. The officers were required to make a "split second" decision when they fired their guns at Martinez. The events that were unfolding were the very "tense, uncertain, and rapidly evolving" circumstances that the United States Supreme Court had in mind in *Graham v. Conner*. The officers based their decision on what was known to them about Martinez in conjunction with his aggressive movement on the roof. In reasonable fear of great bodily injury or death, the officers fired their service weapons at Martinez, ending the threat. We find that Officer Contreras, Officer Zendejas, Officer Rivera and Special Agent Parker acted in lawful self-defense and in defense of each other. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By Stephanie Sparagna

STEPHANIE SPARAGNA
Deputy District Attorney
(213) 974-3888

c: Officer Rudolph Rivera #34735
Officer Juan Zendejas #34747
Officer Miguel Contreras #31800
Special Agent Matthew Parker

# Force Investigation Division
# F011-12
## OFFICER-INVOLVED SHOOTING INVESTIGATION

**Force Investigation Division Investigators**

**Investigative Team:**

DII
Serial No.
DIII
Serial No.
DII
Serial No.
DII
Serial No.
DII
Serial No.

**Date and Time of Incident:** March 1, 2012, 0833 Hours

**Location of Incident:** b6 -1,2,4 b7C -1,2,4

**Area of Occurrence:** City of La Mirada

**Suspect(s):** Frank Eric Martinez
Male Hispanic, 27 years of age,
Multiple gunshot wounds
(Deceased)

**DR No.** 12-99 09137

**Involved Officer(s):** Police Officer II
Serial No. Hollenbeck Area

Police Officer II
Serial No. Hollenbeck Area

Police Officer II
Serial No. Hollenbeck Area

Special Agent
Federal Bureau of Investigation

**Confidential**

Copy No._____

For:_____

# ~~CONFIDENTIAL~~ REPORT

**THE CHIEF OF POLICE CONSIDERS THIS REPORT HIGHLY ~~CONFIDENTIAL~~. ACCESS TO THIS REPORT IS LIMITED TO THOSE DESIGNATED BY THE CHIEF OF POLICE. THIS REPORT DOES NOT CONTAINS INFORMATION FROM OFFICERS DIRECTLY INVOLVED IN THE USE OF FORCE INCIDENT. ANY UNAUTHORIZED USE OF THIS REPORT IS FORBIDDEN BY THE LOS ANGELES CITY ATTORNEY.**

**THIS REPORT IS NOT TO BE REPRODUCED OR COPIED**

**FORCE INVESTIGATION DIVISION REPORT NUMBER**

**F011-12**

# TABLE OF CONTENTS


| Subject | Page No. |
|---|---|
| Summary | 1 |
| Scene Description | 10 |
| Canvassing For Witnesses | 11 |
| Suspect Information | 11 |
| Injuries | 12 |
| Autopsy | 12 |
| Clothing Analysis | 14 |
| Weapons | 15 |
| Firearms Analysis | 17 |
| Evidence | 17 |
| Serology | 18 |
| Visual Documentation | 18 |
| Notifications | 18 |
| Personnel at Scene | 18 |
| Communications | 18 |
| Justice System Integrity Division | 19 |
| Related Reports | 19 |
| Investigator's Notes | 19 |
| Diagrams | 24 |

**Transcribed Statements**


Police Officer III [redacted] (Pages 1-48) ..... 25
Detective I [redacted] (Pages 1-65) ..... 26
Detective III [redacted] (Pages 1-41) ..... 27
Police Officer II [redacted] (Pages 1-38) ..... 28
Police Officer III [redacted] (Pages 1-43) ..... 29
Police Officer II [redacted] (Pages 1-43) ..... 30
Police Officer II [redacted] (Pages 1-25) ..... 31
Police Officer II [redacted] (Pages 1-26) ..... 32
Detective II [redacted] (Pages 1-27) ..... 33
Detective II [redacted] (Pages 1-21) ..... 34
Police Officer II [redacted] (Pages 1-18) ..... 35
Police Officer II [redacted] (Pages 1-17) ..... 36
Sergeant I [redacted] (Pages 1-27) ..... 37
Sergeant I [redacted] (Pages 1-27) ..... 38
[redacted] (Pages 1-74) ..... 39
[redacted] (Pages 1-17) ..... 40
[redacted] (Pages 1-50) ..... 41
[redacted] (Pages 1-48) ..... 42
[redacted] (Pages 1-37) ..... 43
[redacted] (Pages 1-23) ..... 44
[redacted] (Pages 1-22) ..... 45
[redacted] (Pages 1-23) ..... 46
[redacted] (Pages 1-18) ..... 47
[redacted] (Pages 1-13) ..... 48
[redacted] (Pages 1-14) ..... 49
[redacted] (Pages 1-18) ..... 50
[redacted] (Pages 1-23) ..... 51
[redacted] (Pages 1-18) ..... 52
[redacted] (Pages 1-17) ..... 53
[redacted] (Pages 1-20) ..... 54
[redacted] (Pages 1-48) ..... 55
[redacted] (Pages 1-17) ..... 56
[redacted] (Pages 1-33) ..... 57
[redacted] (Pages 1-23) ..... 58
[redacted] (Pages 1-28) ..... 59
[redacted] (Pages 1-11) ..... 60
[redacted] (Pages 1-7) ..... 61
Fire Captain [redacted] (Pages 1-20) ..... 62
Paramedic [redacted] (Pages 1-14) ..... 63
Paramedic [redacted] (Pages 1-14) ..... 64


b6 -4
b7C -4

b6 -2,8
b7C -2,8

b6 -4
b7C -4

**Addenda**

| | |
|---|---|
| Addendum No. 1 A-B | Los Angeles Police Department, Murder Investigative Report of Jesus Rendon, DR No. 11-04 17320. |
| Addendum No. 2 A-B | Los Angeles Police Department, Murder Investigative Report of Art Gomez, DR No. 11-04 17321. |
| Addendum No. 3 A-L | Los Angeles Police Department, Murder Follow-up Investigation. DR Nos. 11-04 17320 and 11-04 17321. |
| Addendum No. 4 A-B | Los Angeles Police Department, LAPD/FBI Fugitive Task Force Game Plan dated March 1, 2012. |
| Addendum No. 5 A-C | Federal Bureau of Investigation, Statement of Special Agent [redacted] Form No. FD-302, dated March 2, 2012. |
| Addendum No. 6 A-G | Federal Bureau of Investigation, Statement of Special Agent [redacted] Form No. FD-302, dated March 7, 2012. |
| Addendum No. 7 A-K | Federal Bureau of Investigation, Signed Sworn Statement of Special Agent [redacted] dated March 6, 2012. |
| Addendum No.8 | Federal Bureau of Investigation, Signed Sworn Statement of Special Agent [redacted] dated August 2, 2012. |
| Addendum No. 9 A-E | Los Angeles Police Department, Operation Plan for Hollenbeck Personnel dated March 1, 2012. |
| Addendum No. 10 A-G | Hollenbeck Patrol Division Watch Commander's Daily Report, Watch 2/4, dated March 1, 2012. |
| Addendum No. 11 A-P | Sergeant's Daily Reports, Dated March 1, 2012. |
| Addendum No. 12 A-J | Los Angeles County Consolidated Criminal History System Record for Frank Eric Martinez. |
| Addendum No. 13 A-F | Criminal Information Index Rap Sheet for Frank Eric Martinez. |
| Addendum No. 14 | Los Angeles County Fire Department, Emergency Medical Services Report for Frank Martinez, Form No. FZ 358074, dated March 1, 2012. |
| Addendum No. 15 | Los Angeles Police Department, Death Investigation Report of Frank Martinez, DR No. 12-99 09137. |

b6 -1
b7C -1

| | |
|---|---|
| Addendum No. 16 A-AJ | County of Los Angeles, Department of Coroner, Autopsy Report for Frank E. Martinez, Case No. 2012-01480. |
| Addendum No. 17 A-M | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Distance Determination, DR No. 12-99 09137, finalized on August 13, 2012. |
| Addendum No. 18 A-B | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Officer [redacted]'s Firearm Test Fire, DR No. 11-99 09137, finalized June 8, 2012. b6 -1,4 b7C -1,4 |
| Addendum No. 19 | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Officer [redacted] Firearm Test Fire, DR No. 11-99 09137, finalized June 8, 2012. |
| Addendum No. 20 | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Officer [redacted] Firearm Test Fire, DR No. 11-99 09137, finalized March 16, 2012. |
| Addendum No. 21 | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Special Agent [redacted]'s Firearm Test Fire, DR No. 11-99 09137, finalized June 29, 2012 |
| Addendum No. 22 A-G | Los Angeles Police Department, Scientific Investigation Division Laboratory Report of Bullet Path Analysis, DR No. 12-99 09137, finalized on August 2, 2012. |
| Addendum No. 23 A-D | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Bullet/Cartridge Casing Comparison, DR No. 12-99 09137, finalized on August 22, 2012. |
| Addendum No. 24 | Los Angeles Police Department, Scientific Investigation Division, Laboratory Report of Evidence Collection, DR No. 11-99 09137, finalized April 2, 2012. |
| Addendum No. 25 A-H | Los Angeles Police Department, Property Report for Item Nos. 1 through 71, DR No. 12-99 09137. |
| Addendum No. 26 A-E | RACR Incident Notification Log, Dated March 1, 2012 for Incident No. 120301001009. |
| Addendum No. 27 | Federal Bureau of Investigation, Statement of Special Agent [redacted] Form No. FD-302, dated March 5, 2012. b6 -1 b7C -1 |
| Addendum No. 28 | Federal Bureau of Investigation, Statement of Special Agent [redacted] Form No. FD-302, dated March 1, 2012. |

| | | |
|---|---|---|
| Addendum No. 29 A-F | State of California, County of Los Angeles, Search Warrant and Affidavit for [redacted] La Mirada, Dated March 1, 2012. | b6 -2<br>b7C -2 |
| Addendum No. 30 A-M | Federal Bureau of Investigation, Cryptology and Electronic Analysis Unit, Device Case Report, Case No. 89B-LA-259707. | |

# FORCE INVESTIGATION DIVISION
# REPORT OF AN OFFICER-INVOLVED SHOOTING
# FID NO. 011-12

**The following report was prepared by Force Investigation Division (FID). The report does not include any information from the officers directly involved in the Categorical Use of Force incident. The report was drafted via the statements of uninvolved police personnel and independent witnesses in the case. The specific actions, tactics, and statements of the involved officers will be addressed in the report completed by Force Investigation Division, Administrative Investigation Section.**

## INVESTIGATIVE SUMMARY

On Wednesday, November 30, 2011, at approximately 0014 hours, a double murder occurred at 2133 City View Avenue, Los Angeles, California. The victims were identified as Art Gomez, 31 years of age, and Jesus Rendon, 36 years of age **(Addenda Nos. 1 and 2)**.

Hollenbeck Detective Division, Homicide Unit, Detective III [redacted] Serial No. [redacted] and Police Officer III [redacted] Serial No. [redacted], were assigned to investigate the murders. Their investigation identified Frank Eric Martinez, a male Hispanic, 27 years of age, and [redacted] a male [redacted] years of age, as the individuals responsible for the murders of Gomez and Rendon. On January 25, 2012, Officer [redacted] presented the case to the Los Angeles County, District Attorney's Office, Hardcore Division. Deputy District Attorney [redacted] reviewed the case, filed murder charges and issued felony warrants against Martinez and [redacted] on Case Nos. LACBA39317501 and LACBA39317502, respectively **(Addendum No. 3)**.

b6 -4,7
b7C -4,7

Officer [redacted] conducted numerous follow-ups in an attempt to locate Martinez and [redacted] without success. On February 18, 2012, in an effort to develop leads, the case was featured on "LA's Most Wanted" Channel Fox 11 News.

b6 -2,4,7
b7C -2,4,7
b7E -1,6
b3 -1

Additionally, via a court order, officers [redacted] To assist in investigating leads and information obtained from the court order, Officer [redacted] requested the assistance of Gang and Narcotics Division (GND), Fugitive Warrant Section (FWS) Task Force. This task force was comprised of several Los Angeles Police Department (LAPD) officers and two Federal Bureau of Investigation (FBI) agents, whose primary focus is assisting divisional detectives with the surveillance and capture of outstanding felony suspects.

Gang and Narcotics Division, Detective I [redacted] Serial No. [redacted] and FBI Special Agent (SA) [redacted] Serial No. [redacted] were the lead investigators responsible for the analysis of information obtained through the court order. The tracking of [redacted]

b6 -1,4
b7C -1,4
b7E -1,6
b3 -1

Detective [redacted] and SA [redacted] eventually determined Martinez was [redacted][1] Based [redacted] Detective [redacted] and SA [redacted] believed [redacted] utilized [redacted]

b6 -1,2,4
b7C -1,2,4
b7E -1,6
b3 -1

[redacted][2] Detective [redacted] and Special Agent [redacted] conducted computer checks, obtained background information on the residents at this address, and planned a surveillance to determine if Martinez was hiding at the location. A briefing for the surveillance was scheduled for March 1, 2012, at approximately 0530 hours. Officer [redacted] was notified of the briefing and purpose of the surveillance.

b6 -1,2,4
b7C -1,2,4
b7E -1,6
b3 -1

On March 1, 2012, at approximately 0530 hours, the following GND and FBI personnel attended the briefing: SA [redacted] Detective [redacted] SA [redacted] Serial No. [redacted] Police Officers II [redacted] Serial No. [redacted] Serial No. [redacted] and [redacted] Serial No. [redacted] and Detective II [redacted] Serial No. [redacted][3] Officer [redacted] was also present during the briefing and was aware that the Hollenbeck Division, Career Criminal Detail (CCD) Unit was on duty and available as an additional resource **(Addendum No. 4)**.[4]

b6 -1,4
b7C -1,4

> **Note:** All the above listed personnel were in plain clothes and drove unmarked plain vehicles. Detective [redacted] was the supervisor in charge of the GND personnel.

b6 -1,2,4
b7C -1,2,4
b7E -1,6
b3 -1

Detective [redacted] and SA [redacted] provided background information, photographs and the content of [redacted] to the above listed personnel. The purpose of the surveillance was to monitor the activity at [redacted] and determine whether or not Martinez was at the location. This would be accomplished by having an Observation Post (OP) on [redacted] and several units around the perimeter. If a vehicle was observed leaving the residence, officers would stop the vehicle and attempt to gain information about Martinez' whereabouts. If confirmation was obtained that Martinez was at the residence, Hollenbeck Division CCD personnel would be requested to assist.

---

[redacted]

b6 -1,4
b7C -1,4
b7E -1

[3] Special Agents [redacted] provided a voluntary statement during this investigation; however, their interviews were not recorded in accordance with FBI policy. Their statements contained in this report were derived from Signed Sworn Statements and Statement Forms which are included in this report **(Addenda Nos. 5 through 8)**.

[4] Notification of the surveillance was made to Los Angeles Sheriff's Department (LASD) Norwalk Station, Communications Division, Bureau Communications Coordinator (BCC), and GND Lieutenant II [redacted] Serial No. [redacted]

After the briefing, Detective [redacted] took a position on the east side of [redacted] as the OP. Officer [redacted] covered the north, SA [redacted] covered the south, Officers [redacted] covered the west and SA [redacted] covered the east side of the surveillance. Communications between the OP and perimeter units was accomplished via [redacted] radios and cellular telephones.[5]

b6 -1,2,4
b7C -1,2,4
b7E -6

Officer [redacted] was not an active member of the surveillance, as his role was to provide background information on Martinez and request additional resources if needed. Because Martinez' [redacted] Officer [redacted] had a strong suspicion Martinez was possibly at this location. At approximately 0700 hours, he telephoned Hollenbeck Detective Division, Detective III [redacted] Serial No. [redacted] and requested him to respond with his CCD personnel to the City of La Mirada. Detective [redacted] was familiar with the murder case involving Martinez and was informed a surveillance was under way, however no movement or confirmation had been made whether Martinez was indeed at the residence.

b6 -2,4
b7C -2,4
b7E -1,6
b3 -1

**Note:** Detective [redacted] was the supervisor in charge of the Hollenbeck Detective Division CCD unit, which consisted of the following personnel: Police Officer III [redacted] Serial No. [redacted] and Police Officers II [redacted] Serial No. [redacted] Serial No. [redacted] Serial No. [redacted] and [redacted] Serial No. [redacted] The CCD officers were dressed in plain clothes with utility belts and wore tactical vests marked in white lettering "Los Angeles Police" on the front of the vest and "Police" on the back of it.[6]

b6 -4
b7C -4

Officer [redacted] contacted Officer [redacted] and obtained the information needed to complete an Operational Game Plan. Officer [redacted] then briefed the CCD personnel at Hollenbeck Station. Their assignment was to support the surveillance operation as containment of the residence, and if Martinez left the location in a vehicle, the CCD officers would become the arrest team since they were equipped with a marked black and white police vehicle **(Addendum No. 9)**.[7]

b6 -4
b7C -4

After the briefing, Detective [redacted] along with Officers [redacted] and [redacted] responded to [redacted] and met with SA [redacted] who provided a brief update regarding the status of the surveillance.

b6 -1,2,4
b7C -1,2,4

---

[5] The officers were using frequency Channel [redacted] to communicate with their [redacted] radios, which was not recorded by Communications Division.

b6 -4
b7C -4

[6] Officer [redacted] Officer [redacted] Officer [redacted] Officer [redacted] drove a marked black and white police vehicle, Shop No. [redacted] equipped with ballistic door panels and Officer [redacted] was the passenger. Officer [redacted] drove a [redacted] plain police vehicle, Shop No. [redacted] Officer [redacted] was the front passenger, Detective [redacted] was the right rear passenger and Officer [redacted] was the left rear passenger.

b7E -6

[7] Detective [redacted] notified the Hollenbeck Watch Commander and also Hollenbeck Detective Division, Lieutenant II [redacted] Serial No. [redacted] in regards to CCD personnel responding to assist with the surveillance operation. In addition, Officer [redacted] notified LASD Norwalk Station.

At approximately 0730 hours, Detective observed a male drive away from in a accompanied by male Officer followed the vehicle to a nearby business, located at Career Criminal Detail personnel were requested to The two males were subsequently identified as years of age, and years of age. Officers responded and Officers and Detective assisted them with and Officer interviewed him about Martinez' whereabouts.

b6 -2,4
b7C -2,4
b7E -1

**Note:** At this stage of the investigation, it was unknown whether the residents at were harboring Martinez.

This information was immediately communicated to all the personnel involved in the surveillance. Detective made the decision to conduct a surround and call out; having CCD personnel as the arrest team and GND and FBI personnel maintain the perimeter to contain the residence. The plan was to

b6 -2,4
b7C -2,4
b7E -1

**Note:** Initially, Detective and the CCD unit were support personnel for the surveillance. When Martinez was confirmed to be inside the residence, Detective became the Incident Commander and supervised the surround and call out operation assisted by GND and FBI personnel as containment and support.

b6 -4
b7C -4

At 0811 hours, Officer (Unit ) used his radio to broadcast on Hollenbeck frequency that they were Code at Detective requested the officers on the perimeter to close in to get a visual of the residence, and in particular, a view of the rear of the property. The CCD personnel staged at to don their tactical gear, which included their tactical vest and ballistic helmets. At approximately 0815 hours, Officer telephoned Division and requested respond to the location to assist with the operation.

b6 -2,4
b7C -2,4
b7E -1

**Note:** At approximately 0820 hours, Gang and Narcotics Division, Detective II Serial No. arrived at the staging location to relieve Detective who left the location to respond to the Police Administration Building.

b6 -4
b7C -4
b7E -1

Division, Police Officer II+6 Serial No. and Police Officer II+5 Serial No. (observer) responded to assist. They communicated with the CCD officers via radio and advised them of their estimated time of arrival (ETA).

While the CCD personnel waited for the arrival of [redacted] some of the GND and FBI personnel moved in closer to the residence. Officers [redacted] entered the rear yard of [redacted] and placed themselves in a position to observe the rear yard of [redacted][8] Special Agent [redacted] moved his vehicle to the northeast corner of [redacted][9] Officer [redacted] moved to the staging location and maintained custody of [redacted] inside his vehicle to prevent him from alerting Martinez or anyone inside the residence of the police presence. b6 -2,4 b7C -2,4 b7E -1

Since [redacted] had not returned home after [redacted] exited the residence and from the sidewalk, looked in both directions for any signs of [redacted] She then returned to her residence and sent [redacted] to search for [redacted] Detective [redacted] observed [redacted] exit [redacted] and ride a bicycle southbound toward the area where CCD personnel were staged. Detective [redacted] requested a unit to detain [redacted] Officer [redacted] with the assistance of Officer [redacted] detained [redacted] without incident at the intersection of [redacted] confirmed Martinez was inside the residence and Officer [redacted] communicated this information to the rest of the units on the surveillance. [redacted] was then placed with [redacted] in the back seat of Officer [redacted]'s vehicle. b6 -2,4 b7C -2,4

**Note:** [redacted] was detained pending an investigation to determine whether he was involved in harboring Martinez. b6 -2,4 b7C -2,4

A few minutes later, unaware that [redacted] had been detained, [redacted] exited the residence and again looked up and down the street and appeared to use her cellular telephone. Detective [redacted] communicated [redacted]'s actions to the rest of the officers.

Detective [redacted] believed the element of surprise for the operation had been compromised and directed the CCD personnel to drive to the residence to initiate the surround and call out. Officer [redacted] drove the black and white police vehicle north on [redacted] followed by Officer [redacted] Officer [redacted] Detective [redacted] and Officer [redacted] in their respective vehicles. Detective [redacted] requested Agent [redacted] to cover the north part of the containment and Officer [redacted] to cover the south. As the officers approached, [redacted] walked south away from the residence. b6 -2,4 b7C -2,4

Simultaneously, [redacted] arrived over the residence and Officer [redacted] communicated his observations to the [redacted] units. Officer [redacted] drove his black and white police vehicle onto the driveway at [redacted] and stopped facing the front door of the residence followed by Officer [redacted] Detective [redacted] made contact with [redacted] and ordered her to continue walking south away from the residence. b6 -2,4 b7C -2,4 b7E -1

**Note:** [redacted] was not detained, she walked south past the officers and witnessed the incident standing along the west sidewalk south of Lowe Drive.

---

[8] Officer [redacted] was armed with a Department shotgun and Officer [redacted] with a Police Rifle. b6 -1,4 b7C -1,4

[9] Special Agent [redacted] was wearing [redacted] He drove a plain vehicle and carried a concealable ballistic vest marked "Police."

When Officer [redacted] drove onto the driveway, SA [redacted] donned his ballistic vest and drove his vehicle along the west curb and stopped just north of [redacted] Special Agent [redacted] immediately exited his vehicle, armed himself with his rifle and stood by the front passenger side of his vehicle. A few moments later, SA [redacted] moved behind a tree located along the property line between [redacted] Special Agent [redacted] also drove in closer and stopped his vehicle at the northwest corner of [redacted]

b6 -1,2,4
b7C -1,2,4

Officers [redacted] stopped approximately five residences south of [redacted] to hold the southern end of the containment.

Officer [redacted] exited his vehicle armed with his shotgun, which he kept at a low ready position, and took cover behind the driver's door. Officer [redacted] exited the vehicle armed with a police rifle, which he kept at a low ready position, and took cover behind the front passenger door. Officer [redacted] and Detective [redacted] exited their vehicle and took cover behind the trunk of their vehicle. Detective [redacted] unholstered his service pistol and maintained it at a low ready position. Officers [redacted] and Detective [redacted] stated the reason why they drew their weapons was because Martinez was considered armed and dangerous.

b6 -4
b7C -4

As the officers deployed around the residence, [redacted] a female [redacted] years of age, exited the residence through the front door. Detective [redacted] immediately directed her to walk away from the residence and toward him. For a moment, she appeared to hesitate but then complied. Detective [redacted] holstered his pistol when [redacted] approached him. Since the scene was active and Martinez was not in custody, Detective [redacted] believed it was necessary to protect [redacted] He directed her to kneel down behind the trunk of his vehicle. A few seconds later, [redacted] a female [redacted] years of age, exited the residence carrying [redacted] Detective [redacted] also directed [redacted] to the rear of his vehicle. A few seconds later, Detective [redacted] believed it was safe for them to walk south away from the residence and directed them past Officers [redacted]

b6 -2,4
b7C -2,4

> **Note:** According to [redacted] Martinez was behind her when she was at the front door moments before the officers made contact with her. None of the officers recalled seeing him at the door **(Investigator's Note No. 1)**.

b6 -2,4
b7C -2,4
b7E -1

A few seconds after [redacted] exited the residence, Officer [redacted] observed a male (Martinez) wearing a grey shirt and black pants exit the residence through the rear door. Martinez looked [redacted] and went back inside the residence. Officer [redacted] communicated his observations to the [redacted] units.[10] Approximately 30 seconds later, Officer [redacted] observed Martinez again exit through the rear door. Martinez immediately ran north to the northwest corner of the house and then east along the north side of the property toward a side gate. Officer [redacted] broadcast the direction Martinez ran and that he was holding his front waistband as if he was concealing something.

[10] Officer [redacted] communicated with the [redacted] via [redacted] radio, [redacted] which was not recorded by Communications Division.

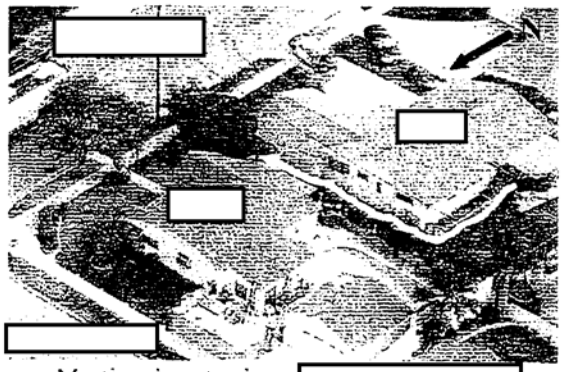
b6 -4
b7C -4
b7E -1

Simultaneously [redacted] Officer [redacted] observed and recognized Martinez exit the rear of the residence and ordered him to get on the ground. Martinez ignored Officer [redacted] and ran north, then east along the north side of the house out of Officer [redacted] s view. Using his [redacted] radio, Officer [redacted] broadcast Martinez' direction of travel. From the front of the residence, Officers [redacted] observed Martinez reach the side gate and also recognized him. The officers ordered Martinez to put his hands up. Martinez looked in the officers' direction and immediately ran back west away from the gate and out of the officers' view.

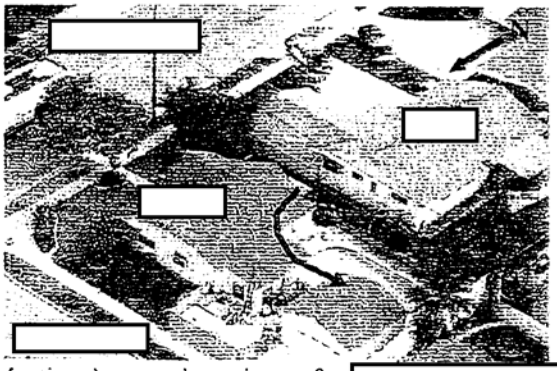
b6 -4
b7C -4
b7E -1

[redacted] Officer [redacted] observed Martinez climb over a fence and onto a shed located directly north of the fence. From there, Martinez climbed onto the roof of the property ( [redacted] and ran west along the roof. Officer [redacted] continued to relay his observations to the [redacted] units.

b6 -2,4
b7C -2,4
b7E -1



Martinez' route along [redacted]



Martinez' route along the roof at [redacted]

b6 -2
b7C -2

Simultaneously [redacted] SA [redacted] heard the commotion Martinez made as he ran away from the gate. He moved slightly south and observed Martinez climb onto the roof of [redacted] Special Agent [redacted] ordered Martinez to stop. Martinez failed to comply and ran west out of view. Special Agent [redacted] attempted to contain Martinez and ran to the southwest corner of [redacted] while yelling repeatedly, "He's on the roof." When SA [redacted] reached the corner, he observed SA [redacted] on the north side of [redacted] pointing his pistol at an elevated position.

b6 -1,2,4
b7C -1,2,4
b7E -1

According to SA [redacted] he observed Martinez move west along the roof at [redacted] and ordered him to stop. Special Agent [redacted] then crossed to the south side of [redacted] near the west side of the garage. Special Agent [redacted] observed SA [redacted] had the west side covered and decided to tighten the perimeter around Martinez. He quickly walked west along the south sidewalk of [redacted] to a cinder block wall that extended from the house to the detached garage enclosing the rear yard. Special Agent [redacted] believed he would have better containment from inside the rear yard. He observed a wooden gate that allowed access into the rear yard and quickly walked to the gate and entered the rear yard. He cleared it of any potential threats, then looked up and observed Martinez at the crest of the roof. He then moved to the northwest corner of the house and aimed his rifle at Martinez. Special Agent [redacted] remained on the sidewalk west of the garage.

b6 -1,2,4
b7C -1,2,4

**Note:** The roof of the garage was pitched and extended down east and west from its highest point.

Officers [redacted] were positioned southwest of the garage when they observed Martinez reach the west side of the roof. They immediately ordered Martinez to get down and noticed he held a cellular telephone with his left hand which he kept by his left ear as if he was talking on the telephone. Martinez' right hand was completely secreted inside his right front waistband area. He ignored the officers' orders and walked back to the east section of the roof. b6 -4 b7C -4

> **Note:** All of the officers and agents present at this incident were aware of the circumstances of the murder case which involved Martinez, the fact a firearm was used during the crime, he was considered armed and dangerous, and [redacted] b7E -6 b3 -1

Special Agent [redacted] ordered Martinez, both in English and Spanish, to get down and to show his hands. Martinez failed to comply. Instead, he maintained his right hand tucked deep inside the front of his pants which gave the impression he had a weapon in his right hand. Special Agent [redacted] observed several officers behind his position, referring to Officers [redacted] and [redacted] also yelling commands at Martinez. b6 -1,2,4 b7C -1,2,4

> **Note:** Since Martinez refused to comply with the officers' commands, SA [redacted] requested a bean bag to be deployed. Officer [redacted] responded to the request and retrieved his bean bag shotgun from his vehicle which was parked on [redacted] at [redacted] Officer [redacted] handed the bean bag shotgun to Detective [redacted] who immediately walked back toward Martinez. According to Detective [redacted] he chambered a round into the bean bag shotgun and immediately Martinez walked from the west to the east side of the roof. The OIS occurred as Detective [redacted] was approaching Martinez' location.

Martinez continued to refuse to comply with the officers' verbal commands. Instead, he quickly moved toward them and moved his right hand, resulting in an OIS. The following describes the perception and actions taken by SA [redacted] however, it does not represent the sequence in which the officers discharged their weapons, since Officers [redacted] and SA [redacted] discharged their weapons simultaneously. b6 -1,4,8 b7C -1,4,8

> **Note:** The OIS was videotaped by an unidentified citizen and was later broadcast on a local channel newscast. Further information pertaining to this video is documented in the "Visual Documentation" section of this report. In addition, civilian Witnesses [redacted] described Martinez' actions as a quick and aggressive move toward the officers while attempting to get an object out of his waistline or pocket area.

Special Agent [redacted] stood in the backyard area using the northwest corner of the residence as cover. He observed Martinez place the cellular telephone to his left ear and heard him say, "Hey baby, I'm calling to say goodbye, I'm just calling to say goodbye." b6 -1 b7C -1

Position of SA [redacted] and Martinez during the OIS

b6 -1
b7C -1

Special Agent [redacted] attempted to deescalate the situation by making eye contact with Martinez and reason with him. He lowered his rifle slightly and continued to focus on Martinez's eyes and right hand but Martinez ignored him.

b6 -1
b7C -1

According to SA [redacted] Martinez made another telephone call which appeared not to go through. Martinez said, "Fuck" and lowered the telephone from his left ear. Special Agent [redacted] still trying to reason with Martinez said, "Don't do that. Come down, let's talk about it. Just come down and talk to me." Martinez looked directly at him and said, "Fuck you, I'm not talking to you." Martinez's facial expression changed and he appeared to become more aggravated. Martinez turned counter clock wise and lunged the right side of his body toward SA [redacted] Simultaneously Martinez thrust the protrusion where his right hand was concealed, and where SA [redacted] believed he was holding a firearm, toward him. Special Agent [redacted] believed Martinez aimed his right hand directly at him. Concurrent with this movement, SA [redacted] heard a single gunshot and fearing for his life, he moved his rifle's selector lever from safe to semiautomatic and fired at Martinez from an approximate distance of 19 feet. Special Agent [redacted] continued firing at Martinez's center body mass as he transitioned from a standing position to lying on his left side on the roof. Martinez's continual movement posed a continuing threat to SA [redacted] and to the other officers present. He continued to fire at Martinez because Martinez was still moving and he could not see his hands. When Martinez stopped moving, SA [redacted] believed Martinez was no longer a threat and ceased fire, then he placed his rifle's selector lever on safe.

b6 -1
b7C -1

Believing Martinez had fired directly at him, SA [redacted] immediately searched for the impact of Martinez' round along the wall and surrounding area where he had been standing, but found no bullet impacts. b6 -1,4 b7C -1,4

> **Note:** Special Agent [redacted] was aware the officers positioned behind him had also discharged their weapons, referring to Officers [redacted] Special Agent [redacted] did not know the number of rounds he fired. Based on the evidence recovered, it was determined he fired a total of 22 rounds.

After the OIS, at 0832:42 hours Officer [redacted] (Unit [redacted]) broadcast on Hollenbeck frequency a request for a RA unit to respond to the scene. Officer [redacted] notified the Norwalk Sheriff's Station and requested units to respond to assist securing the scene. b6 -1,4 b7C -1,4

Detectives [redacted] walked to [redacted] and identified the involved officers. Officers [redacted] were separated and ordered not to discuss the incident, while Special Agent [redacted] stood by with Special Agent [redacted] Since Martinez was not in custody, everyone maintained their positions until Fire Department personnel arrived and provided a ladder to access the roof. Although Martinez was not moving, he was believed to still be armed. Officers [redacted] followed by Detective [redacted] climbed the ladder to the roof. Officer [redacted] handcuffed Martinez and Officer [redacted] conducted a quick pat down search for weapons, however none were located. The paramedics then conducted their medical assessment and determined Martinez dead at scene at approximately 0840 hours.

Detective [redacted] requested Detective [redacted] to return to the scene to monitor the involved officers while Detective [redacted] made notifications to Lieutenant [redacted] who in turn notified the Hollenbeck Watch Commander. At approximately 0835 hours, Hollenbeck Patrol Division Sergeant I [redacted] Serial No. [redacted] Unit [redacted] was requested to respond to the scene. Once Detective [redacted] arrived at the scene, he assisted monitoring the involved officers along with Detectives [redacted] until additional supervisors responded. Sergeant [redacted] arrived at the scene at approximately 0906 hours and individually took a Public Safety Statement from Officers [redacted] b6 -4 b7C -4

Force Investigation Division Detective II [redacted] Serial No. [redacted] reviewed all documents and circumstances surrounding the separation, monitoring and admonition not to discuss the incident to officers prior to being interviewed by FID investigators. All protocols were followed (**Addenda Nos. 10 and 11**).

## SCENE DESCRIPTION

The OIS occurred at [redacted] La Mirada, California. This property is located at the southwest corner of [redacted] is a two lane thoroughfare traveling north and south, approximately 40 feet in width with parking available at the east and west curbs. [redacted] intersects [redacted] and is also a two lane thoroughfare traveling east and west approximately 30 feet in width with parking available at the north and south curbs. b6 -2 b7C -2

The immediate area is comprised of single family residences and is bordered by [redacted] to the north and [redacted] to the south. The property at [redacted] consists of a single story family residence with a detached garage. The driveway is located along [redacted] allowing direct access to the garage. The front and north side yards of the property are open allowing access from the sidewalks along [redacted] The rear yard is enclosed by a red cinder block wall approximately six feet in height, which extends north from the house to the sidewalk, then west to a wooden gate. The wooden gate extends south from the sidewalk to the detached garage enclosing the rear yard. The entire enclosed rear yard consists of a concrete patio that surrounds a swimming pool, which is located along the south side of the rear yard and extends behind the garage. The enclosed concrete rear yard contained several items that included a "Popup" style trailer, a barbecue grill, a large plastic storage container, a table, chairs and other miscellaneous items. Wood beams connected the rear of the house to the detached garage were covered with corrugated plastic sheets that provided shade to a small area of the rear yard. b6 -2 b7C -2

The incident occurred during daylight hours and the location of the street lights and other artificial illumination was not a factor. The weather was approximately 57 degrees Fahrenheit with partially clear skies and no discernable wind.

## CANVASSING FOR WITNESSES

Force Investigation Division and Federal Bureau of Investigation personnel conducted a canvass of the immediate area for witnesses to the officer-involved shooting. The parameters of the canvass included the [redacted] blocks of [redacted] and the [redacted] blocks of [redacted] During the canvass detectives located several individuals who observed or heard the incident; however, some refused to have their interview recorded. The transcribed statements of the witnesses that were recorded are contained in this report **(Investigator's Note No. 2)**. b6 -2 b7C -2

## SUSPECT INFORMATION

Frank Eric Martinez was described as a male Hispanic, black hair, brown eyes, five feet nine inches in height, 214 pounds, with a date of birth of December 22, 1984. His last known address was listed as 1317 North Sierra Bonita Avenue, Pasadena, California.

Martinez was identified by the following numbers: CII No. A22684072, FBI No. 366740VB9, MAI No. 30133724, Social Security Nos. 551-83-0631 and 551-83-3106, California Department of Corrections No. V037978, and California Driver License No. D3190207. Martinez was a documented member of the "State Street Boys" street gang and was known by the monikers of "Frank" and "Toker."

At the time of the officer-involved shooting, Martinez was on parole for possession of a controlled substance, 11350(A) H&S, Case No. NEGA08101801.

On March 14, 2012, Detective [redacted] notified California Department of Corrections, Pasadena Office No. 1, Parole Agent [redacted] of Martinez' death. In addition, there was a warrant for Martinez' arrest for murder on Case No. LACBA39317501. Martinez' criminal history included prior arrests for possession of a controlled substance, possession of marijuana for sales, possession of a concealed weapon, possession of a firearm by a felon, hit and run, taking hostages, violation of parole, evading, and carrying a loaded firearm (**Addenda Nos. 12 and 13**). b6 -4 b7C -4

## INJURIES

At approximately 0835 hours, the Los Angeles County Fire Department received an alarm to respond to [redacted] Engine No. 49 and Rescue Ambulance (RA) No. 49 were dispatched and responded. Engine No. 49 consisted of Captain [redacted] Serial No. [redacted] Engineer [redacted] Serial No. [redacted], and Firefighter [redacted] Serial No. [redacted] Rescue Ambulance No. 49 consisted of Firefighter/Paramedics [redacted], Serial No. [redacted] and [redacted] Serial No. [redacted] b6 -4 b7C -4

Engine No. 49 and RA No. 49 arrived at the location at approximately 0839 hours. The paramedics observed Martinez on the roof of the garage laying on his left side. Since Martinez was believed to be armed, the officers used a fire department ladder to climb onto the roof of the garage and take Martinez into custody. Once in custody, Paramedic [redacted] climbed onto the roof and conducted an assessment of Martinez' injuries. Paramedic [redacted] noted Martinez had multiple gunshot wounds to his upper torso and head. He was neither conscious nor breathing, and had no pulse or signs of life. A substantial loss of blood and brain matter was visible from the head injury. Paramedic [redacted] determined Martinez' death at 0840 hours (**Addendum No. 14, Investigator's Note No. 3**). b6 -4 b7C -4

At approximately 1219 hours, FID Detective II [redacted] Serial No. [redacted] notified the Los Angeles County Department of Coroner regarding Martinez' death. Martinez was assigned Coroner's Case No. 2012-01480. At approximately 1410 hours, Coroner's Investigator [redacted] arrived at the scene to conduct her preliminary field investigation. At approximately 1735 hours, Forensic Attendant [redacted] transported Martinez' remains to the Los Angeles Forensic Science Center, located at 1104 North Mission Road, Los Angeles California (**Addendum No. 15**). b6 -4 b7C -4

## AUTOPSY

Martinez' post mortem examination was performed on March 4, 2012, at approximately 0825 hours, at the Los Angeles Forensic Science Center. The examination was conducted by Deputy Medical Examiner Doctor [redacted] Force Investigation Division Detective II [redacted] Serial No. [redacted] Los Angeles County, District Attorney's Office Senior Investigator [redacted] and FBI Agents [redacted] witnessed the autopsy. b6 -1,4 b7C -1,4

During the autopsy, Doctor [redacted] noted 18 gunshot wounds to Martinez' body. The gunshot wounds were arbitrarily labeled and do not indicate the sequence of when the injuries occurred. Doctor [redacted] ascribed the cause of death to multiple gunshot wound injuries and ruled the manner of death a homicide.

Gunshot wound No. 1 was a fatal wound located on the left side of the head with no exit wound. The direction of this wound was left to right, back to front and slightly upward. A deformed projectile was recovered from the brain.

Gunshot wound No. 2 was a non-fatal graze wound to the right temple. Gunshot wound No. 3, was a fatal through and through wound to the right eye. The direction of this wound was left to right and front to back with no projectile recovered.

Gunshot wound No. 4 was a non-fatal through and through wound to the right arm. The direction of this wound was left to right, front to back and upward with no projectile recovered.

Gunshot wound Nos. 5 and 6 were non-fatal through and through wounds to the right forearm. The direction of these wounds was right to left and back to front with no projectiles recovered.

Gunshot wound Nos. 7 and 8 were fatal wounds to the right chest. The direction of these wounds was right to left, front to back and upward with projectiles recovered in the left chest and spine respectively.[11]

Gunshot wound No. 9 was a fatal wound to the lower right chest. The direction of this wound was right to left, front to back and slightly upward with a projectile recovered in the soft tissue of the back.

Gunshot wound Nos. 10 through 13, were fatal wounds to the center area of the chest. The direction of these wounds was right to left and front to back with four projectiles recovered from the soft tissue of the back.

Gunshot wound No. 14 was a fatal wound to the stomach. The direction of this wound was front to back, right to left and upward with a projectile recovered from the tissue of the back. Gunshot wound No. 15 was a non-fatal, non-penetrating wound to the right abdomen.

Gunshot wound No. 16 was a non-fatal wound to the right buttock. The direction of this wound was right to left front to back and upward with a projectile recovered from the tissue of the back.

Gunshot wound No. 17 was a non-fatal through and through wound to the right thigh. The direction of this wound was left to right, front to back and upward with no projectile recovered.

Gunshot wound No. 18 was a non-fatal wound to the right thigh. The direction of this wound was right to left, front to back and upward with a projectile recovered from the tissue of the back.

> **Note:** The direction of the gunshot wounds described above are consistent with Martinez being shot while facing the officers in an elevated position in relation to the shooting officers.

---

[11] The projectile recovered from gunshot wound No. 7 was fired from Officer [redacted] pistol. The ten additional projectiles recovered during the autopsy were fired from Special Agent [redacted] s rifle. See additional information listed under the Firearms Analysis section.

b6 -1,4
b7C -1,4

In particular, gunshot wound Nos. 5, 6 and 15 are consistent with Martinez being shot while his right arm was in front of his torso close to his body and facing the officers.

A laboratory screen was completed on Martinez' urine, blood and vitreous humor. Los Angeles County Coroner's Office, Supervising Criminalist II, [redacted] completed the toxicology report on April 9, 2012. Martinez' toxicology results indicated he had marijuana and alcohol in his body **(Addendum No. 16, Investigator's Note No. 4)**. b6 -4 b7C -4

## CLOTHING ANALYSIS

Martinez was attired in a grey long sleeve shirt, grey undershirt, black sweatpants, black shorts, black and blue underwear, black socks and black shoes. The clothing was collected and booked as evidence (Item Nos. 71L through 71R). On August 13, 2012, Criminalist II [redacted] Serial No. [redacted] completed the examination of the above clothing items for the presence of firearms related defects and/or impacts, and found the following: b6 -4 b7C -4

Forty-three holes/defects were observed in the shirt.

- Thirty-one were located on the front.
- Four were located on the back.
- Four were located on the front of the right sleeve.
- Three were located on the back of the right sleeve.
- One was located on the back of the left sleeve.

Fifteen holes/defects were observed in the undershirt.

- Ten were located on the front side.
- Five were located on the back side.

Eleven holes/defects were observed in the pants.

- Five were located on the front. Two on the left front lower leg and three on right upper leg area.
- Six were located on the left side. Four on the lower left leg area and two on the left buttock area.

Six holes/defects were observed in the shorts.

- Two were located on the right front area.
- Four were located on the back side.

Fifteen holes/defects were observed in the underwear.

- Eleven were on the right front area.
- Four were on the back side of the shorts.

No holes/defects were observed on the shoes and socks; therefore, no further analysis was conducted on these items. In addition, since the underwear and undershirt were consistent with being worn as undergarments, which precludes the deposit of gunshot residues on these items, no further chemical analysis was performed on these items.

Chemical analysis was performed on the defects found in the shirt and in the sweatpants and some residues consistent with the discharge of a firearm were observed on some of the holes; however, due to the absence of discernible gunshot residue patterns, a muzzle to garment distance could not be determined. The location of the defects noted on the clothing items described above was consistent with the location of the gunshot wounds to the upper and lower torso **(Addendum No. 17)**.

## WEAPONS

**Officer** [redacted] was armed with a Department approved Smith & Wesson, .45 caliber semiautomatic pistol, Model 4506, Serial No. [redacted] which he carried in a single retention drop down black nylon holster. b6 -4 b7C -4

On March 1, 2012, at approximately 1500 hours, FID Detective II [redacted] Serial No. [redacted] conducted a post incident weapon inspection of Officer [redacted]'s pistol. Detective [redacted] found the pistol to be loaded with seven live cartridges in the magazine and one live cartridge in the chamber. Officer [redacted] carried two additional magazines inside a magazine pouch attached to the front of his tactical vest. Officer [redacted]'s second magazine was empty and his third magazine was loaded with eight live cartridges. Officer [redacted]'s ammunition was Federal, 230 grain, .45 caliber, jacketed, hollow point ammunition **(Investigator's Note No. 5)**.

> **Note:** Based on the results of the magazine count, it was determined Officer [redacted] fired nine rounds during this incident.

On June 8, 2012, SID Criminalist II [redacted] Serial No. [redacted] examined and test fired Officer [redacted]'s .45 caliber pistol, Smith & Wesson, Model 4506, Serial No. [redacted] Criminalist [redacted] determined the pistol functioned as designed and the measured trigger pull was within the Department's established range. The pistol's ammunition capacity was eight rounds in the magazine and one in the chamber **(Addendum No. 18)**. b6 -4 b7C -4

Officer [redacted]'s pistol was recorded in the LAPD Firearms Inventory Tracking System (FITS) on November 8, 2006, and on the same date, he completed the Firearms .45 Pistol Transition School.

**Officer** [redacted] was armed with a Department approved Smith & Wesson, .45 caliber semiautomatic pistol, Model No. 4506, Serial No. [redacted] which he carried in a single retention black leather holster. b6 -4 b7C -4

On March 1, 2012, at approximately 1517 hours, Detective [redacted] conducted a post incident weapon inspection of Officer [redacted] pistol. Detective [redacted] found the pistol to be loaded with five live cartridges in the magazine and one live cartridge in the chamber. Officer [redacted] carried two additional magazines inside a magazine pouch attached to the front of his tactical vest. The second magazine was loaded with two live cartridges and his third magazine was loaded with eight live cartridges. Officer [redacted] ammunition was Federal, 230 grain, .45 caliber, jacketed, hollow point ammunition **(Investigator's Note No. 6)**.

**Note:** Based on the evidence recovered and the results of the magazine count, it was determined Officer [redacted] fired eight rounds during this incident. b6 -4 b7C -4

On June 8, 2012, Criminalist [redacted] examined and test fired Officer [redacted] .45 caliber, Smith & Wesson, Model 4506, Serial No. [redacted] Criminalist [redacted] determined the pistol functioned as designed and the measured trigger pull was within the Department's established range. The pistol's ammunition capacity was eight rounds in the magazine and one in the chamber **(Addendum No. 19)**.

Officer [redacted] pistol was recorded in the LAPD FITS on May 2, 2012 **(Investigator's Note No. 7)**.

**Officer** [redacted] was armed with a Department approved Glock, .45 caliber semiautomatic pistol, Model No. 21, Serial No. [redacted] which he carried in a single retention drop down black nylon holster. b6 -4 b7C -4

On March 1, 2012, at approximately 1530 hours, Detective [redacted] conducted a post incident weapon inspection of Officer [redacted] pistol. Detective [redacted] found the pistol to be loaded with eight live cartridges in the magazine and one live cartridge in the chamber. Officer [redacted] carried two additional magazines inside a magazine pouch attached to the front of his tactical vest. The second magazine was empty and his third magazine was loaded with 13 live cartridges. Officer [redacted] ammunition was Federal, 230 grain, .45 caliber, jacketed, hollow point ammunition.

**Note:** Based on the evidence recovered and the results of the magazine count, it was determined Officer [redacted] fired 18 rounds during this incident.

On March 16, 2012, SID Criminalist II [redacted] Serial No. [redacted] examined and test fired Officer [redacted] .45 caliber, Glock, Model 21, Serial No. [redacted] Criminalist [redacted] determined the pistol functioned as designed and the measured trigger pull was within the Department's established range. The pistol's ammunition capacity was 13 rounds in the magazine and one in the chamber **(Addendum No. 20)**. b6 -4 b7C -4

Officer [redacted] pistol was recorded in the LAPD FITS on May 2, 2012, and he completed the Semiautomatic Glock Transition School on March 29, 2005 **(Investigator's Note No. 8)**.

**Special Agent** [redacted] was armed with a 5.56 x 45 mm caliber Colt, Model M4A1 semiautomatic/full-automatic rifle, Serial No. [redacted] The rifle was equipped with a scope and a tactical light which were mounted on the upper receiver. It was found unloaded and secured in the trunk area of SA [redacted] s vehicle. b6 -1 b7C -1

**Note:** LAPD personnel did not conduct a magazine count on the rifle. Based on the evidence recovered, it was determined Special Agent [redacted] fired 22 rounds during the incident **(Investigator's Note No. 9)**.

On March, 2, 2012, SID Criminalist II [redacted] Serial No. [redacted] examined and test fired SA [redacted]'s rifle, a Colt, Model M4A1 rifle, Serial No. [redacted] Criminalist [redacted] determined the rifle functioned as designed. The rifle had an ammunition capacity of 30 rounds in the magazine and one round in the chamber. The measured trigger pull was approximately 6 ¾ to 7 pounds in semiautomatic mode and 9 ¾ to 10 pounds in full-automatic mode (**Addendum No. 21**). b6 -1,4 b7C -1,4

## FIREARMS ANALYSIS

On March 1, 2012, SID Criminalist II [redacted] Serial No. [redacted] with the assistance of Criminalist [redacted] conducted an examination and analysis of the officer-involved shooting scene for bullet paths, bullet impacts and ballistic evidence. b6 -4 b7C -4

There were 11 impacts and one defect found at the scene, with some of these impacts being associated as having been caused by the same projectile. A total of nine distinct projectile pathways were documented. Five pathways were caused by projectiles traveling east to west which struck the garage at or near the east side. The additional four pathways struck the roof of the garage. These were shallow graze impacts that yield limited information (**Addendum No. 22**).

Criminalist [redacted] compared the expended cartridge casings, fired bullets and projectiles recovered from the officer-involved shooting scene to the test fired bullets and cartridge casings from the officers' weapons and projectiles recovered during Martinez' autopsy. b6 -1,4 b7C -1,4

Criminalist [redacted] concluded eight expended cartridge casings (Item Nos. 1-3, 5-7, 30 and 54) were fired from Officer [redacted]'s pistol. Seven expended cartridge casings (Item Nos. 4, 8, 9, 17, 20, 55, and 56) were fired from Officer [redacted] pistol.

Eighteen expended cartridge casings (Item Nos. 10-16, 18, 19, and 21-29) were fired from Officer [redacted] pistol, and twenty-two expended cartridge casings (Item Nos. 32-53) were fired from Special Agent [redacted]'s rifle.

In regards to projectiles' comparison, Criminalist [redacted] concluded that ten fired bullets recovered during the autopsy (Item Nos. 71B-71K) were fired from SA [redacted]'s rifle. The eleventh fired bullet recovered during the autopsy (Item No. 71A, recovered from the left chest) and Officer [redacted] test fired bullet (Item No. 60) had polygonal rifling and were not microscopically compared.[12] One fired bullet recovered from the scene (Item No. 57) was fired from Officer [redacted]'s pistol. The remaining fragments and projectiles had no microscopic comparison value (**Addendum No. 23**). b6 -1,4 b7C -1,4

## EVIDENCE

There were a total of 71 items of evidence booked in conjunction with this investigation. The evidence included discharged cartridges, expended projectiles, live ammunition, clothing, blood swatch, and other miscellaneous items (**Addenda Nos. 24 and 25**).

[12] According to Department policy, polygonal rifled bullets are not microscopically compared. Officer [redacted] was the only officer that carried a Glock pistol which has a polygonal rifled barrel. b6 -4 b7C -4

## SEROLOGY

There were no items that were swabbed to collect potential biological material.

## VISUAL DOCUMENTATION

On March 1, 2012, SID Photographer III [redacted] Serial No. [redacted] responded and photographed the scene, the evidence prior to its recovery, Martinez' remains and the positions of the officers. Force Investigation Division Sergeant II [redacted] Serial No. [redacted] took additional photographs of the scene and evidence. The photographs were documented under Control Nos. 0361984 and 0312147. In addition, SID Photographer III [redacted] Serial No. [redacted] took [redacted] of the scene under Control No. 0361995. b6 -4 b7C -4 b7E -1

During the incident, an unidentified witness captured the OIS on video from the northwest corner of [redacted] The National Broadcasting Company (NBC) Television Channel Four obtained a copy of the video from that witness and broadcast part of it during their newscast programing. The video depicted Officers [redacted] standing along the south portion of [redacted] Martinez is depicted standing on the roof and when gun fire erupts, he collapses. A copy of the newscast was obtained and booked at SID Electronics Section under CD Box No. 620903 **(Investigator's Note No. 10)**. b6 -2,4 b7C -2,4

Witness [redacted] took a photograph of Martinez from his residence located at [redacted] The photograph depicts Martinez standing on the roof of the garage. A copy of the photograph was stored at SID Photographic Lab under Control No. D311949. [redacted] also videotaped a portion of the incident from his residence. The video depicts some of Martinez' movements just prior to the OIS. A copy of the video was booked at SID Electronics Section under CD Box No. 620904 **(Investigator's Note No. 11)**. b6 -8 b7C -8

> **Note:** In this video, Martinez is seen with his right hand secreted in his right waistband area, which corroborates witnesses and officers' statements.

## NOTIFICATIONS

Information pertaining to notifications about this incident were documented at Real Time Analysis and Critical Response (RACR) Division and is on file at FID (**Addendum No. 26**).

## PERSONNEL AT SCENE

Information pertaining to the personnel at scene of the categorical use of force is contained in the FID file and is available for review. On March 1, 2012 at approximately 0935 hours, Captain III [redacted] Serial No. [redacted] was the first representative from FID to arrive at the scene. b6 -4 b7C -4

## COMMUNICATIONS

A copy of the Communications Division (CD) computer printout relative to this incident is on file at FID.

A copy of the CD Master Tape of the Hollenbeck Area Frequency and the 911 call related to this incident are on file at FID. The original recorded interviews of the officers, civilian witnesses, and the responding supervisors are stored on the Dictaphone database, located at Professional Standards Bureau.

## JUSTICE SYSTEM INTEGRITY DIVISION

Upon completion of the Criminal Investigative Report, FID investigators will submit this case for review to the Justice System Integrity Division of the Los Angeles County, District Attorney's Office.

## RELATED REPORTS

The following reports relevant to this investigation are on file at Force Investigation Division.

1. Chief of Police 24-Hour Occurrence Log, FID No. 011-12.

2. Communications Division Incident History Printout, Incident No. 120301001009.

3. Crime Scene Log, Incident No. 120301001009.

## INVESTIGATOR'S NOTES

1. [redacted] indicated when she exited her residence, an officer used profanity as he directed her to the ground. In addition, when she was placed at the rear of the police vehicle, the same officer pushed her against the vehicle. The allegations of inappropriate language and being pushed were documented under Complaint Form No. 12-000865 and forwarded to IAG. b6 -2 b7C -2

2. During the canvass for witnesses, 14 citizens were located who only heard the gunshots during the OIS. The number of gunshots heard by witnesses varied from five to 50 and from one volley of gunshots to a volley, a pause and then additional gunshots. A Heard-Only Witness form was completed for each, and the forms are contained in the FID investigative file, and are available for review. In addition, during the interviews of some of the witnesses, the following issues were identified:

   Witness [redacted] indicated her husband was also present during the OIS. Her husband was identified as [redacted] He was interviewed and his transcribed statement is included in this report. b6 -8 b7C -8

   Witness [redacted] indicated [redacted] was present during the OIS and also heard the gunshots. Force Investigation Division detectives attempted to interview him on three occasions and left business cards and messages requesting him to call back. As of the date of this report, he has not been interviewed.

Witness [redacted] indicated he exited his residence after he heard the gunshots and his "loved ones" followed him outside. These citizens were identified as [redacted] who both refused to provide a statement about the case. b6 -8 b7C -8

[redacted] indicated people from her residence walked outside after the OIS. They were identified as [redacted] were interviewed in regards to the OIS, however, [redacted] refused to provide a statement. [redacted] indicated [redacted] took photographs after the incident and possibly posted them on the social media site Facebook. Investigators were unable to determine if in fact she posted photographs of the incident.

[redacted] indicated her neighbor identified as [redacted] a male approximately [redacted] years of age, was outside his residence and had apparently taken photographs of the scene after the shooting. Detectives contacted [redacted] who indicated he had not witnessed the incident and had only recorded a portion of the scene and of the aftermath with his cellular telephone. The video was viewed and did not depict the incident. [redacted] was unable to download or forward the video to investigators. b6 -8 b7C -8

[redacted] indicated [redacted] referring to [redacted] witnessed a portion of the incident from outside his residence. [redacted] refused to provide a statement about the case. In addition, [redacted] indicated his "kids" had told him that FBI personnel were involved in the OIS. His kids were identified as [redacted]

[redacted] indicated his wife was present. She was identified as [redacted] who was interviewed and her transcribed statement is included in this report. b6 -2,8 b7C -2,8

[redacted] indicated his wife and grandmother were home during the incident and had only heard the gunshots. A Heard-Only Witness form was completed on his wife, [redacted] but his grandmother, [redacted] refused to be interviewed, however indictaed she had only heard gunshots.

Prior to the OIS, [redacted] observed two officers on the roof at [redacted] however, the investigation revealed no officers had been on the roof of any structure prior to the shooting.

During her interview, [redacted] made reference to a diagram for orientation purposes only. Since she did not mark the diagram, it was not included with her transcribed statement. The same diagram was later utilized by her husband [redacted] who marked his position at the time of the OIS on the diagram. The marked diagram was included with [redacted]'s transcribed statement. b6 -8 b7C -8

[redacted] did not witness the OIS and her statements were documented on a Heard-Only form.

[redacted] indicated a neighbor identified as [redacted] had witnessed [redacted] being tackled by officers when he was detained. [redacted] was interviewed and did not state he was tackled by officers. Additionally [redacted] and [redacted], who witnessed the detention, did not indicate [redacted] was tackled by officers. Investigators were unable to identify [redacted] indicated a neighbor had recorded the incident. This neighbor was identified as [redacted] who was previously identified and interviewed for this investigation. b6 -8 b7C -8

3. Los Angeles County Fire Department Engineer [redacted] and Firefighter [redacted] responded to the scene but did not assist with Martinez' medical assessment or make contact with any of the involved officers. Battalion Chief [redacted] also responded but remained outside the crime scene. Engineer [redacted] Firefighter [redacted] and Battalion Chief [redacted] were not formally interviewed. b6 -4 b7C -4

4. On March 1, 2012, during her field investigation, Coroner's Investigator [redacted] completed a Gunshot Residue (GSR) test on Martinez' hands, GSR Kit No. C7158. The GSR kit was not analyzed since the investigation determined there was no evidence to support Martinez had discharged a firearm.

5. Based on Officer [redacted]s magazine count, there were a total of nine rounds discharged; however, only eight expended cartridge casings recovered from the scene were determined as having been fired from Officer [redacted]s pistol. b6 -4 b7C -4

6. During the magazine count of Officer [redacted]' pistol, it was determined he fired a total of eight rounds during the incident; however, only seven recovered expended cartridge casings were determined as having been fired from Officer [redacted]' pistol.

> **Note:** The crime scene was not immediately secured and fire department vehicles and personnel travelled through the area where some of the expended cartridge casings were located.

In addition, Officer [redacted]' ammunition, which was head stamped "Federal 45 Auto +P," had been phased out on April 1, 2011 and was not authorized to be carried on duty.[13] b6 -4 b7C -4

7. At the time of the OIS, the .45 caliber Smith & Wesson pistol carried by Officer [redacted] had not been recorded into the LAPD FITS. On April 30, 2012, Detective [redacted] advised Officer [redacted] of this discrepancy and on May 2, 2012, he took his pistol to the Department [redacted] where it was recorded into the system.

Officer [redacted]' TEAMS report does not indicate he attended the .45 Caliber Transition Course, however, on March 1, 2011, the Department phased out the .45 Caliber Handgun Transition Course and since, has allowed personnel to carry .45 caliber pistols if they had

[13] Office of Administrative Services Notice dated October 10, 2010, titled "Transition to the new .45 caliber ammunition."

been trained and certified to use them.[14] On December 15, 2011, Officer [redacted] successfully qualified with his Smith & Wesson .45 caliber pistol, fulfilling the requirement to carry this type of pistol. b6 -4 b7C -4

8. As of the date of the OIS, the .45 caliber Glock pistol carried by Officer [redacted] had not been recorded into the LAPD FITS. On April 30, 2012, Detective [redacted] advised Officer [redacted] of this discrepancy and on May 2, 2012, he took his pistol to the Department Armory where it was recorded into FITS.

**Note:** The information about Officers [redacted] FITS discrepancy along with the use of phased out ammunition by Officer [redacted] was brought to the attention of Hollenbeck Area Commanding Officer, Captain III [redacted] Serial No. [redacted]

9. The condition of SA [redacted] s rifle was verified and documented by SA [redacted] at the scene of the OIS. Special Agent [redacted] found the rifle with the bolt locked rearward, the safety engaged and the magazine removed which contained eight live .223 caliber rounds. The rifle was subsequently transported to and secured by SA [redacted] at the West Covina Resident Agency Armory Locker **(Addenda Nos. 27 and 28)**. b6 -1 b7C -1

10. [redacted] b3 -5

11. On the date of the OIS, Witness [redacted] provided FID investigators a copy of a photograph he had taken depicting Martinez standing on the roof. He also captured a portion of the incident on video. On April 23, 2012, Detective [redacted] received a copy of the video taken by [redacted] b6 -8 b7C -8

[14] Los Angeles Police Department, Firearms and Tactics Section, Approved and Authorized Handguns notice, dated March 1, 2011.

12. [redacted] were interviewed in regards to their knowledge of Martinez' wanted status and about the OIS. In addition, a search warrant was obtained for their residence at [redacted] The investigation determined there was not enough evidence to charge them or anyone else living at the residence with harboring Martinez. [redacted] were released after their interviews (**Addendum No. 29**). b6 -2 b7C -2

13. Martinez' cellular telephone was sent for a forensic analysis to the FBI Cryptologic and Electronic Analysis Unit. In regards to calls made from the telephone, the analysis revealed three telephone calls made during the morning of March 1, 2012. The first call was made at 0826:50 hours to telephone [redacted] which lasted one minute and 39 seconds. The second call was made at 0828:35 hours to telephone [redacted] which lasted one minute and 22 seconds. The third call was made at 0830:06 hours to telephone [redacted] which lasted for 19 seconds. The above telephone numbers were associated with [redacted] and [redacted]. Force Investigation Division detectives attempted to interview them but they refused to provide a statement. b6 -2 b7C -2

> **Note:** The above listed times are consistent with the officers' observations who describe Martinez utilizing his telephone prior to the OIS.

The analysis revealed at total of 115 "Apps" that were either installed, downloaded/cancelled, or uninstalled in the telephone. One of these Apps was the "Russian Roulette" Android based telephone application developed by Selafiel. This application can simulate the sound of a gunshot when played. The application was installed in the telephone on January 12, 2012; however the analysis could not determine if the application was accessed or running at the time of the OIS. The results of the analysis are contained in a detailed laboratory report which is 439 pages long, however only Pages Nos. 1 through 13 contained pertinent information regarding the telephone and calls made. These pages are included as an addendum. The entire laboratory report is kept in investigative file and is available for review (**Addendum No. 30**).

**APPROVED:**

[redacted]
Lieutenant
Officer-In-Charge, Investigation Section
Force Investigation Division

[redacted]
Captain
Commanding Officer
Force Investigation Division

b6 -4 b7C -4

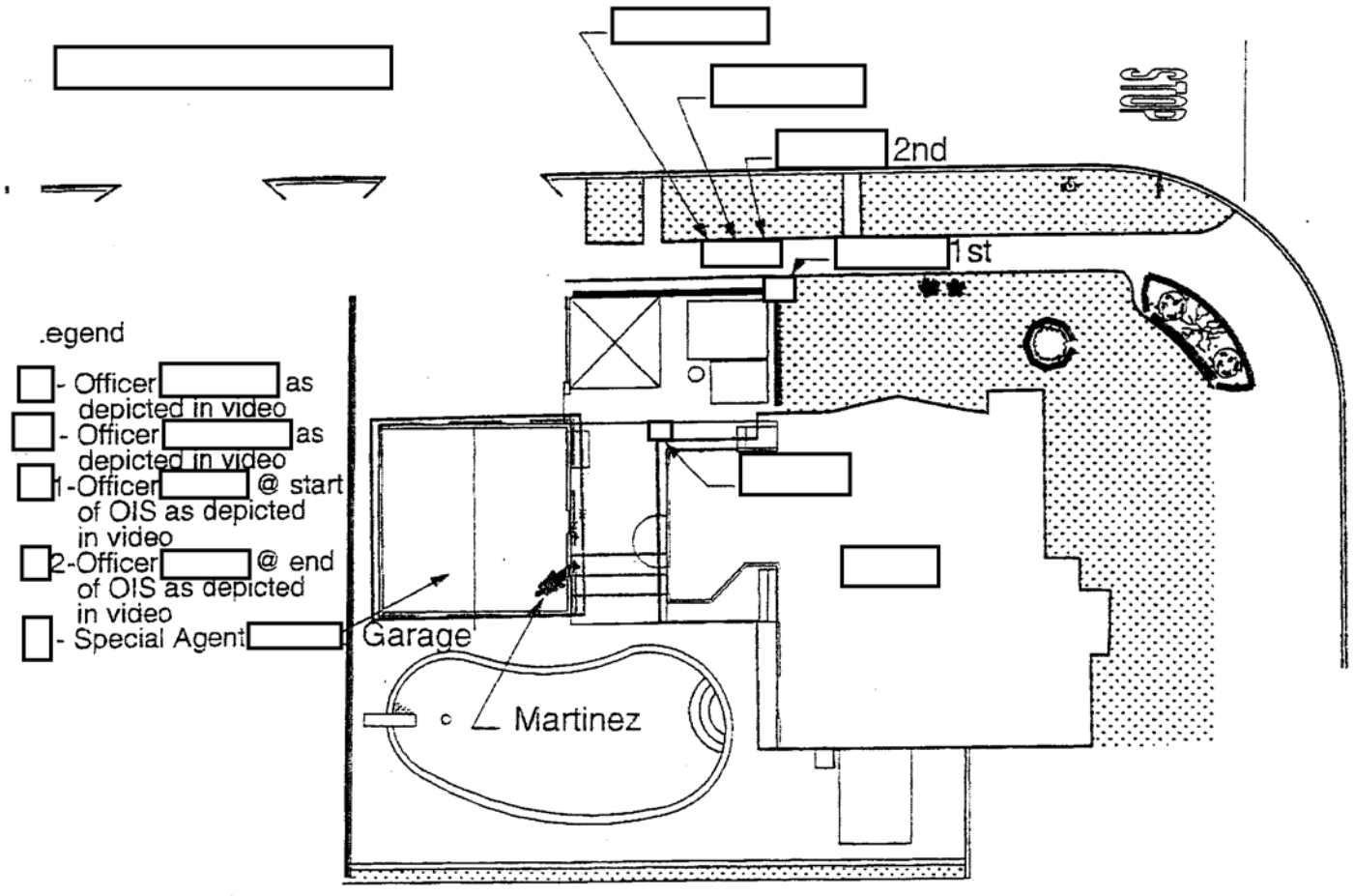
Date: 11/26/12

Scene Diagram

Not to Scale

b6 -2
b7C -2

b6 -1,2,4
b7C -1,2,4




.egend

- Officer [redacted] as depicted in video
- Officer [redacted] as depicted in video
1-Officer [redacted] @ start of OIS as depicted in video
2-Officer [redacted] @ end of OIS as depicted in video
- Special Agent [redacted]

**OFFICIAL INFORMATION**~~CONFIDENTIAL~~**EVIDENCE CODE SECTION 1040**
**INTRADEPARTMENTAL CORRESPONDENCE**

DATE: June 26, 2013

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: OFFICER-INVOLVED SHOOTING 011-12 FOR 07/02/13 CLOSED-SESSION AGENDA

| Division | Date | Time | Duty-On (X) Off () | Uniform-Yes (X) No () |
|---|---|---|---|---|
| Outside City | 3/1/12 | 8:33 a.m. | | |

| Officer(s) Involved in Use of Force | Length of Service |
|---|---|
| [redacted] PO II | [redacted] |
| [redacted] PO II | |
| [redacted] PO II | |

b6 -4
b7C -4

**Total Involved Officer(s)**

1 x Det. III
3 x PO II

| Suspect | Deceased (X) | Wounded () | Non-Hit () |
|---|---|---|---|

Frank Martinez: Male Hispanic, 27 years of age.

**COP Recommendations**

**Tactics** – Tactical Debrief, Detective [redacted] along with Officers [redacted] and [redacted]
**Drawing/Exhibiting** – In Policy, No Further Action, Detective [redacted] along with Officers [redacted]
**Lethal Use of Force** – In Policy, No Further Action, Officers [redacted] and [redacted]

b6 -4
b7C -4

**IG Recommendations**

**Tactics** – Same as COP.
**Drawing/Exhibiting** – Same as COP.
**Lethal Use of Force** – Same as COP.



NYT-913

## Table of Contents


I. Investigation

i. Annotated Force Investigation Division (FID) Incident Summary p. 3

II. Chief of Police Report

i. Chief of Police Analysis p. 22

ii. Chief of Police Findings p. 24

III. Inspector General Review

i. Inspector General Analysis p. 39

ii. Inspector General Recommendations p. 39




NYT-914

## INVESTIGATION

### Annotated Force Investigation Division (FID) Incident Summary[1]

On Wednesday, November 30, 2011, at approximately 0014 hours, a double murder occurred at 2133 City View Avenue, Los Angeles, California. The victims were identified as Art Gomez, 31 years of age, and Jesus Rendon, 36 years of age (Addenda Nos. 1 and 2).

Hollenbeck Detective Division, Homicide Unit, Detective III [redacted] Serial No. [redacted] and Police Officer III [redacted] Serial No. [redacted] were assigned to investigate the murders. Their investigation identified Frank Eric Martinez, a male Hispanic, 27 years of age, and [redacted] a male [redacted] years of age, as the individuals responsible for the murders of Gomez and Rendon. On January 25, 2012, Officer [redacted] presented the case to the Los Angeles County, District Attorney's Office, Hardcore Division. Deputy District Attorney [redacted] reviewed the case, filed murder charges and issued felony warrants against Martinez and [redacted] on Case Nos. LACBA39317501 and LACBA39317502, respectively (Addendum No. 3).

b6 -4,7
b7C -4,7

Officer [redacted] conducted numerous follow-ups in an attempt to locate Martinez and [redacted] without success. On February 18, 2012, in an effort to develop leads, the case was featured on "LA's Most Wanted" Channel Fox 11 News.

b6 -4,7
b7C -4,7

Additionally, via a court order, officers monitored [redacted] To assist in investigating leads and information obtained from the court order, Officer [redacted] requested the assistance of Gang and Narcotics Division (GND), Fugitive Warrant Section (FWS) Task Force. This task force was comprised of several Los Angeles Police Department (LAPD) officers and two Federal Bureau of Investigation (FBI) agents, whose primary focus is assisting divisional detectives with the surveillance and capture of outstanding felony suspects.

b6 -2,4
b7C -2,4
b7E -1,6
b3 -1

Gang and Narcotics Division, Detective I [redacted] Serial No. [redacted] and FBI Special Agent [redacted] Serial No. [redacted] were the lead investigators responsible for the analysis of information obtained through the court order. The tracking of the [redacted]

b6 -1,4
b7C -1,4
b7E -1,6
b3 -1

Detective [redacted] and Special Agent [redacted] eventually determined Martinez was [redacted][2] Based [redacted] Detective [redacted] and Special Agent [redacted]

b6 -1,2,4
b7C -1,2,4
b7E -1,6
b3 -1

[1] The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., to Investigator's Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.



NYT-915

believed [redacted] utilized [redacted]

[redacted]

b6 -2
b7C -2
b7E -1,6
b3 -1

[redacted][3] Detective [redacted] and Special Agent [redacted] conducted computer checks, obtained background information on the residents at this address and planned a surveillance to determine if Martinez was hiding at the location. A briefing for the surveillance was scheduled for March 1, 2012, at approximately 0530 hours. Officer [redacted] was notified of the briefing and purpose of the surveillance.

b6 -1,2,4
b7C -1,2,4
b7E -1,6

On March 1, 2012, at approximately 0530 hours, the following GND and FBI personnel attended the briefing: Special Agent [redacted] Detective [redacted] Special Agent [redacted] Serial No. [redacted] Police Officers II [redacted] Serial No. [redacted] Serial No. [redacted] Serial No. [redacted] Serial No. [redacted] and Detective II [redacted] Serial No. [redacted][4] Officer [redacted] was also present during the briefing and was aware that the Hollenbeck Division, Career Criminal Detail (CCD) Unit was on duty and available as an additional resource (Addendum No. 4).[5]

b6 -1,4
b7C -1,4

> **Note:** All the above listed personnel were in plain clothes and drove unmarked plain vehicles. Detective [redacted] was the supervisor in charge of the GND personnel.

b6 -4
b7C -4

Detective [redacted] and Special Agent [redacted] provided background information, photographs and the content [redacted] to the above listed personnel. The purpose of the surveillance was to monitor the activity at [redacted] and determine whether or not Martinez was at the location. This would be accomplished by having an Observation Post (OP) on [redacted] and several units around the perimeter. If a vehicle was observed leaving the residence, officers would stop the vehicle and attempt to gain information about Martinez' whereabouts. If

b6 -1,2,4
b7C -1,2,4
b7E -1,6
b3 -1

---

[2] [redacted]

b7E -1

[3] [redacted]

[4] Special Agents [redacted] provided a voluntary statement during this investigation; however, their interviews were not recorded in accordance with FBI policy. Their statements contained in this report were derived from notes taken during their interviews.

b6 -1,4
b7C -1,4

[5] Notification of the surveillance was made to Los Angeles Sheriff's Department (LASD) Norwalk Station, Communications Division, Bureau Communications Coordinator (BCC), and GND Lieutenant II [redacted] Serial No. [redacted]

confirmation was obtained that Martinez was at the residence, Hollenbeck Division CCD personnel would be requested to assist.

After the briefing, Detective [redacted] took a position on the east side of [redacted] as the OP. Officer [redacted] covered the north, Special Agent [redacted] covered the south, Officers [redacted] covered the west and Special Agent [redacted] covered the east side of the surveillance. Communications between the OP and perimeter units was accomplished via [redacted] radios and cellular telephones.[6]

b6 -1,2,4
b7C -1,2,4
b7E -6

Officer [redacted] was not an active member of the surveillance, as his role was to provide background information on Martinez and request additional resources if needed. Because Martinez' [redacted] Officer [redacted] had a strong suspicion Martinez was possibly at this location. At approximately 0700 hours, he telephoned Hollenbeck Detective Division, Detective III [redacted] Serial No. [redacted] and requested him to respond with his CCD personnel to the City of La Mirada. Detective [redacted] was familiar with the murder case involving Martinez and was informed surveillance was under way, however no movement or confirmation had been made whether Martinez was indeed at the residence.

b6 -2,4
b7C -2,4
b7E -1,6
b3 -1

> **Note:** Detective [redacted] was the supervisor in charge of the Hollenbeck Detective Division CCD unit, which consisted of the following personnel: Police Officer III [redacted] Serial No. [redacted] and Police Officers II [redacted] Serial No. [redacted] Serial No. [redacted] Serial No. [redacted] Serial No. [redacted] and [redacted] Serial No. [redacted] The CCD officers were dressed in plain clothes with utility belts and wore tactical vests marked in white lettering "Los Angeles Police" on the front of the vest and "Police" on the back of it.[7]

b6 -4
b7C -4

Officer [redacted] contacted Officer [redacted] and obtained the information needed to complete an Operational Game Plan. Officer [redacted] then briefed the CCD personnel at Hollenbeck Station. Their assignment was to support the surveillance operation as containment of the residence, and if Martinez left the location in a vehicle, the CCD officers would become the arrest team since they were equipped with a marked black and white police vehicle (Addendum No. 5).[8]

b6 -4
b7C -4

---

[6] The officers were using frequency Channel [redacted] to communicate with their [redacted] radios, which was not recorded by Communications Division.

b7E -6

[7] Officer [redacted] Officer [redacted] Officer [redacted] Officer [redacted] Officer [redacted] drove a marked black and white police vehicle, Shop No. [redacted] equipped with ballistic door panels and Officer [redacted] was the passenger. Officer [redacted] drove a [redacted] plain police vehicle, Shop No. [redacted] Officer [redacted] was the front passenger, Detective [redacted] was the right rear passenger and Officer [redacted] was the left rear passenger.

b6 -4
b7C -4
b7E -6

[8] Detective [redacted] notified the Hollenbeck Watch Commander and also Hollenbeck Detective Division, Lieutenant II [redacted] Serial No. [redacted] in regards to CCD personnel responding to assist with the surveillance operation. In addition, Officer [redacted] notified LASD Norwalk Station.

b6 -4
b7C -4



NYT-917

After the briefing, Detective [redacted] along with Officers [redacted] responded to [redacted] and met with Special Agent [redacted] who provided a brief update regarding the status of the surveillance. b6 -1,2,4 b7C -1,2,4

At approximately 0730 hours, Detective [redacted] observed a [redacted] male [redacted] drive away from [redacted] in a [redacted] accompanied by [redacted] male [redacted] Officer [redacted] followed the vehicle to a nearby business, [redacted] located at [redacted] Career Criminal Detail personnel were requested to [redacted] The two males were subsequently identified as [redacted] years of age, and [redacted] years of age. Officers [redacted] and [redacted] responded and [redacted] Officers [redacted] and Detective [redacted] assisted them [redacted] was detained without incident and Officer [redacted] interviewed him about Martinez' whereabouts. b6 -2,4 b7C -2,4 b7E -1

**Note:** At this stage of the investigation, it was unknown whether the residents at [redacted] were harboring Martinez. b6 -2,4 b7C -2,4 b7E -1

[redacted] This information was immediately communicated to all the personnel involved in the surveillance. Detective [redacted] made the decision to conduct a surround and call out; having CCD personnel as the arrest team and GND and FBI personnel maintain the perimeter to contain the residence. The plan was to [redacted]

**Note:** Initially, Detective [redacted] and the CCD unit were support personnel for the surveillance. When Martinez was confirmed to be inside the residence, Detective [redacted] became the Incident Commander and supervised the surround and call out operation assisted by GND and FBI personnel as containment and support. b6 -4 b7C -4

At 0811 hours, Officer [redacted] used his [redacted] radio to broadcast on Hollenbeck frequency that they were Code [redacted] at [redacted] Detective [redacted] requested the officers on the perimeter to close in to get a visual of the residence, and in particular, a view of the rear of the property. The CCD personnel staged at [redacted] to don their tactical gear, which included their tactical vest and ballistic helmets. At approximately 0815 hours, Officer [redacted] telephoned [redacted] Division and requested [redacted] respond to the location to assist with the operation. b6 -2,4 b7C -2,4 b7E -1

**Note:** At approximately 0820 hours, Gang and Narcotics Division, Detective II [redacted] Serial No. [redacted] arrived at the staging location to relieve Detective [redacted] who left the location to respond to the Police Administration Building.

b6 -4
b7C -4
b7E -1

[redacted] Division, Police Officer II+6 [redacted] Serial No. [redacted] and Police Officer II+5 [redacted] Serial No. [redacted] (observer) [redacted] responded to assist. They communicated with the CCD officers via radio and advised them of their estimated time of arrival (ETA).

While the CCD personnel waited for the arrival o [redacted] some of the GND and FBI personnel moved in closer to the residence. Officers [redacted] entered the rear yard of [redacted] and placed themselves in a position to observe the rear yard of [redacted][9] Special Agent [redacted] moved his vehicle to the northeast corner of [redacted][10] Officer [redacted] moved to the staging location and maintained custody of [redacted] inside his vehicle to prevent him from alerting Martinez or anyone inside the residence of the police presence.

b6 -2,4
b7C -2,4
b7E -1

Since [redacted] had not returned home after [redacted] exited the residence and from the sidewalk, looked in both directions for any signs of [redacted] She then returned to her residence and sent [redacted] to search for [redacted] Detective [redacted] observed [redacted] exit [redacted] and ride a bicycle southbound toward the area where CCD personnel were staged. Detective [redacted] requested a unit to detain [redacted] Officer [redacted] with the assistance of Officer [redacted] detained [redacted] without incident at the intersection of [redacted] confirmed Martinez was inside the residence and Officer [redacted] communicated this information to the rest of the units on the surveillance. [redacted] was then placed with [redacted] in the back seat of Officer [redacted] s vehicle.

b6 -2,4
b7C -2,4

**Note:** [redacted] was detained pending an investigation to determine whether he was involved in harboring Martinez.

b6 -2
b7C -2

A few minutes later, unaware that [redacted] had been detained, [redacted] exited the residence and again looked up and down the street and appeared to use her cellular telephone. Detective [redacted] communicated [redacted] s actions to the rest of the officers.

b6 -2,4
b7C -2,4

Detective [redacted] believed the element of surprise for the operation had been compromised and directed the CCD personnel to drive to the residence to initiate the surround and call out. Officer [redacted] drove the black and white police vehicle north

[9] Officer [redacted] was armed with a Department shotgun and Officer [redacted] with a Police Rifle.

b6 -1,4
b7C -1,4

[10] Special Agent [redacted] was wearing [redacted] He drove a plain vehicle and carried a concealable ballistic vest marked "Police."

on followed by Officer Officer Detective and Officer in their respective vehicles. Detective requested Agent to cover the north part of the containment and Officer to cover the south. As the officers approached, walked south away from the residence. b6 -2,4 b7C -2,4

Simultaneously, arrived over the residence and Officer communicated his observations to the units. Officer drove his black and white police vehicle onto the driveway at and stopped facing the front door of the residence followed by Officer Detective made contact with and ordered her to continue walking south away from the residence. b6 -2,4 b7C -2,4 b7E -1

**Note:** was not detained, she walked south past the officers and witnessed the incident standing along the west sidewalk south of b6 -1,2,4 b7C -1,2,4

When Officer drove onto the driveway, Special Agent donned his ballistic vest and drove his vehicle along the west curb and stopped just north of

Special Agent immediately exited his vehicle, armed himself with his rifle and stood by the front passenger side of his vehicle. A few moments later, Special Agent moved behind a tree located along the property line between Special Agent also drove in closer and stopped his vehicle at the northwest corner of b6 -1,2,4 b7C -1,2,4

Officers stopped approximately five residences south of to hold the southern end of the containment.

Officers exited their police vehicle, unholstered their service pistols and stood behind their open doors. Officer exited his vehicle armed with his shotgun, which he kept at a low ready position, and took cover behind the driver's door. Officer exited the vehicle armed with a police rifle, which he kept at a low ready position, and took cover behind the front passenger door. Officer and Detective exited their vehicle and took cover behind the trunk of their vehicle. Detective unholstered his service pistol and maintained it at a low ready position. Officers and Detective stated the reason why they drew their weapons was because Martinez was considered armed and dangerous. b6 -4 b7C -4

As the officers deployed around the residence, a female years of age, exited the residence through the front door. Detective immediately directed her to walk away from the residence and toward him. For a moment, she appeared to hesitate but then complied. Detective holstered his pistol when approached him. Since the scene was active and Martinez was not in custody, Detective believed it was necessary to protect He directed her to kneel down behind the trunk of his vehicle. A few seconds later, a female years of age, exited the b6 -2,4 b7C -2,4

residence carrying [redacted] Detective [redacted] also directed [redacted] to the rear of his vehicle. A few seconds later, Detective [redacted] believed it was safe for them to walk south away from the residence and directed them past Officers [redacted] and [redacted]

b6 -2,4
b7C -2,4

**Note:** According to [redacted] Martinez was behind her when she was at the front door moments before the officers made contact with her. None of the officers recalled seeing him at the door (Investigator's Note No. 1).

b6 -2
b7C -2

A few seconds after [redacted] exited the residence, Officer [redacted] observed a male (Martinez) wearing a grey shirt and black pants exit the residence through the rear door. Martinez looked [redacted] and went back inside the residence. Officer [redacted] communicated his observations to the [redacted] units.[11] Approximately 30 seconds later, Officer [redacted] observed Martinez again exit through the rear door.

b6 -2,4
b7C -2,4
b7E -1

Martinez immediately ran north to the northwest corner of the house and then east along the north side of the property toward a side gate. Officer [redacted] broadcast the direction Martinez ran and that he was holding his front waistband as if he was concealing something.

b6 -4
b7C -4

Simultaneously [redacted] Officer [redacted] observed and recognized Martinez exit the rear of the residence and ordered him to get on the ground. Martinez ignored Officer [redacted] and ran north, then east along the north side of the house out of Officer [redacted] s view. Using his [redacted] radio, Officer [redacted] broadcast Martinez' direction of travel. From the front of the residence, Officers [redacted] observed Martinez reach the side gate and also recognized him. The officers ordered Martinez to put his hands up. Martinez looked in the officers' direction and immediately ran back west away from the gate and out of the officers' view.

b6 -4
b7C -4
b7E -1

[redacted] Officer [redacted] observed Martinez climb over a fence and onto a shed located directly north of the fence. From there, Martinez climbed onto the roof of the property ([redacted]) and ran west along the roof. Officer [redacted] continued to relay his observations to the [redacted] units.

b6 -2,4
b7C -2,4
b7E -1

Simultaneously [redacted], Special Agent [redacted] heard the commotion Martinez made as he ran away from the gate. He moved slightly south and observed Martinez climb onto the roof of [redacted] Special Agent [redacted] ordered Martinez to stop. Martinez failed to comply and ran west out of view. Special Agent [redacted] attempted to contain Martinez and ran to the southwest corner of [redacted] and [redacted] while yelling repeatedly, "He's on the roof." Officer [redacted] followed Special Agent [redacted] to the corner and unholstered his pistol once he observed Martinez on the roof. When Special Agent [redacted] reached the corner, he observed

b6 -1,2,4
b7C -1,2,4
b7E -1

[11] Officer [redacted] communicated with the [redacted] units via [redacted] radio, [redacted] which was not recorded by Communications Division.

b6 -4
b7C -4
b7E -1

Special Agent [redacted] on the north side of [redacted] pointing his pistol at an elevated position. b6 -1,2,4 b7C -1,2,4

According to Special Agent [redacted] he observed Martinez move west along the roof at [redacted] and ordered him to stop. Special Agent [redacted] then crossed to the south side of [redacted] near the west side of the garage. Special Agent [redacted] observed [redacted] had the west side covered and decided to tighten the perimeter around Martinez. He, along with Officer [redacted] quickly walked west along the south sidewalk of [redacted] to a cinder block wall that extended from the house to the detached garage enclosing the rear yard.

Special Agent [redacted] and Officer [redacted] stood behind the wall and maintained their weapons aimed at Martinez. Special Agent [redacted] believed he would have better containment from inside the rear yard. He observed a wooden gate that allowed access into the rear yard and quickly walked to the gate and entered the rear yard. He cleared it of any potential threats, then looked up and observed Martinez at the crest of the roof. b6 -1,4 b7C -1,4

> ***OIG Note No. 1:*** *There is no evidence that Agent [redacted] communicated or coordinated his redeployment into the rear yard with other officers. Agent [redacted] recalled that, upon entering the rear yard, "I also believed I was exposed without sufficient cover from the weapon in Martinez' right hand."*[12]

He [Agent [redacted] then moved to the northwest corner of the house and aimed his rifle at Martinez. b6 -1,2,4 b7C -1,2,4

Once Special Agent [redacted] positioned himself in the rear yard, Officers [redacted] and [redacted] redeployed to the southwest corner of [redacted] When the officers reached the corner, they observed Martinez on the roof of the garage. With their pistols unholstered and at the low ready, Officers [redacted] walked behind the cinder block wall and took cover next to Officer [redacted] Special Agent [redacted] remained on the sidewalk west of the garage.

> **Note:** The roof of the garage was pitched and extended down east and west from its highest point.

Officers [redacted] were positioned southwest of the garage when they observed Martinez reach the west side of the roof. They immediately ordered Martinez to get down and noticed he held a cellular telephone with his left hand which he kept by his left ear as if he was talking on the telephone. Martinez' right hand was completely secreted inside his right front waistband area. He ignored the officers' orders and walked back to the east section of the roof. b6 -4 b7C -4

> **Note:** According to Officer [redacted] when he first approached the garage, Martinez was crouched down on the roof. A few seconds later,

[12] [redacted] Signed Sworn Statement, Page 8, Lines 10-11. b6 -4 b7C -4



NYT-922

Martinez stood up and Officer [redacted] took cover behind the cinder block wall. In addition, the officers and witnesses that were in a position to see Martinez, described him as having his right hand either inside his waistband or in his right front pants pocket.

b6 -4
b7C -4

***OIG Note No. 2:*** *The majority of the witnesses reported seeing Martinez' right hand inside his right front pants pocket.*

Officers [redacted] along with Special Agent [redacted] ordered Martinez, both in English and Spanish, to get down and to show his hands. Martinez failed to comply. Instead, he continued to hold the cellular telephone with his left hand, which at times he would bring up close to his left ear giving the impression he was talking to someone. Other times, Martinez looked down at the cellular telephone's screen and appeared to manipulate it with his fingers as if he was dialing. Martinez maintained his right hand inside the right front section of his waistband. His right hand was pressed against the fabric of his pants which gave the officers the impression he was concealing a weapon. During the entire time, Martinez appeared nervous and agitated and constantly looked around and paced back and forth.

b6 -1,4
b7C -1,4

According to Officer [redacted] Martinez kept saying, "No, hell no, this is not happening, no way!" and appeared disoriented and talking to himself. From Officer [redacted] s position, he could not understand what Martinez was saying but described him pacing back and forth and talking on the telephone. According to Officer [redacted] appeared to be upset and responded to the officers' orders saying, "Fuck you, I don't want to talk."

b6 -4
b7C -4

According to Special Agent [redacted] the protrusion of the right hand inside the pants was a clear threat. He observed Martinez place the cellular telephone to his left ear and heard him say, "Hey baby, I'm calling to say goodbye baby."

b6 -1
b7C -1

**Note:** All of the officers and agents present at this incident were aware of the circumstances of the murder case which involved Martinez, in addition to the fact a firearm was used during the crime, he was considered armed and dangerous, [redacted]

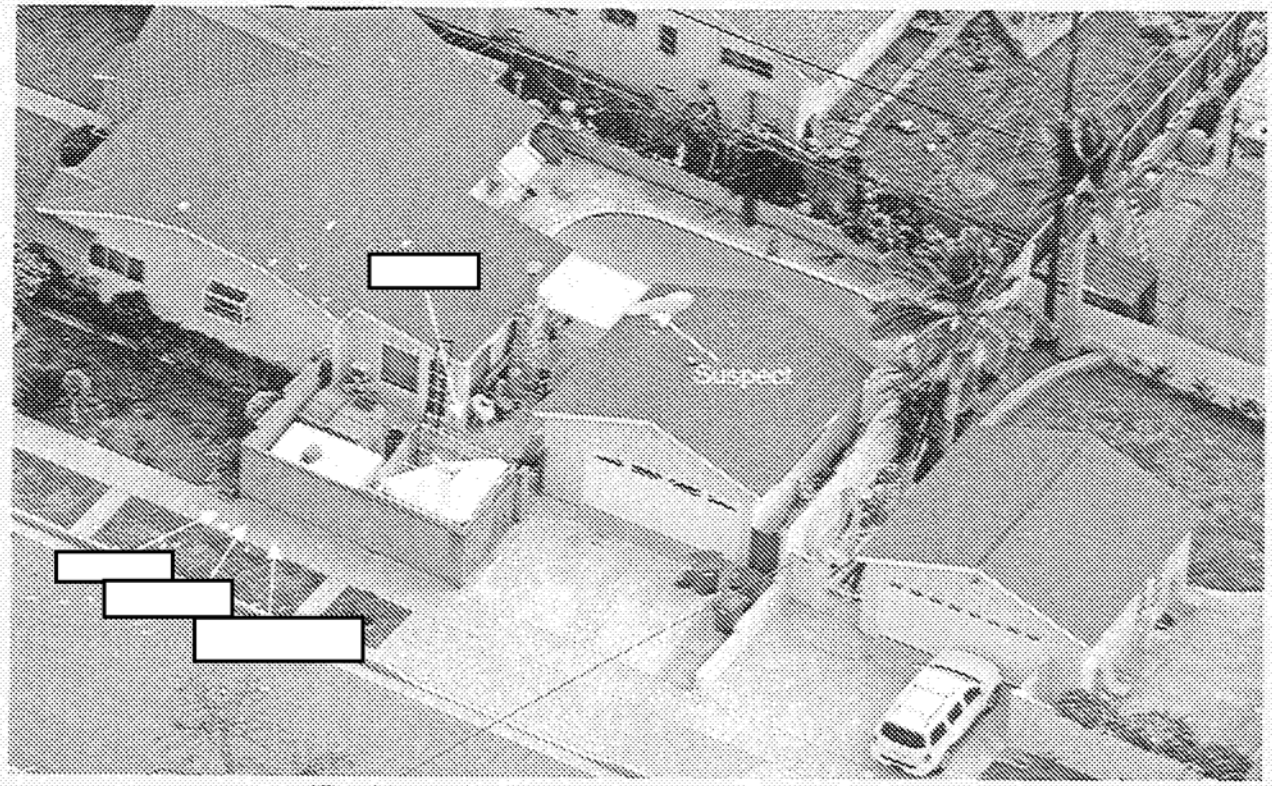
b7E -6
b3 -1

Martinez continued to refuse to comply with the officers' verbal commands. Instead, he quickly moved toward them and moved his right hand, resulting in an OIS. The following describes the perceptions and actions taken by each of the officers; however, the order in which they are listed does not represent the sequence in which the officers discharged their weapons, since the shooting happened simultaneously:

**Note:** The OIS was videotaped by an unidentified citizen and was later broadcast on a local channel newscast. Further information pertaining to this video is documented in the "Visual Documentation" section of this

report. In addition, civilian Witnesses [redacted] described Martinez' actions as a quick and aggressive move toward the officers while attempting to get an object out of his waistline or pocket area. b6 -8 b7C -8

**Note:** Since Martinez refused to comply with the officers' commands, Special Agent [redacted] requested a bean bag to be deployed. Officer [redacted] responded to the request and retrieved his bean bag shotgun from his vehicle which was parked on [redacted] Officer [redacted] handed the bean bag shotgun to Detective [redacted] who immediately walked back toward Martinez. According to Detective [redacted] he chambered a round into the bean bag shotgun and immediately Martinez walked from the west to the east side of the roof. The OIS occurred as Detective [redacted] was approaching Martinez' location. b6 -1,4 b7C -1,4




(Position of [involved] Officers during the OIS) b6 -1,4 b7C -1,4

Officer [redacted] initially stood on a small flower bed at the northeast corner of the cinder block wall. This elevated position allowed him to not only observe Martinez but to see into the rear yard where Special Agent [redacted] was standing. After a few moments, the bricks of the flower bed collapsed and Officer [redacted] moved northwest to the sidewalk next to Officer [redacted] From this position Officer [redacted] could still see Martinez b6 -1,4 b7C -1,4

without obstruction.[13] According to Officer [redacted] Martinez had his right hand inside his right front pants pocket. Officer [redacted] observed the outline of a handgun in the pants fabric and although he did not see one, he believed Martinez was armed with a handgun inside his pocket. Martinez, with his right hand inside the right pants pocket, moved his right leg forward and lifted his right hand upward (still inside the pocket). Immediately, Officer [redacted] heard a gunshot and formed the opinion the gunshot came from Martinez. Officer [redacted] believed Martinez had lifted his right hand in order to give him an angle to shoot toward the officers instead of shooting down at the ground. In immediate defense of his life and the life of the officers near him, Officer [redacted] raised his service pistol in a two-handed isosceles shooting stance, aimed at Martinez' center body mass and fired consecutively until his pistol went to slide lock, from an approximate distance of 46 feet.

b6 -4
b7C -4

> **Note:** Officer [redacted] believed he fired a total of nine rounds before his pistol went to slide lock, eight from the magazine and one from the chamber.

b6 -4
b7C -4

Officer [redacted] assessed as he fired the rounds and attempted to see if Martinez dropped the gun, lifted his hands up or went down. Martinez did not go down and although Officer [redacted] did not hear any additional shots from Martinez, he firmly believed Martinez had a gun on his person. Officer [redacted] stated, "So if he used it once, he tried to shoot us one time, what makes me think he's not going to do it again."[14] Officer [redacted] indicated that as long as Martinez was standing with his right hand concealed, he was still a threat.

Officer [redacted] conducted an out of battery speed reload while looking at Martinez and noticed he had gone down on his stomach, with his right hand tucked under his body. From his position, Officer [redacted] could see the right side of Martinez' body but not his right hand. Officer [redacted] believed Martinez' right hand was outside the pocket and he was trying to push himself up with his forearm. Officer [redacted] did not know if Martinez had been hit or had dropped down to avoid getting shot.

b6 -4
b7C -4

Officer [redacted] believed the only reason Martinez tried to push himself up was to continue to shoot at them. Officer [redacted] aimed his pistol at Martinez' center body mass and fired one additional round from an approximate distance of 46 feet. Officer [redacted] then heard Officer [redacted] yell, "Assess, assess, assess." Officer [redacted] assessed, observed Martinez was no longer a threat, decocked his pistol and holstered it. After the shooting, since the scene was not secured, Officer [redacted] decided to pick up the empty magazine he had dropped during the out of battery speed reload and placed it in his tactical vest.

b6 -4
b7C -4

---

[13] Officer [redacted] was [redacted] in height, the cinder block wall was approximately six feet in height and the beginning of the roof of the garage (the fascia board) was approximately eight feet four inches above ground level.

b6 -4
b7C -4

[14] [redacted] Page 38, Lines 19-21.



NYT-925

**Note:** Officer [redacted] was aware Officer [redacted] had also discharged his pistol at Martinez. According to Officer [redacted] he fired all of his rounds from the same location; however, video footage depicted him firing while he stood on the flower bed and while he transitioned to the sidewalk.

b6 -4
b7C -4

Officer [redacted] stood between Officers [redacted] on the sidewalk looking over the cinder block wall at Martinez. Officer [redacted] indicated Martinez kept his right hand inside his right front pants pocket. Martinez held some type of hard object with his right hand and pressed it against the pants causing Officer [redacted] to see the outline of the object in the pants fabric. Officer [redacted] believed the object Martinez held was a small caliber weapon. After failing to comply with the officers' commands, Martinez walked in a northeast direction toward Special Agent [redacted] Martinez stepped forward with his right leg, leaned his upper body backwards and to his left and lifted his right hand, while still inside the pocket. At the same time Martinez made this motion, Officer [redacted] heard a gunshot emanating from Martinez' pocket area and observed what appeared to be muzzle flash. In fear for his life and the life of the other officers present, Officer [redacted] raised his pistol, used a Weaver stance and fired five consecutive rounds at Martinez from an approximate distance of 44 feet. He assessed after the fifth round and observed Martinez lying down on the roof with his hands still moving.

b6 -1,4
b7C -1,4

**Note:** Officer [redacted] indicated he yelled at Martinez to stop while he fired the five initial rounds.

b6 -4
b7C -4

Officer [redacted] was not sure how many rounds he fired; however, he knew his pistol had an ammunition capacity of eight rounds in the magazine and one in the chamber. In the event he had to re-engage Martinez, Officer [redacted] conducted an in-battery speed reload and assessed again.[15] At this time, Martinez was on his left side with his right hand still moving. Officer [redacted] believed Martinez was still armed and a threat so he fired three additional consecutive rounds at Martinez.

**Note:** Officer [redacted] did not recall whether Martinez' right hand was inside the pants pocket or not; however, he recalled observing movement with the right hand that he perceived as a threat.

Officer [redacted] assessed and observed Martinez still lying down on his left side on the roof making no additional threatening movements. Officer [redacted] believed he maintained his pistol unholstered until he was contacted and separated by Detective [redacted] however, he was not sure at what point he holstered his pistol.

b6 -4
b7C -4

Officer [redacted] subsequently picked up the partially loaded magazine he had dropped when he conducted the in-battery speed reload. As he did this, a live round ejected from the magazine. Officer [redacted] placed the partially loaded magazine in his left rear pants pocket and left the ejected live round on the ground (Evidence Item No. 31).

[15] During the magazine count after the OIS, Officer [redacted] learned he had fired five rounds during the initial sequence of fire.

**Note:** Officer [redacted] was aware that Officers [redacted] as well as Special Agent [redacted] had also discharged their weapons. He indicated Special Agent [redacted] was not in his line of fire when he fired at Martinez.

b6 -1,4
b7C -1,4

Officer [redacted] stated Martinez kept his right hand inside his front waistband area and refused to comply with the officers' commands. At times, Martinez cursed at the officers who continued to yell orders. Martinez then took two steps toward Officer [redacted] and said, "Fuck you guys." At the same time Martinez leaned back, he pushed his hips forward. Officer [redacted] heard a gunshot emanating from Martinez and observed the shape of a handgun underneath Martinez' waistband area.[16] Officer [redacted] formed the opinion Martinez had fired at him from a gun he kept in his right hand. Officer [redacted] had maintained his pistol pointed at Martinez and, when he heard the gunshot, he immediately fired what he believed were ten consecutive rounds at Martinez from an approximate distance of 43 feet using a two hand semi-weaver stance.

**Note:** Based on the magazine count, it was determined Officer [redacted] fired 13 rounds during this initial sequence of fire.

b6 -4
b7C -4

Officer [redacted] assessed between the rounds and observed Martinez still advancing toward him. Officer [redacted] said, "He's still gesturing to me that he is still armed and he is a threat to me."[17] According to [redacted] Martinez was still a threat and was not going down. Officer [redacted] conducted an in-battery speed reload, assessed and observed Martinez still standing. [redacted] used a two hand semi-Weaver stance and fired what he believed were two additional rounds at Martinez from an approximate distance of 43 feet.

**Note:** Based on the magazine count, it was determined Officer [redacted] fired five rounds during the second sequence of fire and a total of 18 rounds during the entire incident.

b6 -4
b7C -4

Officer [redacted] assessed the situation and observed Martinez was no longer a threat. Martinez fell to his knees, then onto his left side with his right hand tucked underneath his torso. Officer [redacted] ordered Martinez to show his hands but observed no movement. He heard someone request a rescue ambulance (RA) to respond and then he holstered his pistol.

**Note:** Officer [redacted] advised he continued to fire at Martinez until he collapsed because he was still a threat, however, video depicted Martinez had collapsed to the roof before Officer [redacted] conducted his in-battery speed reload. Officer [redacted] also advised he was not able to see

[16] Officer [redacted] described the gunshot fired by Martinez as a small caliber discharge.

b6 -4
b7C -4

[17] [redacted] Page 58, Lines 24-25.

Special Agent [redacted] but could hear his voice. Once he holstered his pistol, Officer [redacted] picked up the magazine he had ejected from his pistol during the in-battery speed reload and placed it in his pocket.

b6 -1,4
b7C -1,4

Special Agent [redacted] was standing in the backyard area using the northwest corner of the residence as cover. He attempted to deescalate the situation by making eye contact with Martinez and reason with him. He lowered his rifle slightly and said, "Don't do this, let's talk, look, just come down and talk to me," but Martinez ignored him.

According to Special Agent [redacted] Martinez made another telephone call which appeared not to go through. His facial expression changed and he appeared to become more aggravated. Martinez maintained his right hand inside his waistband area as if he was holding an object. Special Agent [redacted] raised his rifle again and aimed it at Martinez. Martinez made eye contact with him and said, "I'm not talking to you! Fuck you!" Martinez made a fast motion with his right hand, leaned his upper torso back and pushed his right hand toward Special Agent [redacted] Special Agent [redacted] heard a "pop" emanating from Martinez. Believing Martinez had fired at him, Special Agent [redacted] moved his rifle's selector lever from safe to semiautomatic and fired at Martinez from an approximate distance of 19 feet. Special Agent [redacted] fired until Martinez collapsed and was no longer a threat. Believing Martinez had fired directly at him, he immediately searched for the impact of Martinez' round along the wall and surrounding area where he had been standing, but found no bullet impacts.

b6 -1
b7C -1

**Note:** Special Agent [redacted] was aware the officers positioned behind him had also discharged their weapons, referring to Officers [redacted] and [redacted] Special Agent [redacted] did not know the number of rounds he fired. Based on the evidence recovered, it was determined he fired a total of 22 rounds.

b6 -1,4
b7C -1,4

After the OIS, at 0832:42 hours Officer [redacted] (Unit [redacted]) broadcast on Hollenbeck frequency a request for a RA unit to respond to the scene. Officer [redacted] notified the Norwalk Sheriff's Station and requested units to respond to assist securing the scene.

Detectives [redacted] walked to [redacted] and identified the involved officers. Officers [redacted] were separated and ordered not to discuss the incident, while Special Agent [redacted] stood by with Special Agent [redacted] Since Martinez was not in custody, everyone maintained their positions until Fire Department personnel arrived and provided a ladder to access the roof. Although Martinez was not moving, he was believed to still be armed. Officers [redacted] and [redacted] followed by Detective [redacted] climbed the ladder to the roof. Officer [redacted] handcuffed Martinez and Officer [redacted] conducted a quick pat down search for weapons, however none were located. The paramedics then conducted their medical assessment and determined Martinez dead at scene at approximately 0840 hours.

b6 -1,2,4
b7C -1,2,4

Detective [redacted] requested Detective [redacted] to return to the scene to monitor the involved officers while Detective [redacted] made notifications to Lieutenant [redacted] who in turn notified the Hollenbeck Watch Commander. At approximately 0835 hours, Hollenbeck

b6 -4
b7C -4

Patrol Division Sergeant I [redacted] Serial No. [redacted] Unit [redacted] was requested to respond to the scene. Once Detective [redacted] arrived at the scene, he assisted monitoring the involved officers along with Detectives [redacted] until additional supervisors responded. Sergeant [redacted] arrived at the scene at approximately 0906 hours and individually took a Public Safety Statement from Officers [redacted] and [redacted]

b6 -4
b7C -4

Force Investigation Division Detective II [redacted] Serial No. [redacted] reviewed all documents and circumstances surrounding the separation, monitoring and admonition not to discuss the incident to officers prior to being interviewed by FID investigators. All protocols were followed (Addenda Nos. 6 and 7).

[...]

**Injuries**

[...]

**Gunshot wound No. 1** was a fatal wound located on the left side of the head with no exit wound. The direction of this wound was left to right, back to front and slightly upward. A deformed projectile was recovered from the brain.

**Gunshot wound No. 2** was a non-fatal graze wound to the right temple.

**Gunshot wound No. 3** was a fatal through and through wound to the right eye. The direction of this wound was left to right and front to back with no projectile recovered.

**Gunshot wound No. 4** was a non-fatal through and through wound to the right arm. The direction of this wound was left to right, front to back and upward with no projectile recovered.

**Gunshot wound Nos. 5 and 6** were non-fatal through and through wounds to the right forearm. The direction of these wounds was right to left and back to front with no projectiles recovered.

**Gunshot wound Nos. 7 and 8** were fatal wounds to the right chest. The direction of these wounds was right to left, front to back and upward with projectiles recovered in the left chest and spine respectively.[18]

**Gunshot wound No. 9** was a fatal wound to the lower right chest. The direction of this wound was right to left, front to back and slightly upward with a projectile recovered in the soft tissue of the back.

[18] The projectile recovered from gunshot wound No. 7 was fired from Officer [redacted] pistol. The ten additional projectiles recovered during the autopsy were fired from Special Agent [redacted] s rifle. See additional information listed under the Firearms Analysis section.

b6 -1,4
b7C -1,4



NYT-929

**Gunshot wound Nos. 10 through 13** were fatal wounds to the center area of the chest. The direction of these wounds was right to left and front to back with four projectiles recovered from the soft tissue of the back.

**Gunshot wound No. 14** was a fatal wound to the stomach. The direction of this wound was front to back, right to left and upward with a projectile recovered from the tissue of the back.

**Gunshot wound No. 15** was a non-fatal, non-penetrating wound to the right abdomen.

**Gunshot wound No. 16** was a non-fatal wound to the right buttock. The direction of this wound was right to left front to back and upward with a projectile recovered from the tissue of the back.

**Gunshot wound No. 17** was a non-fatal through and through wound to the right thigh. The direction of this wound was left to right, front to back and upward with no projectile recovered.

**Gunshot wound No. 18** was a non-fatal wound to the right thigh. The direction of this wound was right to left, front to back and upward with a projectile recovered from the tissue of the back.

> **Note**: The direction of the gunshot wounds described above is consistent with Martinez being shot while facing the officers in an elevated position in relation to the shooting officers. In particular, gunshot wound Nos. 5, 6 and 15 are consistent with Martinez being shot while his right arm was in front of his torso close to his body and facing the officers.

[...]

Martinez' toxicology results indicated he had marijuana and alcohol in his body (Addendum No. 12, Investigator's Note No. 4).

[...]

**Visual Documentation**

During the incident, an unidentified witness captured the OIS on video from the northwest corner of [redacted] The National Broadcasting Company (NBC) Television Channel Four obtained a copy of the video from that witness and broadcast part of it during their newscast programing. The video depicted Officers [redacted] standing along the south portion of [redacted] Martinez is depicted standing on the roof and when gun fire erupts, he collapses. A copy of the newscast was obtained and booked at SID Electronics Section under CD Box No. 620903 (Investigator's Note No. 9).

b6 -2,4
b7C -2,4

Witness [redacted] took a photograph of Martinez from his residence located at [redacted] The photograph depicts Martinez standing on the roof of the garage. A copy of the photograph was stored at SID Photographic Lab under Control No. D311949. [redacted] also videotaped a portion of the incident from his residence. The video depicts some of Martinez' movements just prior to the OIS. A copy of the video was booked at SID Electronics Section under CD Box No. 620904 (Investigator's Note No. 10). b6 -8 b7C -8

**Note:** In this video, Martinez is seen with his right hand secreted in his right waistband area, which corroborates the officers' statements.

[...]

**Investigator's Notes**

1. [redacted] indicated when she exited her residence, an officer used profanity as he directed her to the ground. In addition, when she was placed at the rear of the police vehicle, the same officer pushed her against the vehicle. The allegations of inappropriate language and being pushed were documented under Complaint Form No. 12-000865 and forwarded to IAG. b6 -2 b7C -2

2. During the canvass for witnesses, 14 citizens were located who only heard the gunshots during the OIS. The number of gunshots heard by witnesses varied from five to 50 and from one volley of gunshots to a volley, a pause and then additional gunshots. A Heard-Only Witness form was completed for each, and the forms are contained in the FID investigative file, and are available for review.

[...]

5. Officer [redacted] indicated he fired consecutively at Martinez until his pistol went to slide lock, where he conducted an out of battery speed reload and fired one additional round. Assuming Officer [redacted] had all of his magazines loaded to full capacity, he presumably fired a total of nine rounds during the initial sequence and one round after, totaling ten rounds. Based on the magazine count, there were a total of nine rounds discharged; however, only eight expended cartridge casings recovered from the scene were determined as having been fired from Officer [redacted] pistol. b6 -4 b7C -4

6. During the magazine count of Officer [redacted] pistol, it was determined he fired a total of eight rounds during the incident; however, only seven recovered expended cartridge casings were determined as having been fired from Officer [redacted] pistol.

**Note**: The crime scene was not immediately secured and fire department vehicles and personnel travelled through the area where some of the expended cartridge casings were located.

In addition, Officer [redacted] ammunition, which was head stamped "Federal 45 Auto +P," had been phased out on April 1, 2011 and was not authorized to be carried on duty.[19] b6 -4 b7C -4

7. At the time of the OIS, the .45 caliber Smith & Wesson pistol carried by Officer [redacted] had not been recorded into the LAPD FITS. On April 30, 2012, Detective [redacted] advised Officer [redacted] of this discrepancy and on May 2, 2012, he took his pistol to the Department Armory where it was recorded into the system. b6 -4 b7C -4

   Officer [redacted] TEAMS report does not indicate he attended the .45 Caliber Transition Course, however, on March 1, 2011, the Department phased out the .45 Caliber Handgun Transition Course and since, has allowed personnel to carry .45 caliber pistols if they had been trained and certified to use them.[20] On December 15, 2011, Officer [redacted] successfully qualified with his Smith & Wesson .45 caliber pistol, fulfilling the requirement to carry this type of pistol.

8. As of the date of the OIS, the .45 caliber Glock pistol carried by Officer [redacted] had not been recorded into the LAPD FITS. On April 30, 2012, Detective [redacted] advised Officer [redacted] of this discrepancy and on May 2, 2012, he took his pistol to the Department Armory where it was recorded into FITS. b6 -4 b7C -4

   **Note**: The information about Officers [redacted] FITS discrepancy along with the use of phased out ammunition by Officer [redacted] was brought to the attention of Hollenbeck Area Commanding Officer, Captain III [redacted] Serial No. [redacted]

9. [redacted] b3 -5

[19] Office of Administrative Services Notice dated October 10, 2010, titled "Transition to the new .45 caliber ammunition."

[20] Los Angeles Police Department, Firearms and Tactics Section, Approved and Authorized Handguns notice, dated March 1, 2011.

[redacted] b3 -5

10. On the date of the OIS, Witness [redacted] provided FID investigators a copy of a photograph he had taken depicting Martinez standing on the roof. He also captured a portion of the incident on video. On April 23, 2012, Detective [redacted] received a copy of the video taken by [redacted] b6 -4,8 b7C -4,8

11. [redacted] were interviewed in regards to their knowledge of Martinez' wanted status and about the OIS. In addition, a search warrant was obtained for their residence at [redacted] The investigation determined there was not enough evidence to charge them or anyone else living at the residence with harboring Martinez. [redacted] were released after their interviews (Addendum No. 24). b6 -2 b7C -2

12. Martinez' cellular telephone was sent for a forensic analysis to the FBI laboratory. As of the date of this report, the analysis has not been completed. When completed, the report will be placed in the FID investigative file.

[This section intentionally left blank.]



NYT-933

## CHIEF OF POLICE REPORT[21]

### Chief of Police Analysis

### Tactics

- In his analysis of this incident, the Chief identified the following tactical considerations:

### Debriefing Point No. 1 Tactical Planning

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack. (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

In this instance, the FBI, GND and the CCD did not have an all-inclusive brief prior to the contacting the suspect. However, a brief was conducted with GND and FBI personnel regarding the surveillance of a location that possibly contained Martinez. To augment GND/FBI personnel, CCD personnel were advised during a separate brief, that they would assume the role of containment and arrest team if necessary. In the event that Martinez refused to submit to an arrest, Detective [redacted] would notify Metropolitan Division regarding a possible barricaded suspect. b6 -4 b7C -4

Operational success is directly related to proper planning, thus minimizing unforeseen obstacles. Detective [redacted] was aware of the operations plan as it related to GND and FBI personnel. Furthermore, Detective [redacted] directed Officer [redacted] to complete an operations plan for all CCD personnel assigned to the incident. Consequently, all personnel assigned to the incident were aware of their designated assignments relative to the apprehension of Martinez.

In this case, while the Chief was comfortable that all personnel were briefed and fully aware of the critical roles of the operation, he would have preferred that an all-inclusive brief had taken place to ensure that each involved person was fully aware of the roles and responsibilities of the others.

In evaluating the officers' actions, the Chief determined that based on the totality of the circumstances their actions did not represent a substantial deviation from approved Department tactical training. However, Detective [redacted] is reminded that communication is paramount to officer safety. Including all personnel assigned to an operation in a single brief ensures each entity is cognizant of their roles as well as those operating around them. The Chief will direct that this topic be discussed during the Tactical Debrief. b6 -4 b7C -4

[21] The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

**Debriefing Point No. 2 Utilizing Cover**

*Cover is something that will stop an opponent's bullets. Officers should utilize cover when involved with an armed suspect. Officers should be aware of what type of cover is required to stop handgun, shotgun and rifle fire. (Los Angeles Police Department Regular Basic Course Version 3, Firearms Session 14 Lesson Plan, Page 4)*

*Cover: Any object that is believed to be capable of stopping a bullet. Cover may Include, large trees, block walls or parked cars. (Use of Force-Tactics Directive 3.1, Foot Pursuits, January 2011)*

*Pursuing Armed Suspects: When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. (Use of Force-Tactics Directive 3.1, Foot Pursuits, January 2011)*

In this instance, the tactical situation was fluid and dynamic. Martinez had jumped several fences and climbed onto the roof of a detached garage. With the assistance of the [redacted] Officers [redacted] were able to effectively contain Martinez. In addition, Officers [redacted] utilized available cover by standing behind a cinderblock wall approximately 46 feet south of Martinez.

b6 -4
b7C -4
b7E -1

Officers [redacted] were faced with a situation that was rapidly unfolding and responded to Martinez' attempt to escape by positioning themselves behind a cinder block wall. Martinez maintained the advantage by the mere fact that he had a higher vantage point while standing on the detached garage. Officers [redacted] were forced into a position that afforded ample cover while still maintaining a line of sight. This essentially eliminated any opportunity for Martinez to jump onto the ground and potentially escape into the residential neighborhood.

b6 -4
b7C -4

In this case, while the officers could have sought better cover relative to Martinez' position on the roof, the Chief determined that Officers [redacted] and [redacted]'s actions of taking cover behind the cinderblock wall did not represent a substantial deviation from approved Department tactical training. Officers [redacted] utilized the best available cover that enabled them to effectively cover, communicate, and contain Martinez. However, the Chief will direct that this topic be discussed during the Tactical Debrief.

b6 -4
b7C -4

**Debriefing Point No. 3 Command and Control**

***Line Supervision - Defined.*** *A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues. (Los Angeles Police Department Manual, Volume 3, Section 135)*

In this instance, Detective [ ] was the Officer in Charge (OIC) of the tactical portion of the operation. Detective [ ] was instrumental in devising the tactical plan to take Martinez into custody after the OIS. Detective [ ] responded to Officers [ ] location and verified their status. Detective [ ] was advised by Officers [ ] that they were involved in an OIS. Detective [ ] separated the involved officers and advised them not to speak to each other. Eventually, Detective [ ] accompanied by Officer [ ] ascended the garage roof and took Martinez into custody. b6 -4 b7C -4

Detective [ ] became directly involved ascending onto the rooftop and taking Martinez into custody. Although Officers [ ] were properly separated, the scene was not fully secured. Various tasks required immediate attention. The target location had not been searched and logistical concerns had not been addressed.

In this instance, Detective [ ] did not make required notifications regarding medical treatment, the La Mirada Sheriff Department, as well as Real Time Analysis and Critical Response Division (RACR) as required. Additionally, the immediate area required canvassing to ensure that the surrounding area did not have any additional victims as a result the amount /angle of the involved officer's gunfire. b6 -4 b7C -4

In evaluating Detective [ ]s actions, the Chief would have preferred that Detective [ ] made the necessary notifications. However, based on the dynamic circumstances involved, the Chief determined that based on the totality of the circumstances, Detective [ ] actions, relative to command and control, although not optimal, did not represent a substantial deviation from approved Department tactical training. However, Detective [ ] is to be reminded of the overall supervisory responsibilities at the culmination of an OIS. As such, the Chief will direct that this topic be discussed during the Tactical Debrief.

**Chief of Police Findings**

The Chief recommended the following findings in this case:

- **Tactics** – Tactical Debrief, Detective [ ] along with Officers [ ] and [ ] Additionally, FBI Special Agent [ ] will be invited to attend the Tactical Debrief. b6 -1,4 b7C -1,4



NYT-936

- **Drawing/Exhibiting** – In Policy, No Further Action, Detective [redacted] along with Officers [redacted] b6 -4 b7C -4
- **Lethal Use of Force** – In Policy, No Further Action, Officers [redacted] and [redacted]

**Positive Aspects**

- Initial investigative efforts to locate Martinez were well planned, involving the use of [redacted] process and the additional efforts involved. All personnel are commended for those diligent efforts. b6 -4 b7C -4 b7E -1,6
- A tactical plan was completed and notifications to the Los Angeles County Sheriff Department were completed.
- The officers utilized tactical vests that clearly identified themselves as police officers and appropriately donned their ballistic helmets.
- Detective [redacted] utilized additional Department resources, including [redacted] to effectively contain the residence.
- The tactical plan ensured a marked black and white police vehicle was to be utilized [redacted]
- Less-lethal munitions were requested to assist with taking Martinez into custody.
- Effective communications were utilized to broadcast Martinez' movements as he attempted to flee.

**Tactics**

- *Department policy relative to Tactical Debriefs is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance." (Use of Force Directive, July 2008)*

  The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific. Each tactical incident inherently results in considerations for improvement. Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances.

  The Chief recognizes how unique the circumstances involved in this case are, – including the involvement of the FBI in the joint operation. The Chief considered those circumstances in conducting his review and in making his recommendations. In his assessment, the Chief believed that all personnel involved worked well together, in a coordinated effort, to locate a wanted homicide suspect. Furthermore, their efforts resulted in their successful containment of the suspect in a timely manner.

Regarding the tactics of all personnel, the Chief agrees with the UOFRB that there are identified areas for improvement; however, the tactics utilized did not substantially and unjustifiably deviate from approved Department tactical training.

The Chief will direct Detective [redacted] along with Officers [redacted] and [redacted] to attend a Tactical Debrief. The Chief will also ensure that an invitation is extended to Special Agent [redacted] to attend the Tactical Debrief. b6 -1,4 b7C -1,4

**Note:** In addition, the Tactical Debrief shall include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Radio and Tactical Communication (including Code-6);
- Tactical Planning;
- Command and Control and;
- Lethal Force.

**Drawing/Exhibiting**

- *Department policy relative to drawing and exhibiting a firearm is: "An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm." (Los Angeles Police Department Manual, Volume 1, Section 556.80)*

In this instance, Detective [redacted] along with Officers [redacted] responded to the location of an identified murder suspect wanted in connection with a double homicide that occurred in the Hollenbeck Area. The above personnel had previously attended a briefing regarding the surveillance of the murder suspect and the facts surrounding the case. b6 -4 b7C -4

Furthermore, Detective [redacted] along with Officers [redacted] were informed that the weapon utilized in the homicide was a handgun. Consequently, Detective [redacted] along with Officers [redacted] arrived at the residence and drew his service pistol.

**Officer** [redacted] recalled, b6 -4 b7C -4

*"At that particular point with the information we had that our murder suspect was in the house. We were unsure who's in the house. I worked gangs for a lot of years so I know if there's one gang member possibly on the location, there's multiple gang members and if there's a possibly one gun, there's more than one. So I unholstered*

*knowing that, you know, we weren't just doing a little probation search or chasing a misdemeanor warrant. This guy was wanted for murder so I knew that."*[22]

**Officer** [redacted] recalled, b6 -4 b7C -4

*"I unholstered it on the initial approach just due to the information that we had on -- on the suspect. He was wanted for the two murders. We had good information that he was inside the residence. The information that we had that he (Martinez) was trying to obtain guns. He (Martinez) was willing to shoot it out with the police and he wasn't going to be taken, you know, without – without any incident…So I believe it -- would -- the situation was -- would lead to a use of force or a deadly -- deadly use of force situation."*[23]

**Officer** [redacted] recalled, b6 -4 b7C -4

*"I un-holster my weapon here knowing the fact that suspect could come in my direction and I was dealing with a murder suspect. I unholstered my weapon here and then I move."*[24]

**Detective** [redacted] stated the reason why he drew his service pistol was because of the following,

*"This was a suspect that was wanted for a double murder. A gun was used in the murder. An active State Street gang member and I wasn't sure whether he was going to comply and come out or fight it out or barricade himself."*[25]

Based on the totality of the circumstances, the Chief determined that officers with similar training and experience as Detective [redacted] and Officers [redacted] and [redacted] faced with similar circumstances would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified. b6 -4 b7C -4

Therefore, the Chief found Detective [redacted] along with Officers [redacted] and [redacted] Drawing/Exhibiting to be In Policy, No Further Action.

**Note:** In addition to the above listed employees, there were additional persons that drew or exhibited firearms during this incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

---

[22] [redacted] Page 22, Lines 11-23. b6 -4 b7C -4

[23] [redacted] Page 22, Lines 9-20.

[24] [redacted] Page 39, Lines 21-24.

[25] [redacted] Page 21, Lines 16-20.



NYT-939

**Lethal Use of Force**

- *Law enforcement officers are authorized to use deadly force to:*

    - *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
    - *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
    - *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury. (Los Angeles Police Department Use of Force - Tactics Directive, Use of Force Policy - Revised, July 2009)*

**Officer** [redacted] - .45 caliber, nine rounds fired from a distance of approximately 46 feet. b6 -2,4 b7C -2,4 b7E -1

In this instance, Officer [redacted] exited his police vehicle and assumed his designated containment position while Officer [redacted] broadcast that Martinez was attempting to flee by jumping fences. Officer [redacted] proceeded northbound on [redacted] and covered the southwest corner of [redacted] Officer [redacted] assumed a containment position on the north side of the residence of [redacted] Officer [redacted] observed Martinez standing on the roof with his right hand in his pocket. Officer [redacted] gave verbal commands in English and Spanish to raise his hands.

Officer [redacted] recalled, *"I personally was just yelling, 'put your hands up. Put your hands up.' Because his right hand never came out of his pocket."*[26] b6 -4 b7C -4

Officer [redacted] continued to verbalize with Martinez, while Martinez held a cellular telephone in his left hand. Martinez was involved in telephone call while holding his right hand in his waistband. Officer [redacted] opined that Martinez was utilizing his right hand to conceal a handgun in his waistband.

Officer [redacted] recalled, *"I believe he had -- he had, yea, he had some type of weapon on him just from knowing how gang members act, how they -- how they carry their guns. That he was holding onto it because he had sweatpants. He probably didn't have a lot of, you know, a lot of elastic on him. They usually wear belts when they carry guns with -- sweatpants. So I knew he had something in there. I knew there was something that -- it wasn't a cell phone because I saw his*

[26] [redacted] Page 24, Lines 13-15. b6 -4 b7C -4

*cell phone. It wasn't a wallet. It wasn't a bottle of water. It was something that could possibly hurt me or my partner."*[27]

Officer [ ] had observed Special Agent [ ] deploy to the rear yard of [ ] while armed with his rifle. During the interview of Officer [ ] Detective [ ] Serial No. [ ] FID, provided a description of Officer [ ] s demonstration of Martinez' actions relative to movements prior to the OIS.

b6 -1,2,4
b7C -1,2,4

Detective [ ] stated, *"Okay, Now, you just described what you just did. You were kind of in this standing position and then you brought your right leg forward and with your right hand you're simulating that you're -- you're lifting the gun away. If -- well, if it -- if your right hand is against your body, all of a sudden you're lifting it forward and up -- upward?"*[28]

b6 -4
b7C -4

Officer [ ] subsequently observed a hole in Martinez' pants.

b6 -4
b7C -4

Officer [ ] recalled, *"There was -- he didn't have a hole in his right front pants pocket prior and I believe I saw after -- after that sound went off and the shooting finished that there was a hole there which to me shows that he did fire a round at us, yeah."*[29]

Based on the above observations made by Officer [ ] he believed Martinez had fired at him, Officers [ ] or Special Agent [ ] In defense of his life and the lives of Officers [ ] and Special Agent [ ] Officer [ ] fired at Martinez.

b6 -1,4
b7C -1,4

Officer [ ] recalled, *"The round goes off. Now, I know that -- it was directed at anyone of us."*[30]

Officer [ ] further stated, *"I mean, I can't say he was aiming for me. I can't say he was aiming at my partner. He was aiming at the group in general to hit somebody."*[31]

b6 -4
b7C -4

Officer [ ] fired eight rounds from his service pistol and went to "slide lock." Officer [ ] conducted an out-of-battery speed reload and assessed Martinez' actions. Officer [ ] observed that Martinez had fallen onto his left side with his right hand concealed under his body. Officer [ ] believed that Martinez was attempting to raise himself into a position where he could continue shooting the

---

[27] *Id.*, Page 27, Lines 21-25 and Page 28, Lines 1-7.

[28] [ ], Page 32, Lines 19-25.

b6 -4
b7C -4

[29] [ ] Page 34, Lines 3-7.

[30] *Id.*, Page 35, Lines 22 and 24-25.

[31] *Id.*, Page 36, Lines 7-10.

handgun at him, Officers [redacted] or Special Agent [redacted] Consequently, Officer [redacted] fired one additional round at Martinez. b6 -1,4 b7C -1,4

Officer [redacted] recalled, *"I -- I thought he was trying to push up off his forearm off the rooftop. Now, I don't know how many times he had been hit. I mean, he had all those rounds fired. Did all the rounds hit him, I don't know. Maybe he never -- maybe he didn't even get hit. Maybe he just ducked and fell and hit the deck to avoid being* shot."[32]

Officer [redacted] continued, *"There's no other -- why run at this point. Why -- why do it; why try and give up at this point. Just, I believe, he's trying to get up and to continue shooting at us."*[33] b6 -4 b7C -4

Officer [redacted] observed that Martinez discontinued his movements and surmised that the threated posed by Martinez ceased. Consequently, Officer [redacted] holstered his service pistol.

Officer [redacted] recalled, *"And then I remember -- [redacted] going, hey -- what do they call, I'm sorry assess, assess, assess. He was yelling that out. I assess, I decocked and once I -- realized that he wasn't going anywhere, the threat was over, I had holstered my weapon."*[34] b6 -4 b7C -4

**Officer** [redacted] - .45 caliber, eight rounds fired from a distance of approximately 46 feet.

In this instance, Officer [redacted] observed Martinez on the rooftop of the detached garage located at [redacted] Officer [redacted] issued commands to Martinez to raise his hands. Martinez failed to comply and kept his right hand in his waistband while attempting to use a cellular telephone with his left hand. Officer [redacted], based on Martinez' actions formed the opinion that Martinez was attempting to conceal a handgun in his waistband while holding it with his right hand. Officer [redacted] recalled, *"And I actually remember telling him to, you know, let go of the weapon, drop the weapon because at that point that's what I -- believe he had in his pocket."*[35] b6 -2,4 b7C -2,4

Officer [redacted] continued to verbalize with Martinez for approximately 3-4 minutes when Martinez began to walk down the roof toward the direction of Special Agent [redacted] who was positioned in the rear yard. Martinez, while holding his right hand in his waistband, leaned back and to the left and immediately heard a gunshot. Based on Martinez movements, coupled with a single gunshot emanating, Officer [redacted] b6 -1,4 b7C -1,4

[32] *Id.*, Page 41, Lines 21-25 and Page 42, Lines 1-2.

[33] *Id.*, Page 42, Lines 22-25.

[34] *Id.*, Page 45, Lines 5-10.

[35] Officer [redacted] Page 33, Lines 12-15. b6 -4 b7C -4

surmised that Martinez had fired his handgun at him, as well as at Officers [redacted] and [redacted] and Special Agent [redacted] Consequently, Officer [redacted] fired five rounds from his service pistol at Martinez. b6 -1,4 b7C -1,4

Officer [redacted] recalled, *"That's where I saw movement. It looked a little bit more of muzzle -- muzzle flash as he's as he's doing that motion and hearing the sound and I'm looking right at him as he's doing this…I'm in fear for my life. I'm in fear for the lives of FBI agents and my two partners. I fire my weapon to stop the suspect's [Martinez] actions."*[36]

Officer [redacted] fired five rounds and Martinez fell onto the roof. As Martinez fell, he landed onto his left side, facing the officers with his right hand still beneath him. Officer [redacted] conducted an in-battery speed re-load and assessed the situation. Officer [redacted] believed Martinez was still armed and was moving his hands around. Based on the movements of Martinez, Officer [redacted] surmised that Martinez' right hand possessed a handgun and was still moving into a position to reengage Officers [redacted] and Special Agent [redacted] Consequently, Officer [redacted] fired three additional rounds at Martinez. b6 -1,4 b7C -1,4

Officer [redacted] recalled, *"Just his hand movements and I knew he had a weapon in his hand."*[37] b6 -4 b7C -4

Officer [redacted] recalled, "*So, you know, I didn't want to take a chance of him just reaching out and shooting again, so that was my concern."*[38]

Officer [redacted] subsequently assessed the situation and determined that Martinez no longer posed a threat. Accordingly, Officer [redacted] ceased fire. b6 -4 b7C -4

Officer [redacted] recalled, *"We heard -- well, I -- I maintained the visual of the suspect to make sure there was no -- more threat at that time."*[39]

**Note:** The FID investigation revealed Officer [redacted] fired eight rounds during the incident. b6 -2,4 b7C -2,4

**Officer** [redacted] - .45 caliber, 18 rounds fired from a distance of approximately 43 feet.

In this instance, Officer [redacted] observed Martinez on the rooftop of the detached garage located at [redacted] Officer [redacted] moved behind a cinder block wall and observed Martinez holding a cellular telephone in his left hand while

[36] *Id.*, Page 39, Lines 3-6 and Lines 9-11.

[37] *Id.*, Page 45, Lines 7-8.

[38] *Id.*, Page 45, Lines 10-12.

[39] *Id.*, Page 46, Lines 4-6.

holding his right hand in his waistband. Officer [redacted] with negative results, verbalized with Martinez to raise his hands. b6 -4 b7C -4

Officer [redacted] recalled, *"I tell him, 'Let me see your hands. Let me see your hands. You need to get off the roof now.' And he's, 'Fuck you guys. I'm not getting off.' He's on the phone and I don't know if he hangs up or now but he just keeps motherfucking us."*[40]

Officer [redacted] continued with his commands and formed the opinion that Martinez was holding a handgun in his right hand while concealing it inside his waistband. b6 -4 b7C -4

Officer [redacted] recalled, *"I -- saw a gun in his front waistband."*[41]

According to Officer [redacted] after a few minutes, Martinez moved toward him, Officers [redacted] and Special Agent [redacted] and simulated a handgun. Simultaneously, Officer [redacted] heard what he believed to be a gunshot and formulated the belief that Martinez had fired the handgun that was concealed in his waistband at him and Officers [redacted] and Special Agent [redacted] b6 -1,4 b7C -1,4

Officer [redacted] recalled, *"Like I say, minutes later, or moments later he -- he has his hand in his -- in his front -- down his front waistband and he advances towards the officers or to myself and -- and he simulates a handgun and I hear pop, pop, a gunshot."*[42]

Officer [redacted] continued, *"I -- from my knowledge it was coming from the front of it and he (Martinez) shot from his gun or his hand that was inside his front waistband he shot from -- from that position."*[43] b6 -4 b7C -4

Officer [redacted] reiterated, *"Well, I saw -- I saw a shape of a gun that he was holding underneath his waistband and fired one round towards my partners and I."*[44]

Consequently, Officer [redacted] fired approximately 10 rounds at Martinez. Officer [redacted] conducted an in-battery speed reload and believed that Martinez was still armed and advancing toward him and his partners. Consequently, Officer [redacted] fired an additional two rounds at Martinez. b6 -4 b7C -4

---

[40] Officer [redacted] Page 47, Lines 14-19. b6 -4 b7C -4

[41] *Id.*, Page 48, Lines 14-15.

[42] *Id.*, Page 51, Lines 7-11.

[43] *Id.*, Page 52, lines 11-14.

[44] *Id.*, Page 54, lines 14-16.

Officer [redacted] recalled, *"The threat was still -- was still coming towards me. I thought it was coming still towards me..."*[45] Officer [redacted] continued, *"He's (Martinez) still gesturing to me that he's still armed and he's a threat to me."*[46] b6 -4 b7C -4

Officer [redacted] believed that he fired the initial ten rounds, conducted an in-battery speed reload and fired the additional two rounds prior to Martinez falling onto the roof. Officer [redacted] was asked why he stopped firing and Officer [redacted] recalled,

*"I saw the suspect, the threat that was -- there was no more threat to -- me and I saw the suspect fall -- fall on -- the top of the garage."*[47]

The UOFRB recognized that discrepancies exist between Officer [redacted] recollection of his sequence of fire and the other available evidence to be considered. Specifically, Officer [redacted] believed he fired 10 rounds, conducted an in-battery speed reload and then fired an additional two rounds, totaling 12 rounds fired. However, based on the magazine counts and the casings recovered at scene, it was determined that Officer [redacted] fired 13 rounds, conducted an in-battery speed reload and then fired an additional five rounds, totaling 18 rounds fired. b6 -4 b7C -4

A thorough and comprehensive review of the available video footage of the incident tends to establish that Officer [redacted] conducted the in-battery speed reload after Martinez fell to the roof; hence, Officer [redacted] fired his last five rounds not as Martinez was still standing but rather after Martinez had fallen to the roof. b6 -4 b7C -4

The Chief's analysis of Officer [redacted] recall is based in part on well accepted and peer reviewed research into memory and recall during deadly force encounters. That research supports that traumatic incidents, such as deadly force encounters, will inevitably result in some degree of memory impairment. The actual impact that stress has on memory may vary from one individual officer to another and may vary depending on their role in the incident or physical position in the tactical environment.

In adjudicating prior CUOF cases, the issue of altered memory and or recall has been critical to the analysis of officer accounts. The Chief considered this well founded phenomenon when considering the weight of Officer [redacted] statement. (See Additional, Memory and Recall) b6 -1,4 b7C -1,4

**FBI Special Agent** [redacted] .223 Caliber Rifle, 22 rounds fired from a distance of approximately 19 feet.

---

[45] *Id.*, Page 58, Lines 18-19.

[46] *Id.*, Page 58, Lines 24-25.

[47] *Id.*, Page 64, Lines 5-8.

Regarding the actions of Special Agent [ ] the FBI is conducting an independent assessment of his involvement, based on their policies and procedures. Special Agent [ ] provided a signed, sworn statement regarding the incident which was made available to the Department.

b6 -1,2,4
b7C -1,2,4

Special Agent [ ]'s statement indicated that he had moved from his containment position, behind the cinder block wall adjacent to Officers [ ] and proceeded into the rear yard of [ ] He indicated that he verbalized with Martinez while Martinez was on the roof of the detached garage located at [ ] Agent [ ] indicated he gave commands to Martinez to raise his hands while Martinez concealed his right hand in the front of his pants. *"The bulge evident in Martinez' pants where his right hand was concealed, and where I believed he was holding a firearm, was thrust outward toward me at the same time that he abruptly turned in my direction."* (See Special Agent [ ]s Statement Page 9).

Special Agent [ ] continued to verbalize when Martinez abruptly turned in his direction and aimed the *"bulge,"* where Martinez' right hand was located, in Special Agent [ ]s direction. Concurrent with Martinez' overt movements, Special Agent [ ] heard a shot. Consequently, Agent [ ] fired his rifle at Martinez.

b6 -1
b7C -1

According to Special Agent [ ] *"Martinez transitioned from a standing position to a lying on his left side on the roof. His continual movement posed a continuing threat to me and others. I continued to fire at Martinez because he was still moving and I could not see his hands. When He stopped moving, and I believed the threat was eliminated, I ceased fire, and place my selector lever on safe."* (See Agent [ ]'s Statement Page 9-10).

**Note:** According to the Autopsy Report, Martinez sustained 18 gunshot wounds, 11 projectiles/bullets were removed from his body. The LAPD Scientific Investigation Division (SID) Firearms Projectile Comparison Report identified that 10 of the projectiles were fired from Special Agent [ ]s rifle, to include the single projectile that was recovered from the right frontal brain. The eleventh projectile was recovered from the left chest and was determined to have *polygonal rifling*, a characteristic unique to the Glock pistol. This projectile can be attributed to Officer [ ] since he was the only officer with a Glock pistol.

b6 -1,4
b7C -1,4

In reviewing this case with regards to Department personnel, the Chief conducted a comprehensive and objective assessment of the actions of each officer involved in this incident - in light of the facts known to them (individually) at the time they fired their weapons. The Chief also reviewed the video recordings of the incident and all information pertaining to the trajectory and impact points as well as other available evidence, including the statement provided by Special Agent [ ]

In reviewing the case, the Chief also considered the findings of the Coroner and content of the Autopsy Report. The Report identified that Martinez sustained two fatal gunshot wounds to the head. After a complete review of the evidence including the videos, wound track analysis, movements by Martinez and the positioning and perceptions of each officer, the Chief agreed with the UOFRB that it cannot be determined when the fatal rounds occurred or what Martinez' position was when they were fired. Therefore, the findings and opinions of the Coroner do not refute the available evidence or the Chief's recommendations.

Consequently, in assessing the lethal force used by [redacted] and [redacted] the UOFRB evaluated the totality of the available evidence to determine the objective reasonableness of each officers' actions and did not solely rely on the events as depicted by each individual officer. The Chief agreed with the UOFRB that an officer in their individual circumstance, with similar training and experience, would reasonably believe that Martinez posed and imminent threat of death of serious bodily injury and would have used deadly force. The lethal force used by Officers [redacted] was objectively reasonable and within Department policy. b6 -4 b7C -4

Additionally, the United States Department of Justice has initiated its own use of force investigation regarding the role of FBI Special Agent [redacted] b6 -1 b7C -1

**Additional Tactical Debrief Topics**

- **Reasonable suspicion:** *Reasonable suspicion exists when the detaining officer was aware of specific facts which reasonably indicated the detainee, (1) was in the process of committing a felony, misdemeanor, or infraction, (2) was about to commit a crime, or (3) was wanted for a crime that had already occurred. (Los Angeles Police Department Legal Bulletin, Volume 20, Issue 2 October 15, 1996.)*

  In this instance [redacted] was conducted on [redacted] after he left [redacted] [redacted] was cooperative and indicated Martinez was inside the residence. [redacted] was subsequently detained pending an investigation regarding his involvement regarding harboring a fugitive. Additionally, all occupants of the aforementioned address were detained pending the outcome of the harboring a fugitive investigation. The investigation determined there was insufficient evidence to charge any of the individuals with harboring Martinez. The individuals were released at the conclusion of their interviews. The Chief will direct that the topic of reasonable suspicion be discussed during the Tactical Debrief. b6 -2 b7C -2 b7E -1

- **Los Angeles Police Department/Outside Agencies Protocols:**

  *Supervision and Control:*

  *7. Each Los Angeles Metro Task Force on Violent Gangs (LAMTFVG) member will be subject to the laws, regulations, policies and personnel rules applicable to his or*

*her respective agency. FBI Participants will continue to adhere to the Bureau's ethical standards, including Department of Justice (DOJ/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the DOJ.*

*Deadly Force and Shooting Incidents:*

*41. Members of the LAMTFVG will follow their own agency's policy concerning firearms discharge and use of deadly force. If personnel from more than one LAMTFVG agency are involved in the incident, representatives from the affected agencies agree to conduct a joint investigation unless, under the circumstances, a joint investigation is determined by the parties to be impracticable or undesirable. If a joint investigation is not agreed upon, each agency may investigate the conduct of its own personnel according to its own procedures and policies and will do so in a manner that does not interfere with or obstruct any other agency's investigation. Regardless whether a joint investigation or multiple investigations are conducted, each agency agrees to share information among the affected agencies consistent with each agency's rules and regulations. In addition, in the event multiple investigations are conducted, the affected agencies agree to confer on their reported findings and, to the extent practicable, to resolve any significant differences.*[48]

The tactical operation consisted of personnel from the Los Angeles Police Department and the FBI. In this instance, FBI Agent [redacted] placed himself into the tactical scenario involving a murder suspect that was believed to be armed and moved into a position that potentially left him exposed and an OIS occurred. The involved LAPD officers were unaware of the FBI tactical protocol specific to containment, arrest, or their deadly force policy. The integration of various law enforcement personnel, into a tactical situation, may create concern regarding possible conflicting tactics and use of force standards and policies. The Chief fully appreciates the critical relationships between the Department and the various federal law enforcement agencies, and realizes the significant value of such joint operations. However, as there is often room for improvement in such joint operations, the Chief will direct that the Department evaluate the processes involved, including the participation in joint Tactical Training and Debrief sessions. Accordingly, the Department will extend an invitation to Special Agent [redacted] to attend the Tactical Debrief for this incident

b6 -1
b7C -1

- **Service Pistol Inspection** – The post OIS weapon inspection revealed Officer [redacted] service pistol was not recorded into the LAPD Firearm Inventory Tracking System (FITS). On December 15, 2011, Officer [redacted] successfully qualified with his Smith and Wesson .45 caliber pistol, fulfilling the requirement to carry the pistol. The service pistol was subsequently registered to Officer [redacted] and met all Department specifications.

b6 -4
b7C -4

[48] Federal Bureau of Investigation Los Angeles Metro Task Force on Violent Gangs Memorandum of Understanding. June 2012.

Officer [redacted] service pistol was not recorded into the LAPD FITS. Officer [redacted] was advised of this discrepancy and on May 02, 2012, Officer [redacted] took his service pistol to the Department armory where it was recorded into FITS. b6 -4 b7C -4

Captain [redacted] Serial No. [redacted] Commanding Officer, Hollenbeck Area, was advised of the issues and will conduct a comprehensive audit of each of the specialized units within Hollenbeck for similar concerns. The Chief will direct that this issue be discussed during the Tactical Debrief.

- **Service Pistol Magazine Loading** – During the post OIS weapons inspection, it was discovered that Officer [redacted] s service pistol magazine contained seven live rounds, which is one less than full capacity of eight rounds. This topic will be discussed during the Tactical Debrief. b6 -4 b7C -4

- **Unauthorized ammunition** - Officer [redacted] service pistol was loaded with Federal .45 Auto + P ammunition at the time of the shooting. This ammunition was phased out of service by April 1, 2011. This issue was brought to the attention of Captain [redacted] Additionally, the Chief will direct this issue be discussed during the Tactical Debrief.

  The Chief will direct that the Use of Force Review Division publish information regarding these issues in a TacOps Newsletter and relay the information to Department operational commands.

- **Profanity** – [redacted] stated when she was exiting the residence; an unidentified officer used profanity as he directed her to the ground. The allegations of inappropriate language and being pushed were documented under *Complaint Form No. 12-000865* and forwarded to Internal Affairs Group (IAG). The Chief will have this topic discussed during the Tactical Debrief. b6 -2 b7C -2

**Additional**

- **Research on memory/recall and perceptual distortion**

  Various researchers have conducted and published [peer reviewed and well accepted] studies on the impact of traumatic events such as deadly force encounters, on memory and recall.[49] Those studies were supported in part by hundreds of interviews of officers in various agencies involved in shooting incidents over several years. As indicated, officers may not record (memory) or recall details of an incident that would have been clearly remembered under normal circumstances, or not remember details in factual order. Additionally, various other considerations may impact memory and or recall. When an officer is multi-tasking (i.e. reloading, transitioning between weapon systems, giving commands etc.), the ability to record or recall each of those acts may be effected as well.

[49] Dr. Audrey Honig (LASD), Dr. Alexis Artwhol, Dr Bill Lewinsky (Force Science Institute).



NYT-949

A related phenomenon impacting memory is *perceptual distortion*, which is defined as a lack of correspondence between the way a stimulus is commonly perceived and the way an individual perceives it under given conditions.

This phenomenon is another reason why an officer may never record (receive) part of an incident and may clearly remember the suspect in one position when in reality they had changed their position or location and or may never see or hear other peripheral events or occurrences taking place around them.

A 1998 study of 348 OIS incidents investigated by the Los Angeles County Sheriff's Department revealed that *90 percent of officers* involved in those incidents experienced some degree of perceptual distortion. In a separate peer reviewed study, 157 officers reported memory anomalies as follows:

52% experienced memory loss of some part of the event
46% experienced memory loss of their individual actions
84% heard diminished sound volumes
21% experienced memory distortion

As indicated, the consideration of these very-real factors is important to the adjudication of CUOF incidents, specifically when assessing the individual accounts of the officers involved.

- **Outside Agency Notification** – In this instance, Officer [redacted] and notified her regarding the OIS. Officer [redacted] is reminded that notifications subsequent to an OIS in areas outside the city should be coordinated through the Incident Commander. The Chief will direct the Commanding Officer, Hollenbeck Area, to document and discuss this issue with Officer [redacted]

b6 -2,4
b7C -2,4

**Chief's Direction**

- In the area of Command and Control, supervision was transferred between supervisors after the initial briefing. A supervisor was at scene during the entire incident but it would have been beneficial if one supervisor oversaw the incident. The Chief will direct Detectives [redacted] Serial No. [redacted] and [redacted] Serial No. [redacted], Gang Narcotic Division, to attend the Tactical Debrief.

b6 -4
b7C -4

**General Training Update (GTU)**

- On March 20, 2012, Officers [redacted] attended a GTU and all mandatory topics were covered as well as Armed Suspects and Force Option Simulator. Detective [redacted] has not completed the GTU.



NYT-950

## INSPECTOR GENERAL REVIEW

### Inspector General Analysis

#### Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

#### Training Issues

- No significant issues of concern were identified in relation to training.

#### Equipment Issues

- No significant issues of concern were identified in relation to equipment.

#### Additional

- The OIG noted that Agent [redacted] re-deployed into the rear yard, without communicating and/or coordinating with other officers. By his own admission, the move compromised Agent [redacted]'s safety by leaving him exposed to Martinez. Although Agent [redacted]s performance is not evaluated as part of the Department and OIG's review of this case, it is clear that his actions had the potential to compromise the tactical approach employed by the involved LAPD officers, as well as to increase the risk that an OIS would occur by exposing Agent [redacted] to any threat posed by Martinez.

  b6 -1
  b7C -1

  As noted in the Chief's report, the involved LAPD officers were unaware of FBI tactical protocol, and the integration of various law enforcement personnel into a tactical situation may create concern regarding possible conflict in tactics and other policies. Given the potential for inconsistent tactical standards to compromise performance, as well as to limit the ability of Department supervisors to exercise effective command and control during tactical situations, the OIG concurs with the Chief's direction that the Department evaluate the processes associated with joint operations.

### Inspector General Recommendations

#### Tactics

- The OIG concurs with the Chief's findings.

#### Drawing/Exhibiting

- The OIG concurs with the Chief's findings.

**Lethal Use of Force**

- The OIG concurs with the Chief's findings.

- Although all of the involved officers gave statements that, in some respects, conflicted with other sources of evidence, the OIG recognized that the incident was stressful and dynamic. In such circumstances, it is not uncommon for officers' recollections to differ. In evaluating each officer's decision to use lethal force during this incident, the OIG considered those features of the incident that were established to a preponderance standard by testimonial and/or other sources of evidence, including the video recording of the incident.

  While the cell phone video obtained by NBC News was somewhat unclear, it showed that Martinez was facing the officers while on the roof. Martinez' right hand appeared to be in his right front pants pocket or near the associated waist band, consistent with the officers' and several independent witnesses' statements. While in this position, Martinez appeared to quickly move toward Agent [redacted] Although the video does not clearly show Martinez pushing his right hand forward, or otherwise simulating a firearm, several of the involved officers described seeing those motions. As described by Officer [redacted] "His [Martinez'] hand was in his pocket and it's like a -- like in the movies. You know, you see a guy put his hand in the -- in his jacket pretending he has a gun."[50] As recalled by Officer [redacted] "As he's [...] walking maybe a couple steps toward the -- the agent he makes a movement where he lifts the hand, his right hand [...] towards the agent and us."[51] According to Officer [redacted] "[H]e advances towards the officers or to myself and [...] simulates a handgun."[52] Given this evidence, in concert with the officers' prior knowledge regarding the type of crime for which Martinez was wanted, and his prior communications regarding obtaining a gun to use against police officers, the OIG believes that it was objectively reasonable for the involved officers to believe that Martinez was threatening their lives with a handgun which was concealed in his pocket or waistband. Further, although the investigation did not establish who fired the first round of the OIS, each officer described hearing a gunshot. Given Martinez' apparent simulation of a handgun, the officers each apparently mistook the gunshot for it having been fired by Martinez.

  b6 -1,4
  b7C -1,4

  After the initial series of rounds was fired, Martinez fell to the roof. Although it appears from the video that Martinez moved as the incident continued, appearing to move for the last time in the moments when the final rounds were fired, the quality of the video is such that his precise movements (e.g., exact position of hands, etc.). cannot be determined.

---

[50] [redacted] Page 27, Lines 10-13.

[51] [redacted] Page 34, Lines 14-17.

[52] [redacted] Page 51 Lines 9-11.

b6 -4
b7C -4

In reviewing the second series of rounds fired by the involved officers, the OIG noted that Martinez had, based on autopsy and video evidence, sustained multiple serious injuries and fallen to the roof at the time those rounds were fired. As such, this series of rounds warranted particularly close scrutiny to establish whether the officers' continued use of force against Martinez was objectively reasonable. In considering this question, the OIG noted that the video evidence could not clearly resolve whether Martinez' actions still presented a threat, although it did establish that he was still moving and was generally facing in the direction of the LAPD officers. The only source of evidence to provide a more detailed accounting of Martinez' actions during this portion of the incident were the statements of Officers [redacted] and of Agent [redacted][53] These three statements were broadly consistent in describing Martinez as having his right arm under his torso, pushing himself up. Given the above-noted reasonableness of the officers' belief that Martinez was armed and prepared to use a gun against police officers, the OIG believes that this testimony supports, to a preponderance standard, an objectively reasonable belief that Martinez was continuing an attempt to assault the officers with a firearm that was concealed upon his person. As such, the OIG concurs with the Chief's recommended in-policy finding.

b6 -1,4
b7C -1,4

[redacted]
Inspector General

b6 -4
b7C -4

[53] Officer [redacted] stated that the shooting ended when Martinez fell to the roof. The video and other testimonial evidence clearly establish that this was not the case. As such, Officer [redacted] testimony regarding this portion of the incident was discounted in evaluating the objective reasonableness of the officers' uses of force.

b6 -4
b7C -4



NYT-953

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT LOS ANGELES FIELD OFFICE 01/17/2012 **Date:** 02/18/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** STROUD SHAWN W
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271741-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following SIRG meeting held on 11/20/2013.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 09/08/2012, prepared by former Inspector Thomas P. Ravenelle. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Incident Report, dated 09/08/2012.

**Details:**

On 11/20/2013, the SIRG convened to review a shooting incident which occurred on 01/17/2012, involving Los Angeles Field Office (LAFO) Special Agent (SA) [redacted] and Task Force Officer (TFO) [redacted] b6 -1,4 b7C -1,4



NYT-954

[redacted], SA [redacted] and TFO [redacted] were both participating in a Safe Streets Task Force (SSTF) operation to locate and arrest [redacted] for conspiracy to distribute crack cocaine. While conducting surveillance at the intersection of [redacted] Los Angeles, California, both SA [redacted] and TFO [redacted] were ambushed and fired upon in a drive-by shooting committed by a subject who was unrelated to the target of the operation. During the encounter, SA [redacted] and TFO [redacted] fearing for their lives, fired at the shooter later identified as [redacted] SA [redacted] fired two rounds from his Bureau-approved AR-15 while TFO [redacted] fired seven rounds from his issued Glock 22. TFO [redacted] received a slight injury in the form of a bruise to his leg. SA [redacted] was not injured. Two other occupants of the vehicle used by [redacted], who were later identified as [redacted] were arrested. The shooter, [redacted] escaped and was apprehended in [redacted] Nevada, a week later (01/24/2012). [redacted] was examined at the University Medical Center (UMC), Las Vegas, Nevada. Medical reports determined [redacted] sustained a gunshot wound to his abdomen and two superficial wounds to the left side of his head.

b6 -1,4,7
b7C -1,4,7

**SIRG Observations**

On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 01/17/2012 was in compliance with the Department of Justice's deadly force policy.

b6 -1
b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident.

b6 -1
b7C -1

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made the following observation requesting additional training.

**Observation 1:** A weapon was not properly charged prior to the initiation of an enforcement action.

**Analysis 1:** The MIOG Part 2, Section 12-2.2, "Carrying of Weapons," Paragraph 7, stated, "Unless operationally deployed, shoulder weapons should be maintained with an empty chamber. Prior to entry into areas where potential danger exists, a round should be chambered in all shoulder weapons. The safety should remain engaged until the circumstances require placing the weapon in the "fire" mode."

SA [redacted] Signed Sworn Statement indicated he commenced a surveillance and arrest operation for an armed and dangerous subject, in a highly dangerous area controlled by a violent gang, without a round chambered in his AR-15. b6 -1 b7C -1

**Instruction 1:** ADIC, LAFO, will ensure all LAFO personnel are appropriately trained regarding the loading and subsequent charging of shoulder weapons prior to operational deployments.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 -1 b7C -1

Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), (INSD); [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent b6 -3 b7C -3



NYT-956

(SSA) [redacted], Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted], Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors David Paul Gelios and Shawn W. Stroud, OI, INSD; Team Leaders [redacted] and [redacted], OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

**Procedures for Responding to the Observation**

ADIC, LAFO, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

ADIC, LAFO, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted], Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted].

b6 -1
b7C -1

**From:** [redacted] (CRT) <[redacted]@usdoj.gov> b6 -3
**To:** Stroud, Shawn W. b7C -3
**Cc:** [redacted] (CRT); Shields, Robert J. (CG)(FBI); [redacted] (USACAC)
**Sent:** Fri Oct 25 14:11:02 2013
**Subject:** LA Jan 17, 2012 shooting declination

Inspector Shawn Stroud
Inspection Division
FBI

Based upon a review of materials from your shooting inquiry, we have determine that the facts do not warrant a federal criminal civil rights investigation into a shooting by an FBI agent and task force officer that resulted in the wounding of [redacted] in Los Angeles, California, on January 17, 2012. Rather, the facts support a conclusion that [redacted] a gang member who claimed to have mistaken the law enforcement officers for rival gang members, fired first. Thus, both the agent and the task force officer returned fired, legitimately fearing that [redacted] would kill them. The Los Angeles District Attorney has also declined prosecution. b6 -7 b7C -7

The agent and task force officer were in a high crime area in civilian clothing conducting surveillance while seated inside an unmarked truck when [redacted] approached them. [redacted] pulled a handgun, when approximately 15 week away, and fired at the task force officer, the driver, and the agent, the passenger. [redacted] hit the truck with gunfire that penetrated into the front cab but struck no one. When both the agent and task force officer returned fire, [redacted] ran and continued to fire back at the truck. [redacted] fired nine shots, while the task force officer fired seven shots and the agent fired two shots. [redacted] was struck and wounded by a bullet. He escaped the scene and the bullet was never removed from his body. Accordingly, we do not know which, if either, of the two law enforcement officers fired the shot that struck him. b6 -7 b7C -7

The forensic evidence is consistent with the accounts provided by the law enforcement officers. [redacted] survived his wound and was later captured in another state. During a custodial interview, [redacted] admitted participating in the shooting, claiming he shot at the truck because he thought he was engaged in a shootout with rival gang members. b6 -7 b7C -7

There is no evidence that either law enforcement officer willfully violated the 4th Amendment's requirement of reasonable seizure when he fired at a violent gang member who was shooting at them. A federal criminal civil rights investigation is unwarranted. We appreciate the agent's voluntary statement that helped us make a fully informed prosecution decision. We apologize for our recent delay in deciding this matter. Please continue your administrative review and action.

[redacted] b6 -3 b7C -3
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

[redacted]
cell - [redacted]

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

RECEIVED
MAR 22 2013
FID

March 12, 2013

Captain [redacted]
Force Investigation Division
Los Angeles Police Department
100 West First Street, Suite 431
Los Angeles, California 90012

b6 -4
b7C -4
b7E -11

Re: J.S.I.D. File [redacted]
LAPD File [redacted]

Dear Captain [redacted]

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 17, 2012, non-fatal shooting of [redacted] by Los Angeles Police Department (LAPD) Officer [redacted] and Federal Bureau of Investigation (FBI) Special Agent [redacted] We conclude that Officer [redacted] and Special Agent [redacted] acted in lawful self-defense and defense of others.

b6 -1,4,7
b7C -1,4,7

The District Attorney Command Center was notified of this incident on January 17, 2012. The District Attorney Response Team (DART) did not respond to the scene. A suspect was in custody and unhurt. A second suspect fled and was captured several days later; there was no indication that a suspect had been hit by police gunfire. Information received after the arrest of the second suspect, a week later, indicated that he had been struck during the incident.

The following analysis is based upon reports, photographs, and recordings submitted to this office by LAPD Force Investigation Division Detective [redacted] The compelled statement of Officer [redacted] was considered as part of this analysis.

b6 -1,4
b7C -1,4

## FACTUAL ANALYSIS

On January 17, 2012, Los Angeles Police Department Officer [redacted] and FBI Special Agent [redacted] were conducting surveillance, searching for a federal fugitive. Officer [redacted] and Special Agent [redacted] were dressed in plainclothes, traveling in an unmarked pickup truck. [redacted] was the driver and [redacted] was in the front passenger seat. While parked near the intersection of [redacted] saw [redacted] walking eastbound on the north sidewalk of [redacted] who was not the subject of the surveillance, walked towards [redacted] and looked in their direction. [redacted] walked past the vehicle, entered a [redacted] and drove away.

b6 -1,4,7
b7C -1,4,7

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: http://da.co.la.ca.us

b6 -4
b7C -4

The [redacted] re-appeared a short time later, traveled westbound on [redacted] and slowed down as it passed [redacted] was seated in the front passenger seat. A male, later identified as [redacted] was driving. A passenger was in the backseat. Each of the occupants stared at the officers. The vehicle stopped near [redacted] whereupon [redacted] exited the vehicle and entered a residence. The [redacted] made a u-turn and [redacted] re-entered the vehicle. The [redacted] continued eastbound, towards [redacted] who observed a female in the front passenger seat, [redacted] in the front driver's seat and [redacted] in the rear driver's side passenger seat. The vehicle was traveling at a very slow speed.

b6 -1,4,7
b7C -1,4,7

[redacted] told [redacted] that he believed a shooting was imminent. [redacted] chambered a round in his department issued .223 caliber Colt semiautomatic rifle. [redacted] withdrew his department issued .40 caliber Glock semiautomatic pistol. The [redacted] slowly pulled alongside [redacted] and [redacted]. Without warning, [redacted] exited the rear driver's side door and walked towards [redacted] withdrew a blue steel handgun from his waistband and pointed it at [redacted]

b6 -1,4,7
b7C -1,4,7

[redacted] in fear for his life and the life of Agent [redacted] fired multiple rounds at [redacted]. Almost simultaneously, [redacted] shot at the officers. [redacted] continued to shoot at [redacted] who was standing approximately five feet from the officers' vehicle. [redacted] paused momentarily and continued shooting at the officers. [redacted] ran in a southwesterly direction and fired additional rounds at [redacted]. A bullet pierced the exterior of the officers' vehicle and struck [redacted]'s lower right leg. [redacted] suffered a minor graze wound. [redacted] fired two rounds at [redacted] from his rifle. [redacted] fled towards [redacted] broadcast their location and requested assistance. [redacted] drove away in the [redacted] but returned shortly thereafter, traveling westbound on [redacted] past [redacted] broadcast a description of the [redacted]

b6 -1,7
b7C -1,7

Several additional units, comprised of LAPD Officers and FBI Special Agents, responded and searched for [redacted]. The [redacted] was located nearby, unoccupied, parked on [redacted] and [redacted]. While monitoring the area, FBI Special Agents [redacted] saw [redacted] walking down [redacted] towards the [redacted]. The agents detained [redacted] at gunpoint. Agent [redacted] later identified [redacted] as the driver of the subject vehicle.

b6 -7
b7C -7

[redacted] fled from the location, discarded the firearm and some of his clothing, hid nearby and waited for police activity to dissipate before going to a relative's house. [redacted] eventually picked him up and drove him out of state.

A K-9 unit responded to the scene and located a blue steel 9mm Sig Sauer semiautomatic handgun underneath a crawlspace at [redacted], in the area where [redacted] fled. The firearm was loaded with one round in the chamber and three rounds in the magazine. The serial number of the firearm was obliterated.

b6 -4
b7C -4

[redacted] was transported to 77th Street Jail. Via monitored telephone calls, investigators learned that [redacted] was in the [redacted] at the time of the shooting. [redacted] later admitted being in the vehicle at the time of the shooting but did not identify the shooter.

b6 -7
b7C -7

On January 20th, 2012, investigators received an anonymous telephone call stating that the person involved in the shooting was known as [redacted] and lived at [redacted] The caller saw [redacted] fleeing the scene, armed with a handgun and appeared to have been shot. Further investigation revealed that [redacted] fled to [redacted] Nevada.

On January 24th, 2012, FBI Agents, along with Las Vegas Metropolitan Police Department officers, arrested [redacted] in Nevada. During the arrest, officers discovered that [redacted] sustained two through and through gunshot wounds to the abdomen and a graze wound to his head during the shooting. While in custody, [redacted] made spontaneous statements and admitted shooting at [redacted] but denied knowing they were police officers. [redacted] later told investigators that [redacted] shot at him before he [redacted] pointed a gun at the officers and the only reason [redacted] fired back was to stop the officers from firing at him. [redacted] takes medication to treat a [redacted] with symptoms that include [redacted] and [redacted]

b6 -1,7
b7C -1,7

**Forensic Evidence**

At the scene of the shooting, investigators located eight expended 9mm casings that had been discharged by the recovered Sig Sauer semitautomatic pistol, seven expended .40 caliber casings that had been discharged by [redacted]s firearm and two rifle cartridges that had been discharged by [redacted] firearm. An additional 9mm casing was recovered that did not match any of the aforementioned firearms.

b6 -1,4
b7C -1,4

**[redacted] Criminal History**

[redacted] is a documented member of the [redacted] street gang. In 2002, [redacted] was convicted of possession of an unlawful firearm and was placed on probation. In 2004, [redacted] was convicted of burglary, served time in county jail and was placed on probation. Also in 2004, [redacted] was convicted of criminal threats, served time in county jail and was placed on probation. In 2006, [redacted] was convicted of robbery and was sentenced to four years in State Prison. As a juvenile, [redacted] had sustained petitions for robbery, receiving stolen property and presenting false identification to a peace officer.

b6 -7
b7C -7

As a result of this incident, [redacted] have been charged in case number [redacted] with multiple felonies including attempted murder, shooting at an occupied motor vehicle and illegal possession of a firearm.

b6 -7
b7C -7

b6 -4
b7C -4

## LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. "[T]he rule is well established that one who, without fault, is placed under circumstances sufficient to excite the fears of a reasonable man that another designs to commit a felony or some great bodily injury and to afford grounds for a reasonable belief of imminent danger, may act upon those fears alone and may slay his assailant and be justified by appearances." People v. Mercer (1962) 210 Cal. App. 2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. California Jury Instructions, CALCRIM 505.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." People v Collins, (1961) 189 Cal. App.2d 575.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation." Graham v. Conner, (1989) 490 U.S. 386, 396-397.

## CONCLUSION

b6 -1,4,7
b7C -1,4,7

The evidence shows that while conducting surveillance in the area of [redacted] and FBI Special Agent [redacted] observed [redacted] LAPD Officer [redacted] walking along the sidewalk. [redacted] looked in the officers direction and entered a [redacted] driven by [redacted] The [redacted] drove away, slowly passing the officers towards a nearby residence. [redacted] exited the vehicle, entered a residence which he exited shortly thereafter and returned to the [redacted] As the [redacted] returned towards [redacted] and [redacted] exited the rear driver's side door and pointed a handgun at the officers. [redacted] in fear for his life and the life of Agent [redacted] fired at [redacted] Almost simultaneously, [redacted] fired at the officers. [redacted] fired additional rounds at [redacted] [redacted] fled and continued to shoot at the officers. [redacted] in fear for his life and the life of [redacted], fired two rounds at [redacted] fled, out of sight. [redacted] suffered a single gunshot wound to the leg. [redacted] fled and was later captured in Nevada. [redacted] sustained three non-fatal gunshot wounds during the incident; two in the abdomen and a graze wound to his head.

b6 -1,4
b7C -1,4

We conclude that Officer [redacted] and Special Agent [redacted] acted in lawful self-defense and defense of others. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

b6 -4
b7C -4

By [redacted]

Deputy District Attorney
[redacted]

c: Officer [redacted]

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Date: 03/21/2014
Report of: IIC Trent R. Teyema Office: FBIHQ – INSD
Case ID#: 297I-HQ-A4214067
Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT;
PHILADELPHIA FIELD OFFICE;
01/27/2014

Investigative Period: 01/27/2014 – 05/05/2014

## I. Executive Summary

(U//~~FOUO~~) On January 27, 2014, at approximately 2:58 a.m., SA [redacted] from the Philadelphia Division was involved in a shooting incident in the [redacted] block of [redacted] Philadelphia, Pennsylvania. SA [redacted] was assigned to Squad C-3, which covered Violent Gang and Criminal Enterprise investigations, to include complex investigations of narcotics distribution. Pursuant to a federally authorized [redacted] warrant, SA [redacted] was conducting a [redacted] The investigation was jointly led with the Drug Enforcement Administration (DEA). Also present at the location were [redacted] DEA TFO [redacted] and Philadelphia Police Department (PPD) TFO's [redacted] After successfully completing [redacted] SA [redacted] and TFO's [redacted] and [redacted] attempted to locate [redacted]

b6 -1,2,3,4
b7C -1,2,3,4
b7E -1,6

(U//~~FOUO~~) While on [redacted] alone in his FBI vehicle, SA [redacted] heard through PPD radio, shots had been fired in the area and a subject was being pursued by officers from the PPD and the Philadelphia Housing Authority Police (PHAP). A physical description, to include clothing, was provided over the radio. Following the broadcast, SA [redacted] announced over the DEA radio he was responding to the area. SA [redacted] who was in the general area at the time of radio broadcast, saw an individual matching the description of the subject run by his vehicle. SA [redacted] also observed the subject carrying a firearm. SA [redacted] activated his emergency lights, assisted in the chase, and drove his vehicle one and a half blocks to the [redacted] block of [redacted] where the subject was cornered in a fenced, vacant lot. SA [redacted] stopped his vehicle and positioned himself on the driver side of the vehicle (opposite subject). PHAP Officers [redacted] along with PPD Officer [redacted] stopped and took positions along the edge of the roadway. The subject, later identified as [redacted] pointed his firearm at the Agent and officers. SA [redacted] and all three officers fired their weapons at [redacted] striking him five times. [redacted] was struck once in both shoulders, once in his left thigh, once in the stomach, and once in the head. The five rounds were not removed from [redacted] s body. After [redacted] was placed into custody, he was transferred to Hahnemann Hospital in Philadelphia, Pennsylvania, in critical condition. No officers or Agents were injured.

b6 -1,2,4,7
b7C -1,2,4,7



NYT-964

(U//~~FOUO~~) The shooting scene was processed by the PPD with the assistance of FBI Philadelphia ERT. A Lorcing .380 caliber handgun was recovered from the scene. PPD took lead on the investigation and provided all reports, interviews, and crime scene analysis results to the SIRT. A Signed Sworn Statement (SSS) was taken from SA [redacted] on January 29, 2014. b6 -1 b7C -1

## II. Incident Details

### a. Substantive Case Files and Background Information

(U//~~FOUO~~) Prior to the shooting incident, the following substantive [redacted] case was opened: b6 -1 b7C -1 b7A -1

Title: [redacted]

File number: [redacted]
Case Agent: SA [redacted]

(U//~~FOUO~~) As a result of the Agent-Involved Shooting, the Philadelphia Field Office opened the following Assault on a Federal Officer Investigation:

Title: [redacted] b6 -1,7 b7C -1,7
ASSAULT ON A FEDERAL OFFICER;
AGENT-INVOLVED SHOOTING
PHILADELPHIA, PA
01/27/2014

File number: 89B-PH-4214119
Case Agent: SA [redacted]

### b. Listing of Personnel Involved in the Incident

1. SA [redacted] (discharged weapon) - FBI PH b6 -1,4 b7C -1,4
2. Officer [redacted] (discharged weapon) - PHAP
3. Officer [redacted] (discharged weapon) - PHAP
4. Officer [redacted] (discharged weapon) - PPD

### c. Case Review and Operational Briefings

(U//~~FOUO~~) The Philadelphia Field Office opened an investigation [redacted] b7A -1 on the [redacted] in Philadelphia, Pennsylvania. [redacted]

[redacted] b7A -1

(U//~~FOUO~~) To support the investigation, on January 16, 2014, [redacted] b6 -1 b7C -1 b7E -1,6 Request ([redacted]) was sent to SSA [redacted] requesting the [redacted] The request was sent by SA [redacted] and approved by SSA [redacted] and ASAC [redacted] The authority [redacted] was documented in [redacted] signed January 17, 2014, by US Magistrate Judge Jacob Hart. Upon receipt of the [redacted] Request, [redacted] prepared a [redacted], which included photos of the subject, a description of the subject, photos of subject vehicles, and the DOJ Deadly Force Policy. The [redacted] was coordinated with the [redacted] SA [redacted] and SSA [redacted] Per SIRT interviews of PH EM and the SSS of SA [redacted] the operation was considered an [redacted] surveillance operation. As such, only the [redacted] was used, and Squad C-3 did not prepare a separate operations plan and there was no formal briefing conducted.

**d. Events Leading Up to the Shooting**

(U//~~FOUO~~) On January 27, 2014, at approximately [redacted], SA [redacted] met [redacted] b6 -1,2,3,4,7 b7C -1,2,3,4,7 b7E -1,6 [redacted] DEA TFO [redacted] and PPD Officers [redacted] and staged in the area of [redacted] The plan called for [redacted] and [redacted] to perform [redacted] while the rest of the team [redacted] The first vehicle, a [redacted] was located immediately and [redacted] was successful. [redacted] was accomplished without incident at approximately [redacted] SA [redacted] then directed the team to search the area for the second vehicle, a [redacted] At approximately 2:58 a.m., while searching for the [redacted] SA [redacted] heard via PPD radio shots were fired in the area of [redacted] which was in the same vicinity as SA [redacted] A physical description of the suspect was broadcast over the radio. SA [redacted] announced over the DEA radio he was responding to the area. SA [redacted] then observed an individual matching the subject description approximately 50 yards east of the intersection of [redacted] SA [redacted] also observed the subject carrying a silver handgun in his right hand. SA [redacted] announced over the radio he located the subject, activated his emergency lights on his FBI vehicle, and pursued the subject to an empty lot in the [redacted] block of [redacted]

**e. Shooting Incident Details**

(U//~~FOUO~~) On January 27, 2014, at approximately 2:58 a.m., SA [redacted] pursued the b6 -1,4,7 b7C -1,4,7 subject approximately one and a half blocks to a vacant lot in the [redacted] block of [redacted] The vacant lot was surrounded on two sides by a wooden fence, which prevented the subject, identified as [redacted] from running any further. SA [redacted] could hear an officer, later identified as PHAP Officer [redacted] yelling multiple times, "stop police, stop." SA [redacted] stopped his vehicle parallel to the lot, but angled to the right. SA [redacted] exited his vehicle and repeatedly identified himself as FBI. A second uniformed officer, later identified as PHAP [redacted] approached the lot from the rear (east side) of his vehicle. Officer [redacted]

issue several verbal commands to [redacted] telling him to stop and to drop his gun. Officer [redacted] was standing by the corner of a building adjacent to the lot. Officer [redacted] after jumping a short wooden fence, was lying in a prone position in the lot to the front (west side) of SA [redacted]'s vehicle. A third officer; later identified as PPD Officer [redacted] approached from the rear of SA [redacted] and took a position on the opposite side of the roadway. SA [redacted] was positioned a few feet in front of his vehicle's left front fender. [redacted] illuminated by SA [redacted]'s vehicle headlights, initially had his back to SA [redacted] and the officers. After a few seconds, [redacted] turned and faced SA [redacted] and the officers. [redacted] had the firearm in his right hand, pointed at the ground. Officer [redacted] continued to issue verbal commands for [redacted] to drop the gun. When [redacted] refused to comply with the commands, SA [redacted] began to step backwards towards the driver side of his vehicle to use as cover. As SA [redacted] reached the front bumper to his vehicle, [redacted] raised his firearm and pointed it in SA [redacted]'s direction. Fearing for their lives, SA [redacted] Officer's [redacted] all fired at [redacted] was struck five times: once in both shoulders; once in his left thigh; once in the stomach; and once in the head. [redacted] was placed into custody without further incident. No officers or Agents were injured.

b6 -1,4,7
b7C -1,4,7

**f. Post Shooting Details**

(U//~~FOUO~~) Emergency Medical Technicians (EMTs) responded to the [redacted] block of [redacted] Philadelphia, Pennsylvania and transported [redacted] to Hahnemann Hospital in Philadelphia, Pennsylvania.

b6 -1,2,4
b7C -1,2,4
b7E -1,6

(U//~~FOUO~~) The shooting scene at the [redacted] block of [redacted] Philadelphia, Pennsylvania, was processed by PPD, who took lead on the investigation. FBI PH ERT assisted in processing the crime scene. Interviews were conducted by PPD Detectives of PPD Officers who assisted in [redacted] and PHAP Officers [redacted] The reports were provided to the SIRT by PPD. On April 21, 2014, Officer [redacted] was interviewed by the PPD. A SSS was taken from SA [redacted] The SSS and officer interviews corroborated the factual accounting of the shooting. All other evidentiary reports and photos were provided to the SIRT by PPD. Additionally, PPD conducted a neighborhood canvass, which met with negative results.

(U//~~FOUO~~) [redacted] was charged by the PPD with Aggravated Assault on a Police Officer by Handgun. [redacted] was not charged federally for Assault on a Federal Officer.

b6 -7
b7C -7

**g. Accounting of Shots Fired**

(U//~~FOUO~~) SA [redacted] fired seven rounds from his Glock 26 9mm handgun. Four rounds were recovered in his weapon (one in the chamber, three in the magazine). An additional magazine containing ten rounds was also recovered from SA [redacted] Officer [redacted] fired six rounds from his Glock .40 caliber handgun. Six rounds were recovered from his weapon (one round in the chamber, five rounds in the magazine). Officer [redacted] fired two rounds from his Glock .45 caliber handgun. Eleven rounds were recovered from his weapon (one in the chamber, ten in the magazine). Officer [redacted] fired six rounds from his Glock .40 caliber handgun. Eight rounds were recovered from his weapon (one round in the chamber, seven rounds in the magazine). A total of 21 rounds were fired, and all shell casings were accounted for at the scene. No other personnel fired their weapon. The PPD Firearms Identification Unit Laboratory Report

b6 -1,4
b7C -1,4



NYT-967

identified all of the recovered rounds and attributed them to their corresponding weapons. The five rounds which struck [redacted] could not be medically recovered from the subject. An examination could not be performed to determine the weapon(s) of origin. The report also indicated all FBI, PPD, PHAP, and the subject's weapons were tested and determined to function as designed. b6 -7 b7C -7

**h. Subject Information**

Name: [redacted] b6 -7
Position: N/A b7C -7
Sex: Male
Race: [redacted]
Height: [redacted]
Weight: [redacted]
Hair: [redacted]
Eyes: [redacted]
DOB: [redacted]
SSAN: [redacted]
FBI #: [redacted]

(U//~~FOUO~~) [redacted]'s criminal history contained multiple entries, to include 13 arrests for offenses including narcotics, assault, aggravated assault, recklessly endangering, resisting arrest, weapons violations, robbery, theft, receiving stolen property, driving under the influence, and possessing instruments of a crime. [redacted] was convicted three times, most recently on August 7, 2000, for aggravated assault. The other convictions included simple assault (1997) and narcotics (1999). b6 -1 b7C -1

(U//~~FOUO~~) At the time of the NCIC query, [redacted] had no active warrants.

**i. Use of Body Armor and Law Enforcement Identifiers**

(U//~~FOUO~~) In order to maintain a discrete profile for the surveillance [redacted] SA [redacted] was not wearing body armor or identifying FBI clothing. PHAP and PPD officers were in uniform and wearing body armor. b6 -1 b7C -1 b7E -1,6

**j. Forensic Summary**

(U//~~FOUO~~) On January 27, 2014, FBI PH ERT and Philadelphia Police Forensic Science Center (PPFSC) Crime Scene Investigators were notified of the shooting at approximately 3:40 a.m. At 5:05 a.m., ERT deployed to the [redacted] block of [redacted] Philadelphia, Pennsylvania, the scene of the Agent-Involved Shooting, and assisted PPD in processing the scene. At 2:30 p.m., ERT departed, while PPD maintained control of the shooting scene. At 6:15 p.m., PH ERT returned to conduct nighttime spherical photographs. Items recovered from SA [redacted] included a Glock 26 9mm firearm, serial number [redacted] with one round in the chamber and three rounds in the magazine and one extra 9mm magazine which contained 10 rounds. PPFSC personnel recovered two .40 caliber Glock 22s, one .45 caliber b6 -1,2 b7C -1,2

Glock 21, and associated ammunition used by PPD officers who discharged their weapons. In addition, PPFSC personnel recovered casings located at the shooting scene. While the subject was taken into custody, PPD recovered one projectile (unknown caliber) from the clothing by the subject's right thigh. The four rounds that struck [redacted] were not recovered, and could not be removed from the subject's body. When the subject was taken to Hahnemann Hospital Emergency Room, the following items were seized by PPD: one black jacket; one grey hooded sweatshirt; one white undershirt; one pair of black pants; one pair of black thermals; one pair of black socks; one pair of black sneakers; one black glove; one 20 dollar bill, five one dollar bills, and one zip lock bag containing suspected marijuana. On January 27, 2014, at 6:55 PM, processing of the scene was concluded. b6 -1 b7C -1

(U//~~FOUO~~) Philadelphia ERT provided the SIRT with two compact disks containing crime scene photographs with an accompanying photo log. These photographs depicted the shooting incident scene located in the [redacted] block of [redacted] Philadelphia, Pennsylvania. For recording purposes, ERT used the address of the residence abutting the vacant lot, [redacted] Philadelphia, Pennsylvania. PH ERT also provided the SIRT with a copy of the ERT Workbook. b6 -2 b7C -2

(U//~~FOUO~~) An inventory of all recovered evidentiary items follows (all item numbers are PPD inventory numbers - some items did not have an inventory number):

| | |
|---|---|
| 1 | FCC "Federal .45 auto" |
| 2 | FCC "Federal .45 auto" |
| 3 | FCC "Win 9mm Luger" |
| 4 | FCC "Win 9mm Luger" |
| 5 | FCC "Win 9mm Luger" |
| 6 | FCC "Win 9mm Luger" |
| 7 | FCC "Win 9mm Luger" |
| 8 | FCC "Win 9mm Luger" |
| 9 | FCC "Win 9mm Luger" |
| 10 | FCC "Federal .40 S&W" |
| 11 | FCC "Federal .40 S&W" |
| 12 | FCC "Federal .40 S&W" |
| 13 | FCC "Federal .40 S&W" |
| 14 | FCC "Federal .40 S&W" |
| 15 | FCC "Federal .40 S&W" |
| 16 | FCC "Federal .40 S&W" |
| 17 | Gun Lorcin Model L380, serial # [redacted] semi-auto pistol, loaded with one live cartridge in the chamber and the three live cartridges in the magazine b6 -7 b7C -7 |
| 18 | FCC "Federal .40 S&W" |
| 19 | FCC "Federal .40 S&W" |
| 19 | FCC "Federal .40 S&W" |
| 20 | FCC "Federal .40 S&W" |
| 21 | FCC "Federal .40 S&W" |
| 22 | FCC "Federal .40 S&W" |
| 23 | FCC "Federal .40 S&W" |

| | |
|---|---|
| 24 | FCC "Federal .40 S&W" |
| | Projectile copper and lead base lodged in subjects clothing |
| | Clothing removed from subject |
| | $20 bill and five one dollar bills taken from subject |
| | Suspected marijuana taken from subject |
| | Glock 22 .40 caliber handgun, serial # [redacted] (Officer [redacted] magazine with six rounds |
| | Glock 22 .40 caliber handgun, serial # [redacted] magazine with eight rounds (Officer [redacted] |
| | Glock 21 .45 caliber handgun, serial [redacted] w 11 rounds (Officer [redacted] |

b6 -4
b7C -4

**k. Medical Summary**

FBI Agents involved in the shooting:

(U//~~FOUO~~) SA [redacted] was not injured in the shooting.

b6 -1,2,7
b7C -1,2,7

Subjects:

(U//~~FOUO~~) PPD EMS "Medic 7" was dispatched on January 27, 2014, at 3:01 a.m. EMS "Medic 7" arrived on scene at 3:10 a.m. EMS "Medic 7" departed the scene at 3:18 a.m. and arrived at Hahnemann Hospital at 3:35 a.m. with [redacted] The attending emergency room physician was Dr. [redacted]

(U//~~FOUO~~) [redacted] is currently in Grateford Prison, Philadelphia, Pennsylvania. [redacted] is confined to a wheelchair with partial paralysis. The five rounds were not removed as they were lodged in or near the lumbar 4, thoracic 11, thoracic 12 vertebrae, and the skull.

b6 -7
b7C -7

**III. Shooting Incident Review Team Details**

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Charge (IIC) Gregory T. Bretzing
Assistant Inspector (AI)/ Team Leader (TL) [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP

b6 -1
b7C -1

**b. The FBI Laboratory Shooting Reconstruction Team (LSRT) Personnel:**

None.



NYT-970

## IV. Shooting Incident Review Protocol

(U//~~FOUO~~) On January 27, 2014, Philadelphia Field Office SAC Edward J. Hanko, spoke with Chief Inspector Robert J. Shields and submitted a FD-1015, Executive Situation Report to the Director. IIC Bretzing spoke with ASAC [redacted] to arrange logistics prior to arriving in Philadelphia, Pennsylvania. b6 -1 b7C -1

(U//~~FOUO~~) On January 27, 2014, the SIRT traveled to Philadelphia and reviewed the Inspection Division shooting review protocol.

(U//~~FOUO~~) On January 27, 2014, at approximately 2:00 p.m., IIC Bretzing and the SIRT members met with Philadelphia Field Office EM, PPD EM and ERT personnel. The SIRT also viewed the shooting scene, which occurred in the [redacted] block of [redacted] Philadelphia, Pennsylvania. b6 -2 b7C -2

(U//~~FOUO~~) On January 27, 2014, IIC Bretzing met SAC Hanko to explain the SIRT process and protocols.

(U//~~FOUO~~) In total, seven FBI interviews were conducted of Philadelphia Field Office personnel. Six interviews were documented via FD-302. A SSS was obtained from SA [redacted] Additionally, nine PPD interview reports of PPD and PHAP officers were provided to the SIRT by PPD. b6 -1 b7C -1

(U//~~FOUO~~) On January 30, 2014, IIC Bretzing provided an exit brief to SAC Hanko.

## V. Administrative

### a. Firearms Training

(U//~~FOUO~~) Firearms qualifications records for SA [redacted] were provided to the SIRT through the FIRST qualification database. SA [redacted] last qualified with his service weapon on September 3, 2013, and was in compliance with the firearms qualifications requirements. b6 -1 b7C -1

### b. Deadly Force Training

(U//~~FOUO~~) FBI Deadly Force Policy training was conducted by CDC [redacted] on eight occasions throughout 2013. The last training SA [redacted] participated in was on September 30, 2013.

### c. DOJ Civil Rights Division Prosecutorial Decision

(U//~~FOUO~~) INSD provided [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division, PPD interviews of PHAP Officers [redacted] PPD Officer [redacted] and the SSS of Agent [redacted] Mr. [redacted] reviewed the interviews and SSS and provided INSD a prosecutorial declination on May 5, 2014. b6 -1,3,4 b7C -1,3,4

**d. Local Prosecutorial Decision**

(U//~~FOUO~~) On January 29, 2014, IIC Bretzing and AI [redacted] met with Assistant District Attorney (ADA) [redacted] ADA [redacted] was assigned to the Special Investigations Unit, Philadelphia District Attorney's Office, 3 South Penn Square, Philadelphia, Pennsylvania, telephone [redacted] Also present was SSA [redacted] SSA for Squad C-3, Philadelphia Field Office. ADA [redacted] advised he reviewed the initial Philadelphia Police Department reports from the January 27, 2014, shooting incident which occurred in the [redacted] block of [redacted] Philadelphia, Pennsylvania. From his initial review, ADA [redacted] did not see any criminal issues with the use of deadly force by SA [redacted] or other officers involved in the shooting. ADA [redacted] anticipated that it would take approximately two months to complete his review of the investigation and submit his report and recommendations to the District Attorney for his approval. ADA [redacted] will provide the final and approved report to the SIRT upon its completion. As of April 14, 2014, the SIRT has not received the final and approved report from the Philadelphia District Attorney's Office.

b6 -1,2,4
b7C -1,2,4

## VI. Inspector's Draft Observations

(U//~~FOUO~~) **Observation 1**: A [redacted] was prepared for [redacted] but not briefed to the surveillance team prior to the operation.

b7E -1,6

(U//~~FOUO~~) **Analysis 1**: On January 16, 2014, SA [redacted] sent an [redacted] to SSA [redacted] requesting technical assistance [redacted] SSA [redacted] assigned the request to [redacted] Pursuant to the [redacted] prepared a [redacted] for this operation. Utilization of a [redacted] was standard operating procedure for the [redacted] The request was approved by SSA [redacted] The request included the [redacted] photographs of the subjects, subject vehicles, and the DOJ Deadly Force Policy. Although the plan was discussed between the [redacted] the plan was not briefed to SA [redacted] or DEA TFO [redacted] prior to the operation.

b6 -1,3,4
b7C -1,3,4
b7E -1,6

(U//~~FOUO~~) **Recommendation 1**: SAC, Philadelphia should ensure the [redacted] is briefed to all team members involved in [redacted] operation.

b7E -1,6

(U//~~FOUO~~) **Observation 2**: SA [redacted] was not wearing his body armor at the time of the shooting incident.

b6 -1
b7C -1

(U//~~FOUO~~) **Analysis 2**: Manual of Investigative Operations & Guidelines Part 2 states:

***12-13.1 Policy - Body Armor (Formerly 12-2.3.2)***

*(1) Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s).*

On January 27, 2014, SA [redacted] was part of the surveillance and cover team for [redacted] While on surveillance, SA [redacted] was made aware via radio of an

b6 -1
b7C -1
b7E -1,6



NYT-972

armed robbery in the area. SA [redacted] observed the subject, gave chase, and was involved in an agent-involved shooting of the subject. SA [redacted] was not wearing his body armor at the time of the shooting incident. SA [redacted] s body armor was in the trunk of his vehicle. b6 -1 b7C -1

(U//~~FOUO~~) **Recommendation 2:** SAC, Philadelphia should ensure Agents wear their body armor in accordance with MIOG Policy.



NYT-973

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Philadelphia Shooting Incident **Date:** 06/11/2014

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** David Paul Gelios
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A4214067 (U) PHILADELPHIA SHOOTING INCIDENT

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 05/21/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 03/21/2014, prepared by Inspector Trent R. Teyema. A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) SIRT Report

**Details:**

On 05/21/2014, the SIRG convened to review a shooting incident which occurred on 01/17/2014, involving Philadelphia Field Office Special Agent (SA) [redacted] SA [redacted] was participating in an operation [redacted] belonging to b6 -1 b7C -1 b7E -1,6

Title: (U//~~FOUO~~) Philadelphia Shooting Incident
Re: 297I-HQ-A4214067, 06/11/2014

b6 -1,2,3,4,7
b7C -1,2,3,4,7
b7A -1
b7E -1,6

subjects of an active [redacted] investigation. While providing surveillance during the operation, an armed robbery occurred at a nearby housing project. During the robbery, the subject, later identified as [redacted] fired a weapon at the victim. Two Philadelphia Housing Authority Police (PHAP) officers were in the area and reported the shot(s)fired. SA [redacted] heard the broadcast via PPD radio and advised over DEA TFO [redacted] s radio he would be responding. As part of the Safe Streets Task Force, SA [redacted] had a PPD radio channel in his vehicle. [redacted] SA [redacted] announced over the DEA radio he would be responding. SA [redacted] was already in the general vicinity and shortly thereafter observed the subject run by his vehicle carrying a firearm. SA [redacted] the two PHAP officers, and a Philadelphia Police Department (PPD) officer chased [redacted] to a vacant lot in the [redacted] of [redacted], Philadelphia, Pennsylvania. [redacted] cornered in the lot by a fence, pointed his .380 caliber Lorcing handgun at SA [redacted] and the three officers. Fearing for their lives, SA [redacted] and the officer fired a total of 21 times at [redacted] was struck five times: once in both shoulders; once in his thigh; once in his stomach; and once in the head. No Agent or officers were injured.

**SIRG Observations**

On 05/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 01/27/2014 was in compliance with the Department of Justice's deadly force policy.

b6 -1
b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

**Observation 1:** SA [redacted] was not wearing his body armor at the time

b6 -1
b7C -1

Title: (U//~~FOUO~~) Philadelphia Shooting Incident
Re: 297I-HQ-A4214067, 06/11/2014

of the shooting incident.

**Analysis 1:** Manual of Investigative Operations & Guidelines Part 2 states:

***12-13.1 Policy - Body Armor (Formerly 12-2.3.2)***

*(1) Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants, and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s).*

On January 27, 2014, SA [redacted] was part of the surveillance [redacted] While on surveillance, SA [redacted] was made aware via radio of an armed robbery in the area. SA [redacted] observed the subject, gave chase, and was involved in an Agent-involved shooting of the subject. SA [redacted] was not wearing his body armor at the time of the shooting incident. SA [redacted]'s body armor was in the trunk of his vehicle. b6 -1 b7C -1 b7E -1,6

**Instruction 1:** SAC, Philadelphia should ensure Agents wear their body armor in accordance with MIOG Policy.

**Observation 2:** An Operations Plan, specifically a [redacted] was prepared for [redacted] The Operations Plan was not briefed to the surveillance team prior to the operation. b7E -1,5,6

**Analysis 2:** On January 16, 2014, SA [redacted] sent [redacted] to SSA [redacted] requesting [redacted] SSA [redacted] assigned the request to [redacted] Pursuant to the [redacted] prepared a [redacted] for this operation. Utilization of a [redacted] was standard operating procedure for the [redacted] The request was approved by SSA [redacted] The request included the [redacted] plan, photographs of the subjects, subject vehicles, and the DOJ Deadly b6 -1 b7C -1 b7E -1,5,6

Force Policy. Although the plan was discussed between the [redacted] the plan was not briefed to SA [redacted] or DEA TFO [redacted] prior to the operation. b6 -1,3 b7C -1,3 b7E -1,5,6

**Recommendation 2:** SAC, Philadelphia should ensure the [redacted] is briefed to all team members involved in [redacted] operation.

3. **Provide recommendations for Administrative action if deemed necessary.** None

Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), (INSD); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Violent Criminal Threats Section, Criminal Investigative Division; SC Roger A. Coe, East Asia Section, Counterintelligence Division; Unit Chief (UC) [redacted] FTU, TD; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG). In addition to the voting members in attendance, DOJ SIRG member [redacted] was unable to attend but reviewed the Shooting Incident Review Team report and provided his vote in writing prior to the SIRG. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors Trent R. Teyema, Shawn W. Stroud, Paul D. Delacourt, and R. Justin Tolomeo, OI, INSD; Team Leaders [redacted] OI, INSD; UC [redacted] FTU, TD; b6 -1,3 b7C -1,3

Title: (U//~~FOUO~~) Philadelphia Shooting Incident
Re: 297I-HQ-A4214067, 06/11/2014

[redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

**Procedures for Responding to the Observations**

SAC, PH, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

SAC, PH, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 -1 b7C -1

♦♦

**Teyema, Trent R.**

**From:** [redacted](CRT)[redacted]@usdoj.gov] b6 -3
**Sent:** Monday, May 05, 2014 5:55 PM b7C -3
**To:** Teyema, Trent R.
**Cc:** [redacted](CRT)
**Subject:** Philadelphia 1/27/14 FBI shooting .

Inspector Trent Teyema
Inspection Division
FBI

During the early morning hours of January 27, 2014, an FBI special agent and three local Philadelphia police officers shot at and wounded, [redacted] following an armed robbery and shooting by the subject and after the subject pointed his weapon at the law enforcement officers. Based upon a review of materials from the Inspection Division Shooting Incident Report, we have concluded that the facts do not warrant a federal criminal civil rights investigation. The Philadelphia County District Attorney's Office concluded that no criminal charges were warranted. b6 -7 b7C -7

The agent was involved in an unrelated law enforcement activity on a Philadelphia street at about 2 a.m. when he heard a radio broadcast that shots had been fired close to his location. The broadcast included a physical description of the subject. As the agent drove toward the area, he saw a man fitting the description running with a handgun. Meanwhile, three uniform local police officers were pursuing on foot after they heard shots and encountered the victim of the robbery, learned the subject had robbed and shot at the victim, and saw the subject running with a hand gun.

During the foot chase the police officers yelled, "Stop! Police! Drop the gun!" The subject continued to run until the agent and three police officers cornered him in a vacant lot. Initially, when the subject stopped, he had his back to the agent, who identified himself as "FBI," and the three officers. But, he turned toward them and pointed the gun in their direction. All four law enforcement officers fire several rounds each. The subject sustained bullet multiple bullet wounds, but none were fatal. He survived and is facing various local criminal charges.

The statements of the four law enforcement officers involved in the shooting are consistent. They are the only witnesses to the shooting. Other officers quickly arrived and corroborated that the wounded subject was still armed with a .38 caliber handgun. None of the forensic evidence contradicts the consistent accounts. The .38 caliber handgun had been fired. A .38 caliber cartridge casing was recovered; however, there were insufficient markings on the casing to permit comparison with the subject's .38 caliber weapon. The victim identified the subject as the man who robbed and shot at him moments before the law enforcement shooting.

The evidence supports a conclusion that the agent and the police officers reasonably believed that the subject was fleeing after committing an armed and violent crime and was prepared to fire his weapon at the law enforcement officers. The evidence does not support a conclusion that the agent or the police officers willfully used force that they knew to be unreasonable or unnecessary, the intent element required by the federal criminal civil rights statutes.

A federal criminal civil rights investigation of the shooting and its aftermath is not warranted. We appreciate the agent's voluntary statement, facilitating a fully informed decision. Please complete your administrative review.

[redacted] b6 -3
Special Legal Counsel b7C -3
Civil Rights Division
U.S. Department of Justice



NYT-979

**MEMORANDUM**

**To:** Lt. [redacted] Internal Affairs Division, Shooting Team
**From:** [redacted] Chief, Special Investigations Unit
**Re:** Recommendation to Close Criminal Investigation of [redacted]
Discharge by:
Philadelphia P/O [redacted]
Philadelphia Housing Authority P/O [redacted]
Philadelphia Housing Authority P/O [redacted]
FBI Special Agent [redacted]

b6 -1,4
b7C -1,4

I have reviewed the available information pertaining to the above-referenced incident. Based on that review, the District Attorney's Office has concluded that no criminal charges are warranted against P/Os [redacted] or S/A [redacted] as a result of the discharges of their firearms on January 27, 2014.

b6 -1,4
b7C -1,4

[redacted]
Chief, Special Investigations Unit

b6 -4
b7C -4

Date: 4-1-14

cc: [redacted] Deputy District Attorney, Investigations Division
[redacted] Law Clerk, S.I.U.
[redacted] Assistant District Attorney

b6 -3
b7C -3

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 03/12/2013

Report of: IIC Gregory T. Bretzing Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271779-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
MOBILE FIELD OFFICE
02/04/2013

Investigative Period: 02/04/2013 – 02/11/2013

Reference: (U) Telephone call on 02/04/2013 from AD Ronald Hosko to AD Keith Bennett.

---

## Synopsis

(U) On February 4, 2013, at approximately 3:30 pm, an Agent-involved shooting occurred in Midland City, Alabama (AL). The Agents involved, Hostage Rescue Team (HRT) Operators [redacted] were participating in an FBI hostage rescue operation. On January 29, 2013, subject Jimmy Lee Dykes boarded a school bus, shot and killed the bus driver and took a [redacted]-year-old boy hostage from the bus in Midland City, AL. Dykes barricaded himself with the hostage in a bunker structure located on his property at 256 Private Road 1539, Midland City, AL. Dykes called 911 and directed first responders to communicate with him through a PVC communications tube located at the entrance of his property. An IED was later discovered in the PVC tube. Negotiators made contact with Dykes and learned his demand was to exchange the hostage for a reporter to record his story and then observe him commit suicide. HRT and other CIRG components arrived on scene on January 30, 2013. Over the next five days, HRT gathered intelligence and prepared for several different rescue scenarios as negotiations continued. Dykes became increasingly agitated and indicated violence was likely.

b6 -1,5
b7C -1,5

(U) By February 4, 2013, negotiations with Dykes had deteriorated. According to expert analysis, Dykes' increasing agitation indicated the use of violence was likely and imminent. Authorization for a deliberate assault utilizing an explosive charge to breach the bunker hatch was received. HRT operators successfully breached the bunker hatch and safely removed the hostage while Dykes engaged the HRT Operators with gunfire. The situation ended with Operators [redacted] shooting Dykes, who died inside the bunker.

b6 -1
b7C -1

## Details

(U) Jimmy Lee Dykes was a 65-year-old white male who lived alone on an undeveloped one acre parcel of land at 256 Private Road 1539, Midland City, AL. Dykes was a Vietnam veteran and former truck driver with an arrest history of drug, theft, and firearms-related offenses. Dykes was estranged from family, friends, and neighbors. Dykes had, however,



NYT-981

established an acquaintance with Charles Albert Poland, a school bus driver from the local school district. A year prior, as an apparent gesture of friendship, Dykes excavated a turnaround point adjacent to his property on Private Road 1539, giving Mr. Poland more room to turn his bus around. On January 29, 2013, Mr. Poland was transporting approximately 20 children home from school and stopped the bus in the turnaround point near Dykes' residence. At 3:33 pm Dykes boarded the bus, displayed a handgun, and handed Mr. Poland a handwritten note. Dykes verbally demanded Mr. Poland provide two children to accompany him. Mr. Poland told Dykes he could not allow any children to leave the bus. A confrontation lasting approximately four minutes took place between Dykes and Mr. Poland in which Dykes continually demanded two children. During this confrontation, one of the children on the bus placed a call to the Ozark-Dale County Emergency 911 line without Dykes noticing and described what was taking place. Dykes grew increasingly agitated during the exchange as Mr. Poland continued to refuse his demands, and at 3:37 pm, Dykes shot Mr. Poland five times. Dykes then took a [redacted] year-old boy from the bus and fled on foot to an underground bunker structure he built on his property at 256 Private Road 1539. Mr. Poland died at the scene. b6 -5 b7C -5

(U) At 3:40 pm, Dykes called the Ozark-Dale County Emergency 911 line and stated he had a hostage and had to shoot the school bus driver because he didn't follow Dykes' instructions. Dykes called back seven minutes later and instructed the 911 operator to direct police to a PVC communications tube at the entrance gate to his property. First responders from the Dale County Sheriff's Office (DCSO) arrived at the scene while Dykes was making his first 911 call.

(U) FBI Mobile and several other state and local law enforcement agencies were immediately notified. Upon notification, Mobile SAC Stephen E. Richardson met with several SSAs and ASAC [redacted] to gather information and assess the situation. SAC Richardson also assembled Mobile's crisis response leaders, SWAT, Negotiators and Special Agent Bomb Technicians (SABTs). SAC Richardson contacted CTD, CID AD Ronald T. Hosko and CIRG A/AD [redacted] to inform them of the situation. He also spoke with HRT SC Kevin Cornelius and HRT [redacted] UC [redacted] and requested HRT to be placed on standby. He ordered Mobile Command Post personnel to be deployed to Midland City, along with the Mobile SWAT Team Leader and ASAC [redacted] SAC Richardson also requested Birmingham Division SWAT support and OTD Technical Response Unit resources. SAC Richardson ensured all Mobile crisis response assets were en route to Midland City by 5:00 p.m. b6 -1 b7C -1 b7E -1

(U) By approximately 5:00 pm, responders from the Houston County Sheriff's Office (HCSO), Alabama State Police, Ozark PD, Dothan PD, and Newton PD were on scene. FBI Mobile SWAT Team Leader SA [redacted] arrived at the scene at approximately 6:30 pm, and Montgomery SSRA [redacted] arrived at approximately 7:00 pm. When SSRA [redacted] arrived at the incident site, he was advised a perimeter had been established by the HCSO and Dothan PD SWAT teams. SSA [redacted] met with supervisors from the HCSO and Dothan PD to set up a Command Post (CP). The CP was set up in the [redacted] building, approximately [redacted] from the incident site. At approximately 8:30 p.m., Mobile ASAC [redacted] arrived at the incident scene. b6 -1 b7C -1 b7E -1

(U) Upon his arrival, ASAC [redacted] assumed command. Also at the scene were Dale County Sheriff Gary Wallace Olson and Alabama Bureau of Investigation (ABI) Lieutenant (Lt.) [redacted] The roles and responsibilities of the hostage taking investigation had been divided between the FBI, the DCSO, and the ABI. The DCSO was responsible for the intake of information through their 911 call center, the perimeter of the incident site, and tactical elements. The ABI was handling the homicide investigation while the FBI was handling leads generated by the investigation. b6 -1,4 b7C -1,4

(U) ASAC went to the incident site to assess the situation. He met with Mobile SA and HCSO Deputy Sheriff Lt. who were the first negotiators to communicate with Dykes. The negotiators spoke with Dykes through a 170- foot PVC pipe leading into the bunker. SA briefed ASAC on the subject's only demand, which was to have a reporter come into the bunker, record his life story, and observe him commit suicide. Negotiators also learned the hostage required medication and convinced Dykes to allow medicine and toy deliveries. ASAC was provided a copy of the letter Dykes left on the bus outlining his demands for a female reporter in exchange for the hostage.

b6 -1,4
b7C -1,4

(U) At approximately 9:30 pm on January 29, 2013, Dykes informed the negotiators he was going to bed. He sealed the bunker-end of the PVC tube and ceased communications. ASAC called SAC Richardson shortly thereafter and fully briefed him on the situation.

b6 -1
b7C -1

(U//~~LES~~) Later that evening, ASAC effectively with the subject. At approximately 4:48 am on January 30, 2013, CP personnel formulated a plan with the subject until negotiators provided the subject a "throw phone."

b7E -1

(U//~~LES~~) Dykes woke up at approximately 8:00 am on January 30, 2013. The negotiators resumed communications Negotiators discussed providing Dykes with a throw phone for communication purposes. The negotiators also obtained Dykes' approval to begin medication deliveries for the hostage. At 10:08 am, the first medicine delivery was made, and at 12:12 pm the throw phone was delivered.

b7E -1

(U) SAC Richardson arrived at the CP early the morning January 30, 2013 and assumed on-scene command duties. ASAC became the deputy on scene commander and was involved in planning and investigative support. ASAC worked a shift which overlapped with SAC Richardson's 6:00 am to 1:00 am shift.

b6 -1
b7C -1
b7E -1

(U) At approximately 1:00 pm on January 30, 2013, CIRG Tactical Section Chief Kevin R. Cornelius authorized HRT deployment to Midland City in response to SAC Richardson's request for assistance. The HRT departed Richmond, VA at approximately 2:30 pm. UC SSA SSA and other members reviewed intelligence and imagery and prepared an emergency assault plan en route while SSA a HRT Master devised a preliminary explosive breaching plan.

(U) The arrived in Midland City at approximately 3:30 pm. SAC Richardson met with SC Cornelius and began developing a tactical plan. They discussed options for resolving the event and shared these options with heads of local law enforcement, to include Dale County Sheriff Gary Olson. UC reported to the CP and assumed the role of ground force commander. UC recommended to SAC Richardson a course of action for the to immediately prepare for emergency and deliberate assault options, as well as a utility mission. The utility mission included medicine and toy deliveries to the bunker, Upon conclusion of the initial in-brief, and for the remainder of January 30, 2013, HRT assumed

b6 -1
b7C -1
b7E -1

control of the tactical operations at the incident site and began assisting in the medicine deliveries. During a medicine delivery at 7:20 pm, HRT spoke to the hostage who stated he received the medicine.

(U) Early on the morning of January 31, HRT searched several structures on Dykes' property and discovered no threats to law enforcement personnel. HRT utilized canines to check the area around the other structures on Dykes' property, which were a FEMA trailer, a Conex box, a small shed, and a Ford van. The canines did not locate any IEDs on the property other than the IED in the communication pipe.

(U) Starting January 31, 2013, SAC Richardson held two daily briefings. The first was at 8:00 am and the second at 6:30 pm. The meetings were attended by members of the following groups: Tactical Teams, Bomb Technicians, Negotiators, Behavioral Analysis Unit (BAU), Legal, Medical Support and Aviation. These briefings provided a venue for discussions regarding current circumstances and potential solutions. SAC Richardson continued this practice for the duration of the crisis.

(U) Within the first 12 hours of the incident, Dykes' letter explaining his demands was sent to the FBI's BAU for analysis. Based on the contents of the letter and Dykes' actions, BAU assessed Dykes would follow through with his threats and would probably not come out from the bunker alive. BAU also assessed the hostage to be in danger.

(U//~~LES~~) On January 31, 2013, aircraft from OTD and the Atlanta and Oklahoma City Field Offices arrived on scene and commenced [redacted] b7E -1,4,6
[redacted] CP personnel continued to monitor [redacted]
[redacted] Dykes had previously told negotiators about an IED he built and had with him in the bunker. Dykes said he would detonate the IED should his demand not be met. Dykes further advised he did not want to hurt the hostage, but he would if necessary. Negotiations with Dykes this day met with negative results as Dykes continued to demand to speak to a reporter.

(U) On February1, 2013, HRT Agents [redacted] two medicine deliveries and continued preparations as negotiations continued. UC [redacted] SC Cornelius, SAC Richardson, and negotiators developed a deliberate assault plan [redacted] b7E -1,6
[redacted] While assault plans were formulated, [redacted] commenced an alternating cycle of planning, rehearsals, and medicine and toy deliveries to the bunker. As there was no predetermined team for the deliberate assault, both teams prepared and trained for the same mission. This allowed both teams to adapt and refine the assault plans as circumstances changed or intelligence provided additional information.

(U) On February 2, 2013, negotiations, medicine deliveries, assault preparations, and rehearsals continued.

(U) On February 3, 2013, a federal criminal complaint and arrest warrant were issued by U.S. Magistrate Terry Moorer, United States District Court, Middle District of Alabama. Medicine deliveries and assault preparation continued, however changes in Dykes' and the hostage's behavior were noted. The hostage refused medicine, and negotiations with Dykes became longer with Dykes becoming increasingly agitated. Dykes set a deadline of 5:00 pm February 4, 2013 for the reporter to be produced or he would no longer communicate with the negotiators. [redacted] b7E -4

(U) By February 4, 2013, BAU SSAs [redacted] had worked closely with Crisis Negotiation Unit (CNU) SSA [redacted] to assess Dykes' behavior and prepare negotiations strategy. BAU prepared three on-site assessments documenting evaluations of Dykes' history, current behavior, and possible future behavior. b6 -1 b7C -1

(U) BAU reported the following concerning Dykes to the negotiators, HRT management, and SAC Richardson:

- The best predictor of future action is past behavior. Dykes demonstrated a clear history of using lethal force when his demands were not met. BAU cited Dykes' January 29, 2013 murder of school bus driver Charles Poland for refusing to deliver two of Poland's minor passengers to Dykes. BAU also cited Dykes' recent bludgeoning to death of a neighbor's dog after warning the neighbor he would kill the dog if it appeared again on his property.

- Dykes repeatedly warned during negotiations, "this will go bad" if his demands were not met. BAU advised Dykes must be taken at his word in this regard.

- Although Dykes never specifically threatened to kill the hostage, he left no room for his plan to be altered. If his demands were not met, violence was Dykes' only option.

- [redacted]

- [redacted] b7E -4

- [redacted]

- [redacted] Dykes was isolated, physically abusive to family members, and had a history of cutting off family relationships. [redacted]

- BAU's overall finding was there could be no assumption Dykes would not hurt the hostage. [redacted] Dykes' history, coupled with his behavior following his abduction of the hostage, indicated a very high risk of violence toward the hostage and others.

- BAU observed Dykes to be more difficult to placate in the 24 hours preceding the final assault on the bunker. [redacted] b7E -4
[redacted] Dykes also issued more hard deadlines for his demands.

(U) BAU concluded from these factors Dykes was about to realize his mission was going to fail. Based on his prior history of being uncompromising, he would realize he had no other option than lethal violence.

(U) From the evening of February 3rd into the morning of the 4th, HRT UC [redacted] SSA [redacted] and SSA [redacted] finalized the deliberate assault plan which contained a deadly force b6 -1 b7C -1

policy annex. The operations order and deadly force policy were briefed each of the previous five days as the deliberate assault plan was prepared and finalized.

(U) The plan called for [redacted] The plan was forwarded to UC [redacted] and SC Cornelius for their review. Prior to the end of his shift, UC [redacted] received briefings from the negotiators which indicated the negotiations and subject's demeanor continued to deteriorate.

b6 -1
b7C -1
b7E -1,6

(U) During the morning of February 4, 2013, a conference call was held to discuss the hostage situation and the assault. Participants in the conference call included FBI Director Robert S. Mueller III, Deputy Director Sean Joyce, Executive Assistant Director Richard A. McFeely, Assistant Director Ronald T. Hosko, SAC Richardson, SAC Steven E. Ibison, SC Cornelius, UC [redacted] ASAC [redacted] SSA [redacted] SSA [redacted] SABT [redacted] and ABI Major Neil Tew. Director Mueller instructed SAC Richardson to call him once the decision was made to initiate the assault. SAC Richardson advised SC Cornelius to prepare for the deliberate assault.

b6 -1
b7C -1

(U) [redacted]

b7E -1

(U) SAC Richardson called EAD McFeely and AD Hosko at approximately 1:50 pm to notify them the operation was going to be initiated. He gave permission to SC Cornelius to move HRT forward to conduct the assault. SAC Richardson then gave UC [redacted] the authority to initiate the deliberate assault, effect an emergency assault if it appeared Dykes was about to harm the hostage, or pull back from the bunker if necessary.

b6 -1
b7C -1
b7E -1

(U) At approximately 2:00 pm, [redacted] and other HRT elements moved to a forward staging area on the perimeter of Dykes' property and awaited permission to take positions around the bunker. The following personnel were tasked to conduct or support the deliberate assault and deployed to the immediate bunker vicinity:

| Name | Role |
|---|---|
| [redacted] | |

b6 -1
b7C -1
b7E -1

[redacted]

b6 -1,4
b7C -1,4
b7E -1,6

(U) UC [redacted] radioed the Tactical Operations Center (TOC) from the staging area and requested permission to position the teams. UC [redacted] maintained radio contact with both [redacted] and SC Cornelius at the TOC. At approximately 2:30 pm, the teams moved into their final positions.

b6 -1
b7C -1
b7E -1

(U) UC [redacted] radioed SC Cornelius and requested [redacted] which meant permission to execute the deliberate assault. SC Cornelius provided UC [redacted] several minutes later. [redacted] meant UC [redacted] was authorized to execute or abort the assault without having to request further permission.

b6 -1
b7C -1
b7E -1

(U) UC [redacted] radioed [redacted] to prepare for the assault. The breach team moved up to the bunker hatch and placed the breaching charge. At 2:59 pm, the breach team returned to their cover position and reported the charge had been set. At 3:00 pm, the [redacted] support element positioned the ramp against the bunker retaining wall and returned to their cover position. At 3:05 pm, SSA [redacted] and HCSO Sgt. [redacted] moved to the bunker, established contact with Dykes, and inserted medicine and toys into the bunker hatch. At 3:08 pm, [redacted] into the hatch and immediately returned to cover positions. UC [redacted]

b6 -1,4
b7C -1,4
b7E -1,4,6

[redacted]

Through radio contact with SA [redacted] UC [redacted] confirmed the hostage was away from the bunker access tube.

(U) At 3:09 pm, [redacted] UC [redacted] signaled SA [redacted] to detonate the breach charge. b6 -1 b7C -1 b7E -1

(U) The explosive breach detonated and blew the hatch halfway open. Half the assault element, SA [redacted] SSA [redacted] SA [redacted] and SA [redacted] moved from the left side of the van and approached the bunker from the stairs leading up to the bunker hatch. The remaining assault element on the right side of the van, SA [redacted] SA [redacted] and SA [redacted] approached the bunker by using the ramp on the right side of the hatch. SA [redacted] tripped and fell coming off the ramp onto the bunker and SA [redacted] assumed [redacted]'s responsibility to clear the hatch from the opening. SA [redacted] and SA [redacted] worked to clear the hatch for assaulters to enter the opening. SA [redacted] SA [redacted] and SA [redacted] were positioned to go into the hatch opening. The bunker entrance was partially obstructed by cables below the opening, and the assaulters' view was obscured by dust and smoke.

(U) Gunfire erupted from within the bunker. SA [redacted] SA [redacted] dropped into the bunker ladder well using a bracing bar and rope. SA [redacted] moved forward to the bunker entrance yelling "go, go, go." Further gunfire came from within the bunker. b6 -1 b7C -1 b7E -1

(U//~~LES~~) SAC Richardson was in the TOC with several others [redacted] He watched as the breaching charges were detonated and saw the first operator attempt to enter the bunker. [redacted] b7E -1,4,6

[redacted] SAC Richardson heard radio calls, to include "shots fired," and could see assault personnel moving around the incident site [redacted]

(U) SA [redacted] was unable to descend beyond an obstruction in the bunker entrance and yelled "back, back, back!" SA [redacted] and SA [redacted] immediately pulled SA [redacted] out of the opening. SA [redacted] believing SA [redacted] had been shot, used his pistol to cover the bunker hatch as SA [redacted] was pulled from the obstructions in the ladder well. SA [redacted] observed several muzzle flashes from inside the bunker during this time and fired nine .40 caliber rounds from his FBI issued Glock 22 towards the muzzle flashes. b6 -1 b7C -1

(U) The entry momentarily stalled after SA [redacted] encountered the obstructions in the bunker ladder well. Gunfire from within the bunker continued as Dykes yelled from inside the bunker "I'll kill all you fuckers" and "I'll cook this thing off." Dykes detonated the IED inside the PVC communications tube which was followed by a back draft of air from inside the bunker. From 3:10 pm to 3:12 pm, assault element personnel [redacted] into the bunker, and SAs [redacted] succeeded in fully removing the hatch from the bunker opening. At 3:12 pm, SA [redacted] moved forward and inserted a canine into the bunker opening. The canine also became entangled in the bunker ladder well obstruction and was pulled back out. From 3:12 pm to 3:13 pm, SA [redacted] fired a breaching shotgun at the obstruction, and SA [redacted] assisted by SA [redacted] pulled out debris and cut through the obstruction with bolt cutters. Post-incident investigation revealed evidence indicating the obstruction was metal cabling Dykes used to secure the hatch in a closed position. As this was taking place, members of the assault element gave voice commands to Dykes to release the hostage and to surrender and come out of the bunker. Dykes refused to come out of the bunker and continued to curse at the assault team. SSA [redacted] told assaulters to "go, go, go" and "you got to go get the kid." b6 -1 b7C -1 b7E -1

(U) The obstruction was cleared from the bunker ladder well at 3:13 pm. SA [redacted] immediately jumped down into the bunker, followed by SAs [redacted] SA b6 -1 b7C -1

[redacted] then climbed down the ladder behind SA [redacted] but did not fully enter the bunker chamber. b6 -1 b7C -1

(U) As Operator [redacted] felt his way to the left inside the bunker, he encountered the hostage, covered him, and began to crawl with him toward the exit. At the same time, SAs [redacted] using their hands to feel their way through the bunker, climbed over SA [redacted] and the hostage to engage Dykes. They physically encountered Dykes and a struggle ensued. SAs [redacted] evacuated the hostage to the exit while SAs [redacted] attempted to subdue Dykes. Throughout the fight, SAs [redacted] were unable to see or control Dykes' hands. Both SAs [redacted] stated Dykes posed an imminent threat to themselves and the hostage. SA [redacted] fired two .40 caliber rounds from his Glock 22 at Dykes' torso. SA [redacted]'s Glock 22 malfunctioned and he transitioned to his M-4 rifle. He fired five .223 caliber rounds into Dykes' chest. SA [redacted] observed Dykes continue to struggle with SA [redacted] and fired approximately three .40 caliber rounds from his Glock 22 upward from below Dykes' jaw into his head. Dykes ceased struggling at this point. SA [redacted] heard either SA [redacted] or SA [redacted] say [redacted]' and understood the hostage was located. [redacted] is the standard term used by HRT when a hostage is located. The hostage was handed to SA [redacted] from inside the bunker who passed him to another agent outside the bunker at 3:14 pm. SA [redacted] then heard an Agent in the bunker say '[redacted] is standard HRT terminology to communicate a subject is incapacitated. SA [redacted] went back into the bunker to check on the other Agents and to ensure Dykes was secured. Once SA [redacted] received audible confirmation the Agents were okay, he gave a verbal command to the Agents in the bunker to handcuff Dykes for safety purposes. Dykes was handcuffed by SAs [redacted] and [redacted] Due to minimal visibility inside the bunker, Agents were unable to clear Dykes' person of IEDs, which would have enabled them to render first aid or remove him from the bunker. b6 -1 b7C -1 b7E -1

(U) At 3:18 pm, the last HRT member exited the bunker. Dykes died at the scene as a result of his gunshot wounds. UC [redacted] directed the team to move the hostage to the ambulance. SA [redacted] the HRT medic, remained with the hostage and the team returned to the staging area. b6 -1 b7C -1

(U) Tactical operational control was maintained at the incident site until February 6, 2013 when bomb technicians cleared the bunker of IEDs. Evidence Recovery Teams removed Dykes' body from the bunker and processed the site for evidence. The security perimeter was maintained for several more days during this period to ensure public safety and preservation of evidence.

**Substantive Case Files**

(U) [redacted] b7A -1

**Enclosures**

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

(U) The Shooting Incident Review Team (SIRT) was composed of the following personnel:

Inspector-in-Charge (IIC) Gregory T. Bretzing



NYT-989

Inspector Howard S. Marshall
Inspector-in-Place (IIP) Zachary T. Lowe, Jr.
Assistant Inspector/Team Leader (TL) [redacted] b6 -1
TL [redacted] b7C -1
TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
MAPA [redacted]

FBI Laboratory Assets:

SSA [redacted] b6 -1
Physical Scientist [redacted] b7C -1
Visual Information Specialist [redacted]
Photographer [redacted]
Physical Security Specialist (HazMat) [redacted]
Telecommunications Specialist [redacted]

B. **Shooting Incident Review Protocol**

(U) All members of the SIRT reviewed the INSD Shooting Review Protocol.

(U) On 02/04/2013, IIC Bretzing communicated with Mobile Division Special Agent in Charge (SAC) Stephen Richardson, to arrange logistics prior to arriving in Midland City, AL. SAC Richardson assigned ASAC [redacted] to serve as the Point of Contact for the SIRT during the investigation period. Members of the SIRT began arriving during the early morning hours of 02/05/2013. On 02/05/2013, Inspector Marshall addressed approximately 200 FBI, state and local law enforcement personnel and explained INSD and SIRT protocols. Later that day, IIC Bretzing and Inspector Marshall met with SAC Richardson to explain the protocol of the shooting inquiry. They also met with all SIRT personnel and outlined SIRT protocols. There was an opportunity for dialogue regarding concerns, clarification, or questions prior to the investigation commencing. Over the next two days, SIRT personnel reviewed recordings of the 01/29/2013 kidnapping and bus driver shooting incident, and the 02/04/2013 HRT operation which resulted in the rescue of the hostage and shooting death of the subject. SIRT personnel also went to the scene of the shooting to visually examine the bunker in which the deceased subject barricaded himself and the hostage for six days. b6 -1 b7C -1

(U) Signed Sworn Statements (SSS) were taken from five FBI personnel who were directly involved in the shooting or related events. Copies of SSSs were provided to those interviewees who requested them. Other interviews, events and observations were documented in FD-302s. The FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting) were executed by all personnel providing SSSs. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary



NYT-990

Basis) nor the FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. All SSSs and interviews of witnesses were conducted voluntarily and each interviewee was afforded the opportunity to review his statement.

(U) On 02/11/2013, a telephonic exit briefing was provided by IIC Bretzing and Inspector Marshall to SAC Richardson.

C. **Personnel Involved in the Shooting**

1. SA [redacted] (Rock River LAR15 Serial Number [redacted] Glock 22 Serial Number [redacted]); b6 -1 b7C -1
2. SA [redacted] (Glock 22 Serial Number [redacted];
3. SA [redacted] (Glock 22 Serial Number [redacted]);

D. **Firearms Training**

(U) HRT and Training Division provided qualifications records for SAs [redacted] A review of these Agents' records reflected the following: b6 -1 b7C -1

(U) SA [redacted]'s most recent qualification with his FBI-issued Glock 22, Serial Number [redacted], was on 12/18/2012. SA [redacted]'s most recent qualification with his FBI-issued Rock River LAR15, Serial # [redacted] was conducted on 10/26/2012.

(U) SA [redacted]'s most recent qualification with his FBI-issued Glock 22, Serial Number [redacted] was on 11/02/2012 b6 -1 b7C -1

(U) SA [redacted]'s most recent qualification with his FBI-issued Glock 22, Serial Number [redacted], was on 11/28/2012.

E. **Deadly Force Training**

(U) The CIRG CDC provided annual legal training to FBI CIRG employees on 09/25/2012, and the DOJ/FBI Deadly Force Policy was briefed. The CIRG CDC advised HRT was provided a DVD of the annual legal training presentation following the 09/25/2012 briefing. The CIRG CDC further advised CIRG policy required the Deadly Force Policy be briefed before every mission.

(U) INSD determined a written operation plan was prepared for the 02/04/2013 hostage rescue mission and briefed to all personnel involved in the operation. The DOJ/FBI Deadly Force Policy was written into the operation plan.

F. **Use of Body Armor and Law Enforcement Identifiers**

(U) All HRT personnel who entered the bunker and engaged the subject wore ballistic body armor bearing FBI identifiers on the front and rear, and ballistic helmets. HRT personnel verbally identified themselves to the subject as FBI prior to entering the bunker and prior to engaging subject.

G. **FBI Indices and National Crime Information Center (NCIC)**

(U) On February 6, 2013, [redacted] Intelligence Analyst, Mobile Division, conducted a Universal Index search for Jimmy Lee Dykes, white male, date of birth 04/09/1947, social security account number 418-64-3336, FBI number 15630F. The search yielded results b6 -1 b7C -1



NYT-991

for 256C-MO-2718840, the pending hostage taking case in the Mobile Division. The search met with negative results for all other investigative matters.

(U) On February 10, 2013, [redacted], Forensic Accountant, Mobile Division, provided printouts from the National Crime Information Center (NCIC) and the [redacted], with criminal history information for Jimmy Lee Dykes, white male, date of birth 04/09/1947, social security account number 418-64-3336, FBI number 15630F. b6 -1 b7C -1 b7E -8

(U) The print-outs contained multiple records for Dykes including the following three most recent entries:

- On 12/22/2012, Dykes was arrested for menacing, noting the charge was a misdemeanor. The report generated from [redacted] provided case number 2600DC201200108700 and a case status of "Bond." No further information was provided in the report. b7E -8
- On 04/22/2000, Dykes was arrested for drug possession by the Bonifay, Florida police department. He was sentenced to twelve months probation and a two year driver's license suspension.
- On 02/24/1995, Dykes was arrested for the unlawful display of a firearm by the Bay County, Florida Sheriff's office. The charges were dismissed on 06/22/1995.

(U) Prior arrests on charges of petit larceny, destroying property, marijuana possession, insulting a police officer, and driving while intoxicated were recorded from 06/30/1964 through 01/24/1980.

(U) In 1977, Dykes served a one-year prison term in the Houston County, Alabama jail for marijuana possession. He was released on parole on 08/28/1978.

H. **Evidence Recovery Team (ERT)**

(U) Mobile ERT, under Lab Division supervision, conducted post-incident shooting trajectory analysis and evidence recovery.

(U) On 02/06/2013, ERT executed a search warrant, issued in Circuit Court of Dale County by the State of Alabama, at 256 Private Road 1539, Midland City, Alabama. The purpose of the search was to process the crime scene in connection with the joint investigation between the Federal Bureau of Investigation (FBI) and the Alabama Bureau of Investigation (ABI). The search of the bunker located on the property address resulted in the collection of approximately 94 overall items of evidence. The search of a trailer, which served as the subject's residence, resulted in the collection of 36 evidence items. Three items of evidence were collected from a large shipping container (referred to as the CONEX) located on the property and 17 additional items were recovered from the search of the property grounds. All items of evidence collected were being processed by the FBI Laboratory for inclusion in the Mobile investigative file.

(U) ERT SSA [redacted] provided INSD with copies of the ERT evidence collection logs, sketches, photograph logs, and photographs. Mobile ERT SA [redacted] provided three additional CDs containing scene photographs. b6 -1 b7C -1



NYT-992

## I. Laboratory Division Reports

(U) A Shooting Incident Reconstruction (SIR) was performed by members of the FBI Laboratory Shooting Reconstruction Team on 02/05/2013 through 02/08/2013. The members of the LSRT were Physical Scientist/Forensic Examiner [redacted] Visual Information Specialist [redacted] and Photographer [redacted] of the Operational Projects Unit, and Supervisory Special Agent [redacted] of the Evidence Response Team Unit. The results of the examinations are included as an appendix to this report. b6 -1 b7C -1

## J. Medical Examiner Reports

(U) On February 7, 2013, Dr. [redacted] State Medical Examiner for the Alabama Department of Forensic Sciences, conducted the autopsy of Jimmy Lee Dykes. Initial information from the autopsy of Dykes indicated he was shot 12 times, with wounds located in the face and chest, with the exception of one wound in the left hand. There were multiple overlying wound tracks and trajectories, and individual wound channels could not be identified. Four projectiles of unspecified caliber were recovered from the chest, skull, back, and neck. Multiple non-retrievable small fragments were located in the chest and shoulder. The initial information is categorized as follows: b6 -4 b7C -4

| | |
|---|---|
| Total Gun Shot Wounds | 12 |
| Fatal shots | Undetermined |
| Non-fatal shots | Undetermined |
| Bullets recovered | 4 (unidentified) |
| **Wound locations:** | |
| Head | 3 shots |
| Neck | 1 shot |
| Chest and abdomen | 7 shots |
| Left Hand | 1 shot |

(U) The majority of rounds entered Dykes' chest and face. The seven chest entry wounds were surrounded by stippling or soot. The final cause of death was reported as "Multiple Gunshot Wounds."

## K. Declination by the Civil Rights Division

(U) Upon completion of the on-site inquiry, IIC Bretzing coordinated SIRT findings with [redacted], Special Legal Counsel, Department of Justice, Civil Rights Division. On 06/03/2013, he was provided an incident summary and copies of all eyewitness interviews. On 06/10/2013 he was provided a copy of the autopsy, a copy of the Medical Examiner interview, and copies of diagrams and sketches of the bunker. On 06/13/2013, Mr. [redacted] advised the circumstances of the Agent-involved shooting did not, "warrant a federal criminal investigation." b6 -3 b7C -3

## L. Local Prosecutive Opinion



NYT-993

(U) On 02/07/2013, District Attorney Kirke Adams, 33rd Judicial Circuit, Dale and Geneva Counties, Geneva, Alabama, provided SAC Richardson with a letter in which Mr. Adams stated his office declined presentment of the facts to the Grand Jury and declined prosecution of any FBI employee.

M. **Inspector's Observations**

(U) **Observation 1:** HRT operators removed accessories from firearms used in a shooting incident prior to surrendering them as evidence.

(U) **Analysis 1**: Field Evidence Management and Operations Policy Implementation Guide (PG) Section 4.8 required seized firearms to include all accessories, parts, ammunition and associated items, including but not limited to: sites, holsters, bayonets, cases, scopes, flash suppressors, magazines, muzzle attachments, and flashlights/laser sighting devices that are designed or meant to be used in conjunction with a firearm, and are to be classified and stored as a firearm and categorized and entered into the FBI's central recordkeeping system/collected items as a "Firearms/Other."

(U) HRT SC Cornelius and UC [redacted] stated HRT had a limited number of [redacted] for their weapons. In an effort to maintain "mission status," HRT operators were directed to remove [redacted] and other accessories from the firearms used during the shooting incident prior to surrendering them to the Mobile Principal Firearms Instructor. b6 -1 b7C -1 b7E -1

(U) **Instruction 1:** AD, CIRG will ensure compliance with Field Evidence Management and Operations PG Section 4.8.

(U) **Observation 2:** HRT Team Leaders (TLs) did not exercise adequate command and control over HRT personnel and their actions at the bunker.

(U) **Analysis 2a:** During operational briefings leading up to the 02/04/2013 hostage rescue mission, HRT personnel were advised of the possibility of a bunker cave-in and of the presence of an IED inside the bunker. [redacted] b7E -1,4,6 [redacted] HRT TLs at the bunker should have recognized the inherent danger to the hostage and operators inside the bunker with so many personnel on top of the bunker. TLs should have further recognized the risk to personnel inside and on top of the bunker created by the potential detonation of the IED inside the bunker. Given the timeline of events [redacted] as well as stated during witness interviews, TLs had ample time to direct personnel off the top of the bunker who were not essential to the bunker assault team's mission, thereby reducing risk to all personnel involved.



NYT-994

(U) **Analysis 2b:** The composition of the HRT assault team which ultimately entered the bunker deviated from the original operations plan. The operations plan designated [redacted] Upon the breach, SA [redacted]'s entry into the bunker was impeded by debris from the breach blast. The operation paused as HRT operators devised a plan to clear the obstruction. Once cleared, SA [redacted] entered the bunker as planned. However, he was followed by SA [redacted], who was assigned a perimeter position and not directed by TL [redacted] or A/TL [redacted] to enter. SA [redacted] was followed by SAs [redacted] SA [redacted] was also assigned a perimeter position, and was not directed by TL [redacted] or A/TL [redacted] to enter. SA [redacted] was then followed by A/TL [redacted] During his interview, SA [redacted] stated he had no idea who was in the bunker with him until after the subject had been shot and killed. A/TL [redacted] stated he did not know SA [redacted] was in the bunker until after SA [redacted] left the bunker.

b6 -1
b7C -1
b7E -1

(U) **Recommendation 2:** AD, CIRG should ensure Team Leaders maintain command and control of personnel during small unit tactical operations.

(U) **Recommendation 2:** AD, CIRG should ensure Operators execute operations orders unless directed otherwise.



NYT-995

Declassified Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT MOBILE FIELD OFFICE 02/04/2013 **Date:** 06/25/2014

**CC:** [redacted]

b6 -1
b7C -1

**From:** INSPECTION
DA-TDY
**Contact:** [redacted]

**Approved By:** MARSHALL HOWARD S
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271779-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 03/25/2014.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 03/12/2013, prepared by Inspection Team Leaders [redacted]

b6 -1
b7C -1

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Shooting Incident Report

**Details:**

(U//~~FOUO~~) On 03/25/2014, the SIRG convened to review a shooting incident which occurred on 02/04/2013, involving Hostage Rescue Team (HRT) Operators [redacted] The HRT Operators shot and killed

b6 -1
b7C -1

Jimmy Lee Dykes after a six day stand off. Dykes held a [redacted] year old boy captive in his underground bunker after shooting and killing the boy's bus driver. HRT operators executed a deliberate assault plan. During entry, Dykes fired several rounds at the HRT Operators and detonated an IED. Fearing for the life of HRT Operator [redacted], who was in Dykes' line of fire, Operator [redacted] fired at Dykes from the top of the bunker. Once inside the bunker, HRT Operators physically encountered Dykes and a struggle ensued. Throughout the fight, HRT Operators were unable to see or control Dykes' hands. Dykes repeatedly ignored verbal commands and posed an ongoing deadly threat to the hostage and HRT Operators. Operators [redacted] fired their weapons at Dykes ending the struggle.

b6 -1,5
b7C -1,5

**SIRG Observations**

(U//~~FOUO~~) On 03/25/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.**

The SIRG unanimously determined the application of deadly force by HRT Operators [redacted] on 02/04/2013 was in compliance with the Department of Justice's Deadly Force Policy.

b6 -1
b7C -1

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG board reviewed the SIRT Report's two observations and corresponding instruction/recommendations:

(U) **Observation 1**: HRT operators removed accessories from firearms used in a shooting incident prior to surrendering them as evidence.

(U) **Analysis 1**: Field Evidence Management and Operations Policy Implementation Guide (PG) Section 4.8 required seized firearms to

include all accessories, parts, ammunition and associated items, including but not limited to: sites, holsters, bayonets, cases, scopes, flash suppressors, magazines, muzzle attachments, and flashlights/laser sighting devices that are designed or meant to be used in conjunction with a firearm, and are to be classified and stored as a firearm and categorized and entered into the FBI's central recordkeeping system/collected items as a "Firearms/Other."

(U) HRT SC Cornelius and UC [redacted] stated HRT had a limited number of [redacted] for their weapons. In an effort to maintain "mission status," HRT operators were directed to remove [redacted] and other accessories from the firearms used during the shooting incident prior to surrendering them to the Mobile Principal Firearms Instructor. b6 -1 b7C -1 b7E -1

(U) **Instruction 1**: AD, CIRG will ensure compliance with Field Evidence Management and Operations PG Section 4.8.

(U) **Observation 2**: HRT Team Leaders (TLs) did not exercise adequate command and control over HRT personnel and their actions at the bunker.

(U) **Analysis 2a**: During operational briefings leading up to the 02/04/2013 hostage rescue mission, HRT personnel were advised of the possibility of a bunker cave-in and of the presence of an IED inside the bunker. [redacted] b7E -1,4,6

[redacted] HRT TLs at the bunker should have recognized the inherent danger to the hostage and operators inside the bunker with so many personnel on top of the bunker. TLs should have further recognized the risk to personnel inside and on top of the bunker created by the potential detonation of the IED inside the bunker. Given the timeline of events [redacted] as well as

stated during witness interviews, TLs had ample time to direct personnel off the top of the bunker who were not essential to the bunker assault team's mission, thereby reducing risk to all personnel involved.

(U) **Analysis 2b**: The composition of the HRT assault team which ultimately entered the bunker deviated from the original operations plan. The operations plan designated SAs [redacted] Upon the breach, SA [redacted] entry into the bunker was impeded by debris from the breach blast. The operation paused as HRT operators devised a plan to clear the obstruction. Once cleared, SA [redacted] entered the bunker as planned. However, he was followed by SA [redacted] who was assigned a perimeter position and not directed by TL [redacted] or A/TL [redacted] to enter. SA [redacted] was followed by SAs [redacted] SA [redacted] was also assigned a perimeter position, and was not directed by TL [redacted] or A/TL [redacted] to enter. SA [redacted] was then followed by A/TL [redacted] During his interview, SA [redacted] stated he had no idea who was in the bunker with him until after the subject had been shot and killed. A/TL [redacted] stated he did not know SA [redacted] was in the bunker until after SA [redacted] left the bunker.

b6 -1
b7C -1
b7E -1

(U) **Recommendation 2a**: AD, CIRG should ensure Team Leaders maintain command and control of personnel during small unit tactical operations.

(U) **Recommendation 2b**: AD, CIRG should ensure Operators execute operations orders unless directed otherwise.

(U//~~FOUO~~) The SIRG Board concurred with Observation 1 in it's entirety however, the board did not concur with Observation 2. The board stated the operations plan allowed for operators to react as they did, based on the fluid nature of the tactical response. INSD disagreed.

(U//~~FOUO~~) Following the review, INSD rewrote the analysis for Observation 2 to include facts which further illustrated HRT's



NYT-999

knowledge of risks and contingencies they planned for, but disregarded, during the execution of the operation. With the revised analysis, INSD reinstated Observation 2, in part, as follows:

(U) **Observation 2:** HRT Team Leaders (TLs) did not exercise adequate command and control over HRT personnel and their actions at the bunker.

(U) **Analysis 2:** During operational briefings leading up to the 02/04/2013 hostage rescue mission, HRT personnel were advised of the possibility of a bunker cave-in and of the presence of an IED inside the bunker. [redacted] b7E -1,4

[redacted] **This was identified as a potential threat to the hostage and HRT Operators. HRT operational planning recognized the hazard and assigned HRT Operators specific roles to include several to perimeter positions.**

(U) **Once the deliberative assault began,** [redacted] b7E -1,4,6

[redacted] HRT TLs at the bunker should have recognized the inherent danger to the hostage and operators inside the bunker with so many personnel on top of the bunker. TLs should have further recognized the risk to personnel inside and on top of the bunker created by the potential detonation of the IED inside the bunker. Given the timeline of events [redacted] as well as stated during witness interviews, TLs had ample time to direct personnel off the top of the bunker who were not essential to the bunker assault team's mission, thereby reducing risk to all personnel involved.

(U) **Recommendation 2:** AD, CIRG should ensure Team Leaders maintain

command and control of personnel during small unit tactical operations.

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG made no recommendations or observations requesting additional training for the Agents involved in this shooting incident. This matter will not be referred to IIS.

(U/~~FOUO~~) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ (telephonic); Acting Section Chief [redacted], Criminal Investigative Division; Section Chief (SC) Sean M. Cox, [redacted] Counterintelligence Division; Supervisor Special Agent (SA [redacted] Squad CR-2, Washington Field Office; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted], Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted], Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted], Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; [redacted], Deputy General Counsel, Office of the General Counsel; SC Jay S. Tabb, Tactical Section, CIRG; SSA [redacted] and Public Affairs Specialist [redacted], Office of Public Affairs, National Press Office; Inspectors Howard S. Marshall, Shawn W. Stroud, R. Justin Tolomeo, Trent R. Teyema and OI, INSD; Team Leaders [redacted], OI, INSD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management and Program Analysts [redacted] Inspection Analysis Unit, INSD; UC [redacted] and Management

b6 -1,3
b7C -1,3
b7E -7



NYT-1001

Title: (U) SHOOTING INCIDENT MOBILE FIELD OFFICE 02/04/2013
Re: 297-HQ-A1271779-D, 06/25/2014

Program Analysts [redacted] Inspection Management Unit, INSD. b6 -1 b7C -1

**Procedures for Responding to the Observation**

(U//~~FOUO~~) AD, CIRG is responsible for ensuring Inspection Instructions and Recommendations are satisfactorily resolved. The inspection process is not complete until the Instructions and Recommendations are addressed by the division. The Inspector-in-Charge (IIC) will review the division's responses to determine if the Instructions and Recommendations have been resolved or require further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) AD, CIRG is required to provide written responses, via EC, detailing the actions taken by the division to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please E-mail the Sentinel link to MAPA [redacted]. b6 -1 b7C -1

♦♦

[redacted] b6 -1,3 b7C -1,3

From: [redacted] (CRT) [redacted]@usdoj.gov]
Sent: Thursday, June 13, 2013 11:36 AM
To: Bretzing, Greg T.
Cc: [redacted]
Subject: Alabama Shooting declination

Inspector Greg Bretsing
Inspections Division

Based upon the information that I have reviewed from the Shooting Incident Inquiry, we have determined that the shooting during a hostage rescue by FBI Hostage Rescue Team operators on February 4, 2013, near Dothan, Alabama, resulting in the death of Jimmy Lee Dykes, does not warrant federal criminal investigation. There is no evidence to support a determination that there was a violation of the federal criminal civil rights statutes.

On January 29, 2013, Jimmy Lee Dykes abducted a child from a school bus, killing the driver, and took the 5 year old boy as a hostage into an underground bunker on his property. His motives and demands were irrational and Dykes rigged the bunker and surrounding area with IEDs (improvised explosive devices). To assist local law enforcement, a contingent of specialized FBI personnel were quickly amassed to evaluate the situation, plan a rescue, and attempt to negotiate with Dykes. The team included FBI supervisors, negotiators, behavioral experts, legal and medical personnel, HRT and SWAT, aviation, and bomb technicians. A Navy construction crew built a mock up of the entry and insides of the bunker to be used by HRT to practice a rescue of the hostage.

Communications were established through an air duct at Dykes suggestion. When it was discovered that Dykes had rigged an IED to the air duct, [redacted] b7E -1 [redacted] It was known that Dykes was armed with a handgun and a long gun and had already killed the bus driver with whom he had a previously friendly relationship. Meanwhile, local law enforcement and FBI negotiators continued efforts of the next week to attempt to persuade Dykes to surrender and not to act on his threats to kill the hostage. Meanwhile, HRT practiced breaching the bunker.

The FBI decision-makers faced no good alternatives. The continuing stalemate posed the risk that the hostage would be killed. Each day, Dykes faced increasingly desperate circumstances; he continued to demonstrate bizarre behavior; and it was feared that he saw the hostage's value to him as decreasingly less leverage. On the other hand, breaching the bunker presented its own risks. Entry into a bunker where an armed, dangerous (he had killed days earlier), and irrational man held a little boy as a hostage, posed deadly risks. When provoked by the actual reality of an entry, Dykes could shoot and kill the hostage. He could shoot and kill HRT operators as they entered his ground through a narrow entrance and were very vulnerable. Since Dykes had some IEDs, he could have more, others rigged in a fashion capable of blowing up and collapsing the bunker on all inside.

On February 4, the seventh day of a tense and deteriorating stand-off, an FBI HRT team breached the bunker, rescued the child unharmed, and shot and killed Dykes during an exchange of gunfire in the darken bunker as Dykes fired at the HRT operators, detonated pre-set IEDs, and grappled with the HRT operators in

the darkness alongside the terrified hostage. The young boy was physically unharmed and no FBI personnel were seriously injured.

The FBI officials and agents involved in the decision to breach the bunker and those who heroically fought their way inside to engage Dykes and to save the hostage all provided voluntary, consistent accounts, which were not contradicted by the other information, including the autopsy. The HRT operators' complete and thorough accounts enabled a fully informed decision and were appreciated.

Review disclosed no evidence that there was a violation of the federal criminal civil rights statutes. A federal criminal investigation is not warranted and the administrative review of this matter should be completed.

[redacted]
Special Legal Counsel
Civil Rights division

b6 -3
b7C -3

**OFFICE OF DISTRICT ATTORNEY**
**33RD JUDICIAL CIRCUIT**
**DALE AND GENEVA COUNTIES**
**KIRKE ADAMS, DISTRICT ATTORNEY**

POST OFFICE BOX 247
GENEVA, ALABAMA 36340

POST OFFICE BOX 1688
OZARK, ALABAMA 36361

TELEPHONE
GENEVA COUNTY
(334) 684-3697

DALE COUNTY
(334) 774-9500

February 7, 2013

Office of the Chief Inspector
Federal Bureau of Investigation

To whom it may concern:

The office of the Dale County District Attorney has fully assessed the facts and circumstances surrounding the hostage taking by Mr. Jimmy Lee Dykes, at 256 North Private Road 1539 in Dale County, Alabama. Based on the totality of the circumstances it has been determined and concluded by this office that the actions taken to include the use of deadly force by the Federal Bureau of Investigation (FBI) on February 4, 2013, were justified, proper and necessary in order to rescue and ensure the safety of the hostage.

As a result of the above determination, this office has declined a presentment of the facts to the Grand Jury and declined prosecution of any FBI employee involved or connected to the hostage rescue operation.

Sincerely,

Kirke Adams
Dale County District Attorney

b6 -4
b7C -4

NYT-1005

02/11/2013 13:24 [redacted] DALECOUNTYDA PAGE 02/02

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 15-cv-09133

Total Deleted Page(s) = 1
Page 4 ~ b6 - 1; b7C - 1; b7E - 1;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

# UNITED STATES DEPARTMENT OF JUSTICE
**Federal Bureau of Investigation**

Date: 12/20/2013

Report of: IIC David Paul Gelios Office: FBIHQ – INSD

Case ID#: 297I-HQ-A3034064

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
SALT LAKE CITY FIELD OFFICE
08/10/2013

Investigative Period: 08/11/2013 – 05/07/2014

Reference: (U) Telephone call on 08/10/2013 from AD Ronald Hosko to AD Nancy McNamara.

---

## I. Executive Summary

(U) On 08/10/2013, at approximately 5:20 pm, an Agent-involved shooting occurred in the remote area of Morehead Lake near Cascade, Idaho. The Agents involved, Hostage Rescue Team (HRT) Operators [redacted] were participating in an FBI hostage rescue operation. On 08/04/2013, while responding to a fire at the Boulevard, California residence of James Lee DiMaggio, the California Department of Forestry discovered the deceased bodies of Christina Anderson and her son, Ethan Anderson. [redacted] was missing. A San Diego area highway camera captured video of DiMaggio driving his vehicle with [redacted] as a passenger. On 08/06/2013, the San Diego County Sheriff's Office (SDCSO) obtained an arrest warrant for DiMaggio charging two counts of homicide and one count of arson, and the San Diego Field Office (SD) initiated a kidnapping investigation. b6 -1,5 b7C -1,5

(U) On 08/08/2013, the Salt Lake City (SU) Field Office, Boise Resident Agency, was notified a [redacted] observed an unknown male and an unknown female hiking with a gray cat in a wilderness area in Valley County, Idaho. The [redacted] thought the male and female were out of place, and noted they were carrying blue backpacks. Intelligence received from the SDCSO indicated DiMaggio likely purchased two blue backpack covers, and his gray cat was missing from his residence in California. The [redacted] reported the sighting after he and his three companions returned home and saw an Amber Alert relating to [redacted] On 08/09/2013, DiMaggio's Nissan Versa was located abandoned near a trail leading to the wilderness area. The sightings triggered a manhunt and deployment of FBI and law enforcement resources, to include SU investigative, Crisis Management, SWAT, Crisis Negotiation Team (CNT), and Evidence Response Team (ERT) personnel. b6 -5,8 b7C -5,8

(U) In the late morning and early afternoon of 08/10/2013, United Sates Marshals Service (USMS) and FBI aviation assets observed a campsite consistent with earlier reporting placing DiMaggio and [redacted] north of Morehead Lake near Cascade, Idaho. FBI aviation assets assumed the lead for ongoing surveillance and observed a male, female [redacted] and cat at the campsite. Based on the surveillance information, HRT deployed [redacted] HRT b6 -5 b7C -5 b7E -1



NYT-1006

Operators to hike into the campsite to locate and identify the individuals observed near Morehead Lake.

(U) At 2:08 pm, the first [ ] HRT Operators were inserted at a landing zone approximately [ ] kilometers from the campsite. This unit of HRT Operators hiked for more than two hours over difficult terrain toward the campsite. As the HRT Operators patrolled towards the campsite, FBI aviation assets observed the male attempting to camouflage a tent and the female attempting to signal aviation assets. FBI aviation assets advised the distance between the male and female was increasing. At approximately 4:22 pm, SU and CIRG command staff at the CP in Cascade, ID granted the HRT Operators [ ] authority to execute a rescue and arrest operation at the campsite. b7E -1 b7E -1

(U) The primary assault force consisted of Team Leader Supervisory Special Agent (SSA) [ ] Special Agent (SA) [ ] SA [ ] SA [ ] SA [ ] and SA [ ] accompanied by his canine. [ ] As they reached approximately 100 meters from the campsite, SA [ ] spotted an individual he believed to be DiMaggio. As the assault element moved forward, DiMaggio raised a rifle in the direction of the assault force and fired two shots. SA [ ] and SA [ ] returned fire and struck DiMaggio five times. As SA [ ] and SA [ ] quickly closed the distance to DiMaggio, they witnessed him reaching for a handgun in his waistband. SA [ ] fired one additional shot striking DiMaggio in the head. Operators then moved in to secure [ ] handcuff DiMaggio, and clear the scene for explosives. Located on or near DiMaggio's body were a .22 caliber rifle, 9mm pistol in his waistband, and knife. Operators escorted [ ] to a nearby landing zone where she was flown out of the area. b6 -1,5 b7C -1,5 b7E -1

## II. Incident Details

### a. Substantive Case Files and Background Information

Prior to the shooting incident, the following substantive kidnapping investigation (7) was opened. As a result of the Agent-involved shooting, the Salt Lake City Field Office opened an Assault on a Federal Officer (89) investigation.

| | | |
|---|---|---|
| Title: | James DiMaggio - Subject;<br>[ ]<br>Ethan Anderson – Victims | James Lee DiMaggio (Deceased);<br>Hostage Rescue Team – Victim;<br>Assault on Federal Officers,<br>Valley County, Idaho, Morehead Lake,<br>08/10/2013 |
| File number: | 7C-SD-3018376 | 89B-SU-3029104 |
| Case Agent: | SA [ ] | SA [ ] |

b6 -1 b7C -1

### b. Listing of Personnel Involved in the Incident

The following personnel were tasked to conduct or support the rescue operation:



NYT-1007

### c. Events Leading Up to the Shooting

(U) James Lee DiMaggio was a 40-year-old white male who lived alone at 2071 Ross Avenue, Boulevard, California. On 08/04/2013, at approximately 8:00 pm, the California Department of Forestry (CDF) received a call reporting a structure fire at this address. The CDF immediately responded to the scene where they found the north side of the residence, described as a two story log cabin, fully engulfed in flames. A grey Chevrolet Trailblazer, bearing California license plate 6ZJH489, was parked on the northwest side of the residence. While fighting the fire, CDF personnel noticed a glow and smoke coming from a three car detached garage to the northwest of the main residence. Through a broken window, a CDF firefighter extinguished the fire and returned to fighting the ongoing fire at the residence.

(U) After the firefighters gained control of the fire at the residence, two firefighters returned to the garage and entered through a pedestrian door. Inside, they discovered a green tarp on the ground near the door [redacted] Upon lifting the tarp, they discovered a human body [redacted] In addition, a crow bar and what appeared to be blood was discovered on the ground next to the body. After further investigation, a deceased dog was located under a sleeping bag. b6 -5 b7C -5

(U) The body in the garage was identified as Christina Marie Anderson, date of birth 07/01/1969. Anderson's home address was identified through her California Department of Motor Vehicles license as [redacted] San Diego, California. The grey Chevrolet Trailblazer parked in front of DiMaggio's burnt residence was registered to Anderson. As the search continued through DiMaggio's residence, [redacted] a small child were discovered. The child was later identified as Anderson's eight year old son, Ethan Skipjack Anderson. It was also determined [redacted] was missing. Investigation determined [redacted] had been picked up from [redacted] by an unknown person on 08/03/2013, at approximately 4:00 pm. b6 -5 b7C -5

(U) Interviews of family and friends determined DiMaggio to be a long time family friend who had taken [redacted] on several trips, the most recent being to [redacted] At approximately 12:10 am on 08/04/2013, a San Diego area highway camera captured video of DiMaggio driving his Nissan Versa with a female believed to be [redacted] as a passenger. An Amber Alert was issued on 08/05/2013. b6 -5 b7C -5 b3 -1

(U) On 08/06/2013, a State of California arrest warrant was issued charging DiMaggio with two counts of Murder and one count of Arson. In response, a massive manhunt involving the FBI, SDCSO, and the USMS was initiated to locate DiMaggio and rescue [redacted] While working in cooperation with each other, the FBI conducted a kidnapping investigation, the USMS a fugitive investigation, and the SDCSO a homicide investigation. b6 -5 b7C -5

(U) On 08/08/2013, [redacted] reported an unusual encounter with two individuals while horseback riding with [redacted] and two friends, [redacted] advised the four were riding horses on 08/07/2013 at approximately 9:30 am in a remote area near Cascade, Idaho. The group was riding on Sand Creek Trail, past a small airfield on Pistol Creek Ridge near Honeymoon Lake, where they encountered two individuals hiking on foot. The two individuals stepped off the left side of the trail to let the horses pass. One hiker appeared to be a forty year old male and the other a [redacted] female. The male remarked about wishing they had horses as well. [redacted] thought the man seemed suspicious, and "didn't like his look." [redacted] also thought it was odd the male was in such a remote area with a [redacted] female who did not appear related. [redacted] appeared nervous. As the group passed the hikers, [redacted] inquired as to b6 -5,8 b7C -5,8

where they were going. The male stated they were headed to the Salmon River. The group passed the two hikers and continued on their intended route.

(U) The male was described as white, approximately forty years old, five foot, ten inches tall, slim to medium build, with a three to four day growth of beard. He was wearing a grey sweatshirt, grey sweat pants, and tennis shoes. The male did not appear to be armed and was carrying a backpack. He did not appear dressed for strenuous hiking in a remote area.

(U) female was described as a with a She was approximately tall. She weighed approximately pounds. She was wearing Like the male, she did not appear dressed for strenuous hiking in a remote area. b6 -5 b7C -5

(U) At approximately 4:30 pm, as they were preparing to depart their fishing site, the group again encountered the two hikers. Since their first encounter, estimated the hikers had traveled on foot twelve miles with large packs to reach their current location near Morehead Lake. The male was holding a grey cat in his arms. Everyone in the group was surprised to see him with a cat, as the location was remote and known to be inhabited by wolves. asked the man where they were headed. The man stated they were traveling to the Salmon River. directed them to follow the trail to Sulfur Creek, then toward Dagger Falls. From there, told them the Salmon River was a "straight shot." The male thanked and his companions for the information. The male commented the hiking trip was his choice this year and stated the prior year, the female decided they would visit Hollywood and the Los Angeles, California area. b6 -8 b7C -8

(U) female was several yards away from the man, soaking her feet in Morehead Lake. made a joke suggesting the female would frighten the fish with her feet in the water. The female did not reply. As the group left the area, heard state, "We're in trouble now." Although everyone in s group had an uneasy feeling about the two hikers, they did not believe the female was in danger. b6 -5,8 b7C -5,8

(U) first learned of an Amber Alert, while watching the local news on 08/08/2013. During the news segment, photos of James DiMaggio and appeared, and instantly recognized the photos as the two hikers the group had encountered the prior day. Everyone in 's group agreed the photos in the Amber Alert appeared to be the two hikers.

(U) On 08/08/2013, a Command Post (CP) was established at the Valley County, Idaho Sheriff's Office and staffed by SU FBI, Idaho State Police (ISP), and Valley County Sheriff's Office (VCSO) personnel. Initially, Acting SSA coordinated FBI resources under the direction of ASAC who was in contact via telephone. During this time, ASAC provided telephonic briefings to SAC Mary Rook. b6 -1 b7C -1

(U) On 08/09/2013 at approximately 8:30 am, a conference call between the SU and San Diego (SD) Field Offices, Critical Incident Response Group (CIRG), and Criminal Investigative Division (CID) was held, and a decision was made to deploy CIRG and San Francisco (SF) Field Office aviation assets, SF and Portland (PD) Field Office SWAT personnel, and CIRG Tactical Section personnel to Idaho. Subsequent to the conference call, SAC Mary Rook designated ASAC as the On-Scene-Commander (OCS) of the operation. Shortly thereafter, ASAC departed Helena, Montana and arrived at the Cascade CP at approximately 8:00 pm. In addition, SU Supervisory Senior Resident Agent (SSRA) arrived at the CP. ASAC held an inter-agency briefing which included the VCSO, ISP, United States Customs and Border Protection (USCBP), USMS, and the United States Forest b6 -1 b7C -1

Service (USFS) during which ASAC [redacted] recapped the events, reviewed current intelligence, and developed a plan to conduct [redacted] b6 -1,5,8 b7C -1,5,8 b7E -1

(U) On 08/09/2013 at approximately 9:00 am, DiMaggio's Nissan Versa was located abandoned near a trail leading to the wilderness area where [redacted]s group encountered the male and [redacted] female on 08/07/2013 in Valley County, Idaho. SU ERT personnel responded and processed the scene.

(U) On 08/09/2013 at approximately 3:00 pm Eastern Standard Time (EST), HRT [redacted] Unit UC [redacted] received notification and authority from CIRG Assistant Director James Yacone and Tactical Section Chief (SC) Jay Tabb to deploy HRT personnel to Boise, ID to assist in the rescue of [redacted] Due to the limited intelligence available and the lack of a specific location, HRT had a general concept of operation to conduct rural foot patrols in order to locate DiMaggio and [redacted] UC [redacted] was designated as the Tactical Section On-Scene-Commander (TS – OSC), and led the deployment of [redacted] Unit HRT personnel from Richmond, VA to Boise, ID. b6 -1,5 b7C -1,5 b7E -7

(U) After arriving in Boise, UC [redacted] and Tactical Section personnel SSA [redacted] SSA [redacted] SSA [redacted] SSA [redacted] and SSA [redacted] traveled to the CP in Cascade. They reported to the CP at approximately 3:30 am on Saturday 08/10/2013. SA [redacted] of the SU Field Office, Boise Resident Agency, provided UC [redacted] and his team with a situational update. b6 -1 b7C -1

(U) On 08/10/2013 at approximately 7:00 am, UC [redacted] attended the morning situational update briefing at the CP conducted by SU ASAC [redacted] Subsequent to the briefing, UC [redacted] and his Command Staff developed an operational plan and general scheme of maneuver to deploy HRT Operators, assisted by SWAT Team Agents from the SU, SF, and Portland (PD) Field Offices, to search for and rescue [redacted] b6 -1,5 b7C -1,5

(U) At approximately 8:00 am, UC [redacted] conducted a conference call with CIRG Tactical SC Jay Tabb and other members of the Tactical Section Command Group. During this call, an operational plan was developed and refined [redacted] At the conclusion of the meeting, UC [redacted] participated in a conference call with the Strategic Information Operations Center (SIOC) at FBIHQ during which a situational update was provided. Participating in the call were personnel from FBIHQ, CIRG, SD, SU, Operational Technology Division, and the Salt Lake Emergency Operations Center. b6 -1 b7C -1 b7E -1

(U) At approximately 10:15 am, all remaining HRT personnel departed Boise and traveled by vehicle to a staging area adjacent to the CP, arriving in Cascade at approximately 12:15 pm.

(U) At approximately 12:00 pm, [redacted] spotted a campsite and a blue tent near Morehead Lake. Shortly thereafter, an FBI aviation asset relieved the [redacted] as part of a shift change. At approximately 12:30 pm, while continuing surveillance of this location, the FBI pilots identified one male, one female [redacted] a cat, and a blue tent at the campsite. In response to the new intelligence, UC [redacted] and his staff modified their tactical plan. Changes were made because they were confident DiMaggio and [redacted] had been located. The tactical plan was altered [redacted] Upon arrival to the campsite, HRT planned to conduct [redacted] UC [redacted] split the Tactical Operators into three assault elements, and held one of the HRT elements as a Quick Reaction Force (QRF). The FBI Field Office SWAT Teams were not directly involved [redacted] but were included in the plan in a b6 -1 b7C -1 b7E -1

supporting role. The plan was verbally briefed and UC [redacted] prepared to deploy the HRT Operators.

b6 -1
b7C -1
b7E -1,7

(U) Prior to deploying the HRT Operators, UC [redacted] and the HRT Operators reviewed communications procedures, the medical plan, and the FBI's Deadly Force Policy. HRT Operators were divided into [redacted] consisted of SSA [redacted] SSA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] and his canine, and SA [redacted] and his canine.

**d. Shooting Incident Details**

(U) At 1:40 pm, [redacted] departed in two helicopters from the CP toward the campsite. At approximately 2:08 pm, [redacted] inserted approximately [redacted] kilometers southwest of the campsite. [redacted] was unable to land at the original insertion point because of the terrain. They inserted at a secondary point further away and hiked up a mountain to their planned insertion point where they rallied together. SSAs [redacted] and lead route navigator SA [redacted] discussed the route. The surveillance aircraft continued to communicate intelligence from the campsite. At 2:55 pm, the remaining HRT [redacted] were inserted on the ground using the same insertion point.

b6 -1
b7C -1
b7E -1,7

(U) [redacted] marched forward until they were approximately one kilometer away from the campsite. At this point, SSA [redacted] then designated the location [redacted] Through relays from the aircraft, SSA [redacted] notified the Tactical Operations Center (TOC) their ETA to the campsite would be approximately 45 minutes. SSA [redacted] assigned roles to each operator. [redacted]

b6 -1,5
b7C -1,5
b7E -1,7

(U) [redacted] continued toward the campsite. [redacted] The plan was for SSA [redacted] s team ( [redacted] SSA [redacted] team was [redacted] Surveillance aircraft reported the campsite was 50 meters from the north edge of the lake. There was a small ridgeline between the lake and the camp. SSA [redacted] s team discovered they had no oversight of the camp because of the ridgeline and trees. While SSA [redacted] and his team were making their assent up the ridge, SSA [redacted] reported they were 150 meters out and spotted the subject. SSA [redacted] and his element continued to move forward. SSA [redacted] ordered SSA [redacted] to stop until [redacted] s team was in position to assist and cover. The surveillance aircraft reported the subject and female were now approximately 100 feet apart. SSA [redacted] and his team reached the top and realized they were not going to be able to provide support without compromising their positions. Surveillance aircraft reported the distance between the individual believed to be DiMaggio and the female had doubled. SAs [redacted] and [redacted] were able to see DiMaggio walking around the campsite gathering wood. At this point,

b6 -1
b7C -1
b7E -1

SSA [redacted] gave execute authority over the operation to SSA [redacted] who advised his group to move forward when ready. b6 -1 b7C -1

(U) SA [redacted] called over the radio "we're moving" and the assault was initiated. SSA [redacted]'s team crept forward toward the camp. SA [redacted] observed DiMaggio directly in front of him as SA [redacted] moved forward using trees as cover. SA [redacted] observed a rifle in DiMaggio's right hand. With several trees between SA [redacted] and DiMaggio, SA [redacted] observed DiMaggio raise the rifle at a 45 degree angle from the ground and fire one round. SA [redacted] then momentarily lost sight of DiMaggio as he continued forward. SA [redacted] heard DiMaggio fire a second round and believed DiMaggio was firing at him. At the same time, SA [redacted] observed DiMaggio facing west while holding a rifle with the muzzle elevated and stock dropped. SA [redacted] had a view of the right side of DiMaggio's body. SA [redacted] heard DiMaggio say something similar to "It is go time" or "Here we go" before firing two rounds in a westerly direction. After the shots were fired, SA [redacted] moved to acquire a better view and observed DiMaggio looking toward SA [redacted] with his rifle pointed in SA [redacted]'s direction. Fearing DiMaggio was about to shoot SA [redacted] SA [redacted] fired two shots at DiMaggio using his H&K Model 416 rifle. (ERT analysis determined SA [redacted] fired from approximately 68 feet.) Simultaneously, SA [redacted] observed DiMaggio turn the rifle in his direction and believed DiMaggio was about to fire. SA [redacted] also believed DiMaggio's actions posed a threat to SA [redacted] who was positioned just to the west of SA [redacted] In response, SA [redacted] fired six rounds using his Colt M-4 rifle. (ERT analysis determined SA [redacted] fired from approximately 99 feet.) DiMaggio was struck five times and dropped to the ground.

(U) As SAs [redacted] continued to advance on DiMaggio, they observed DiMaggio, while on the ground, make a hand movement toward what both believed to be a handgun in his waistband. In response, SA [redacted] fired one shot (ERT analysis determined SA [redacted] fired this last shot from approximately 13 feet) striking DiMaggio in the head. SAs [redacted] and [redacted] ran toward [redacted] who was screaming "Oh my God, help me." SA [redacted] handed [redacted] off to SA [redacted] and other operators for medical screening and evacuation. After SA [redacted] cleared the tent, the scene was secured. At approximately 5:26 pm, SAs [redacted] and [redacted] conducted a canine search of the campsite for explosives with negative results. b6 -1,5 b7C -1,5

(U) After the search for explosives was completed, SA [redacted] approached DiMaggio's body, rolled him over, and handcuffed his hands behind his back. SA [redacted] performed a quick search for weapons and removed a rifle, handgun, and knife from DiMaggio. DiMaggio's right hand was positioned on the rifle stock and his left hand was positioned on his torso near the pistol under his shirt. The knife was located in a front pocket. SA [redacted] moved the weapons away from DiMaggio's body and rendered them safe. SSA [redacted] a certified emergency medical technician, determined DiMaggio was not breathing and had no pulse. b6 -1 b7C -1

(U) Upon hearing shots, SSA [redacted] asked SSA [redacted] for a situation report. SSA [redacted] reported the subject was "down hard" and the victim was safe. At approximately 5:21 pm, SSA [redacted] advised the TOC the subject was "down hard" and "Jackpot, Jackpot, Jackpot." "Down hard" meant the subject was dead and "Jackpot" meant the hostage had been rescued. A perimeter search was conducted and the scene secured. A medical assessment conducted by SA [redacted] determined [redacted] was unharmed but had a minor knee injury. b6 -1,5 b7C -1,5

(U) At approximately 6:08 pm, [redacted] was evacuated from the area via helicopter and transported to an area hospital for medical treatment. Two members of the SU ERT and four members of SU SWAT arrived at the campsite at approximately 6:30 pm and conducted an initial assessment. SSA [redacted] and SAs [redacted] showed the ERT and SWAT personnel the sites from which [redacted] fired their weapons and the locations of the shell casings. SF SWAT arrived at approximately 9:00 pm and secured the scene until the SU b6 -1,5 b7C -1,5

ERT was able to process the scene the following morning. Physician's Assistant (PA) [redacted] was inserted after the scene was secure and pronounced DiMaggio dead. b6 -1,2,5 b7C -1,2,5

(U) At approximately 6:11 pm, the Salt Lake City Emergency Operations Center provided FBIHQ with a situational update summarizing the rescue of [redacted] and shooting of DiMaggio.

(U) From 6:00 pm until 9:00 pm, UC [redacted] coordinated the insertion of SWAT and ERT personnel, and the extraction from the rescue site of all HRT personnel. At 9:30 pm, the remaining HRT operators returned to the Command Post. On 8/11/2013 at approximately 9:15 am, UC [redacted] and HRT personnel returned to Boise, ID.

**Enclosures**

(U) All enclosures have been made part of this report and are identified in the enclosed table of contents.

## III. Administrative

### A. Shooting Incident Review Team (SIRT)

(U) The SIRT was composed of the following personnel:

Inspector-in-Charge (IIC) David Paul Gelios
Inspector Ronald Twersky
Inspector-in-Place (IIP) Michael Rankin
Assistant Inspector/Team Leader (TL) [redacted] b6 -1 b7C -1
TL [redacted]
TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP
AIIP

FBI Laboratory Assets:

SSA [redacted] TL Evidence Response Team Unit (ERTU) b6 -1 b7C -1
Physical Scientist [redacted] Firearms/Toolmarks Unit (FTU)
Supervisory Physical Security Specialist [redacted] - Technical Hazardous Response Unit (THRU)

### B. Shooting Incident Review Protocol

(U) All members of the SIRT reviewed the INSD Shooting Review Protocol.

(U) On 08/10/2013, IIC Gelios communicated with SU Special Agent in Charge (SAC) Mary F. Rook, to arrange logistics prior to arriving in Boise, Idaho. SAC Rook assigned ASAC [redacted] to serve as the Point of Contact for the SIRT during the investigation period. Members of the SIRT began arriving at approximately 1:00 pm on 08/11/2013. IIC Gelios and Inspector Twersky met with SAC Rook to explain the protocol of the shooting inquiry. SIRT protocols were outlined to all SIRT personnel and team members were given an opportunity to dialogue regarding questions and concerns prior to the investigation commencing. Over the next five days, SIRT personnel prepared over 100 investigative reports, reviewed surveillance video of the shooting incident, and visited the scene of the shooting at Morehead Lake near Cascade, Idaho.

b6 -1
b7C -1

(U) Signed Sworn Statements (SSS) were taken from five FBI personnel who were directly involved in the shooting or related events. All five FBI personnel were accompanied by [redacted] Federal Law Enforcement Officers Association (FLEOA) General Counsel. Other interviews, events, and observations were documented in FD-302s. The FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting) was executed by all personnel providing SSSs. Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor the FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. All SSSs and interviews of witnesses were conducted voluntarily and each interviewee was afforded the opportunity to review his statement.

b6 -2
b7C -2

(U) On 08/15/2013, an exit briefing was provided by IIC Gelios to District of Idaho U.S. Attorney Wendy Olson, Idaho State Police Major Kevin Hutchins, and Chief Deputy U. S. Marshal [redacted] SU SAC Rook and ASAC [redacted] participated telephonically.

b6 -1,3
b7C -1,3

## C. Personnel Involved in the Shooting

1. SA [redacted] Colt M-4 Serial Number [redacted];
2. SA [redacted] (Heckler & Koch 416 Serial [redacted])

b6 -1
b7C -1

## D. Firearms Training

(U) The HRT and Training Division provided qualifications records for SAs [redacted] and [redacted] A review of these Agents' records reflected the following:

b6 -1
b7C -1

(U) SA [redacted]'s most recent qualification with his FBI-issued Colt M-4 (Serial Number [redacted]) was on 10/19/2012.

(U) SA [redacted]'s most recent qualification with his FBI-issued Heckler & Koch 416, (Serial Number [redacted]) was on 06/24/2013.

## E. Deadly Force Training

(U) The CIRG CDC provided annual legal training to FBI CIRG employees on 09/25/2012, and the DOJ/FBI Deadly Force Policy was briefed. The CIRG CDC advised HRT was provided a DVD of the annual legal training presentation following the 09/25/2012 briefing. The CIRG CDC further advised CIRG policy required the Deadly Force Policy be briefed before every mission.

(U) INSD determined a verbal operation plan for the 08/10/2013 hostage rescue mission was briefed to all personnel involved in the operation. The DOJ/FBI Deadly Force Policy was briefed by UC [redacted] HRT on 08/10/2013 prior to commencement of the operation.

b6 -1
b7C -1



NYT-1015

## F. Use of Body Armor and Law Enforcement Identifiers

(U) All HRT personnel who engaged the subject wore ballistic body armor bearing FBI identifiers on the front and rear, and ballistic helmets.

## G. FBI Indices and National Crime Information Center (NCIC)

(U) On 08/12/2013, [redacted] Investigative Operations Specialist, Salt Lake City Division, conducted a Universal Index search for James Lee DiMaggio, white male, date of birth 01/17/1973, social security account number 454-37-6522 . The search yielded results for 7C-SD-3018376, the pending San Diego Division kidnapping investigation, and 89B-SU-3029104, the pending Salt Lake City Division Assault on a Federal Officer investigation. The search met with negative results for all other investigative matters. b6 -1 b7C -1

(U) On 08/11/2013, [redacted] Operational Support Technician, Salt Lake City Division, provided a printout dated 08/11/2013 from the National Crime Information Center (NCIC) for James Lee DiMaggio, white male, date of birth 01/17/1973, social security account number 454-37-6522 which contained no information regarding prior arrests or convictions. No current arrest warrants were listed.

(U) On 08/06/2013, a State of California arrest warrant was issued charging DiMaggio with two counts of Murder and one count of Arson. The arrest warrant was entered into NCIC on the same date and canceled subsequent to the shooting on 08/10/2013..

## H. ERT Report

(U) The Operational Projects Unit (OPU) was requested to prepare supporting demonstrative imagery and graphics for the SIRT. OPU obtained total station survey data, photographs and other imagery from SU ERT. The collected data was processed to create two-dimensional diagrams of the incident scene and the evidence locations. Additionally, OPU utilized the diagrams to produce an interactive presentation which linked photographs collected at the scene to the two-dimensional diagrams.

## I. FBI Lab Report

(U) The FBI Laboratory, Firearms/Tookmarks Unit issued a report dated 03/14/2014 which determined the nine Winchester 5.56 mm cartridges recovered at the scene were fired from weapons used by SAs [redacted] (three rounds) and [redacted] (six rounds). One bullet fragment removed from DiMaggio's body was identified as having been fired from SA [redacted] s weapon and another from SA [redacted] 's weapon. Three .22 Long Rifle caliber cartridges recovered at the scene were identified as having been fired from DiMaggio's Marlin rifle. b6 -1 b7C -1

(U) The Latent Print Operations Unit issued a report dated 12/04/2013 reported no latent fingerprints of value were detected on DiMaggio's weapons, cartridges or magazines.

## J. Medical Examiner Reports

(U) On 08/12/2013, Dr. [redacted] Forensic Pathologist, Office of the Coroner for Ada County, conducted the autopsy of James Lee DiMaggio. The official autopsy report dated 10/10/2013 indicated DiMaggio was shot six times, with wounds located in the head, chest, abdomen, upper right arm, right side of the body, and lower left leg. The information is categorized as follows: b6 -4 b7C -4

| | |
|---|---|
| Total Gun Shot Wounds | 6 |
| Fatal shots | Undetermined |
| Non-fatal shots | Undetermined |
| **Wound locations:** | |
| Head | 1 shot |
| Chest | 1 shot (fragments of core and jacket recovered) |
| Abdomen | 1 shot (single small caliber projectile recovered) |
| Upper Right Arm | 1 shot |
| Right Side of Body | 1 shot |
| Lower Left Leg | 1 shot |

(U) The final cause of death was reported as "Multiple Gunshot Wounds."

## K. Declination by the Civil Rights Division

(U) Upon completion of the on-site inquiry, IIC Gelios coordinated SIRT findings with [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division. On 09/03/2013, [redacted] was provided an incident summary and copies of all eyewitness interviews. On 12/05/2013, [redacted] was provided a copy of the autopsy, and a copy of the Medical Examiner interview. On 05/07/2014, following coordination with U.S. Attorney Wendy Olsen, District of Idaho, Mr [redacted] advised the circumstances of the Agent-involved shooting did not, "warrant a federal criminal investigation." b6 -3 b7C -3

## L. Local Prosecutive Opinion

(U) On 05/07/2014, Jay Kiiha, Valley County Prosecutor, Valley County Prosecuting Attorney's Office, Cascade, Idaho, declined presentment of the facts to the Grand Jury and declined prosecution of any FBI employee.

## M. Inspector's Observations

(U//~~FOUO~~) **Weapons Evidence Observation 1**: HRT personnel retained ammunition magazines used in a shooting incident prior to surrendering the magazines as evidence.

(U//~~FOUO~~) **Analysis 1**: FBI post shooting incident review guidelines, as established by INSD, required firearms and ammunition be collected, entered into evidence, and submitted to the FBI Laboratory for logical forensic examination(s).

(U//~~FOUO~~) The Field Evidence Management and Operations Policy Implementation Guide, Section 4.8, stated a "firearm/other" included "all accessories, parts, ammunition and associated items, including but not limited to: sites [*sic*], holsters, bayonets, cases, scopes, flash suppressors, magazines, muzzle attachments, and flashlights/laser sighting devices that are designed or meant to be used in conjunction with a firearm, and are to be classified and stored as a firearm and categorized and entered into the FBI's central recordkeeping system/collected items as a "Firearms/Other.""

(U//~~FOUO~~) INSD determined SAs [redacted] turned over their rifles to Unit Chief (UC) [redacted] for evidentiary purposes on 08/10/2013. On 08/11/2013, both rifles were turned over to SA [redacted] SU Evidence Response Team, for entry into SU evidence. Through interviews, INSD determined UC [redacted] advised SA [redacted] and SA [redacted] their magazines did not need to be submitted as evidence, rather UC [redacted] ejected the chambered round from each rifle, taped the round to the rifle, and returned the magazines to SAs [redacted] When INSD discovered the magazines were not entered into evidence, the magazines were collected by CIRG SSA [redacted] on 08/12/2013, and turned over to SU Evidence Technician [redacted] the same day.

b6 -1
b7C -1

(U//~~FOUO~~) **Instruction 1**: AD, CIRG will ensure all weapons and ammunition utilized during Agent-involved shootings are promptly placed into evidence in compliance with established INSD post shooting incident response protocols and Field Evidence Management and Operations PG, Section 4.8.

(U//~~FOUO~~) **SES Air Transport Observation 2**: SAC Mary Rook, Salt Lake City (SU) Field Office, experienced a several hour delay in securing approval to use an FBI aircraft.

(U//~~FOUO~~) **Analysis 2**: On 08/09/2013, SAC Rook contacted the Office of Integrity and Compliance (OIC) to request authorization to use an FBI aircraft to travel to an incident Command Post (CP) in Cascade, Idaho to lead search and rescue operations for a [redacted] year-old female who was kidnapped by James DiMaggio, a wanted murderer. OIC AD Patrick Kelley approved SAC Rook's request and copied OGC Attorney, [redacted] who also concurred with the request. This concurrence was based on the understanding of Attorney [redacted] the aircraft was to be used to aid in the search operation. [redacted]

b6 -1,5
b7C -1,5
b5 -2,3

(U//~~FOUO~~) On 08/10/2013, at approximately 1:30 pm, SAC Rook directed a SU ASAC to contact the SU Aviation Supervisor to schedule air transport from Salt Lake City, Utah to Idaho. A few minutes later, SAC Rook learned Assistant Section Chief (ASC) [redacted] Surveillance and Aviation Section (SAS), said the aircraft could not be utilized because SAC Rook did not have OGC approval. ASC [redacted] contacted Attorney [redacted] This changed the analysis under the pertinent regulation, OMB Circular A-126.

b6 -1
b7C -1
b5 -2,3

(U//~~FOUO~~) Thereafter, OGC Attorney [redacted] requested additional information regarding commercial flight availability and travel time to Idaho by automobile. SAC Rook determined there were no additional commercial flights to Boise that day, and it was an approximately nine hour drive to Cascade, Idaho. After receiving this information, OGC Attorney [redacted] Thereafter, DOJ concurrence was obtained the next business day.

b6 -1
b7C -1
b5 -2,3

(U//~~FOUO~~) Office of Management and Budget (OMB) Circular A-126, Section 5, paragraph c, defined "Official Travel" as "(i) travel to meet mission requirements, (ii) required use travel, and (iii) other travel for the conduct of agency business."

(U//~~FOUO~~) Bureau Aviation Regulations (BAR) Manual, Section 3.3.3, Official Travel, stated, "Under certain circumstances aircraft may be used for official travel." The BAR Manual definition of "Official Travel" mirrored the definition contained in OMB Circular A-126. While the BAR Manual required prior OGC approval for Senior Executive Service (SES) personnel under the "required use" and "other travel to conduct Bureau business" provisions, per the BAR Manual and OMB Circular A-126, "travel to meet mission requirements" involving SES employees did not require approval by the "agency's senior legal official or his/her principal official."

(U//~~FOUO~~) OMB Circular A-126 defined "Mission Requirements" as "activities that constitute the discharge of an agency's official responsibilities. Such activities include, *but are not limited to*, the transport of troops and/or equipment, training, evacuation … intelligence and counter-narcotics activities, *search and rescue* … transportation of prisoners, and other such activities."

(U//~~FOUO~~) Based on the totality of the circumstances, SAC Rook's efforts to obtain OGC authorization may not have been necessary as the need of an SAC, in some narrow circumstances, to utilize an FBI aircraft to expedite travel to a crisis site to lead crisis or incident operations would arguably meet the definition of "travel to meet mission requirements."

(U//~~FOUO~~) **Recommendation 2**: General Counsel, OGC should coordinate with the Department of Justice, Deputy Attorney General's Office to evaluate whether a more expansive interpretation of OMB Circular A-126 strictures regarding "travel to meet mission requirements" could be applied to SES utilization of FBI aircraft in exigent circumstances necessitating the timely travel of SES personnel to lead crisis site or major incident operations.

(U//~~FOUO~~) **Federal Arrest Warrant Observation 3**: FBI San Diego (SD) did not obtain a federal warrant for the arrest of James DiMaggio.

b5 -2

(U//~~FOUO~~) On 08/04/2013, the United States Marshals Service (USMS) responded to a request for assistance from the San Diego County Sheriff's Department (SDCSD) in the homicide investigation of James Lee DiMaggio. SDCSD investigators also believed DiMaggio kidnapped [redacted] and requested assistance from FBI SD on 08/05/2013. SD thereafter initiated a federal kidnapping investigation on 08/06/2013.

b6 -5
b7C -5

(U//~~FOUO~~) [redacted] On 08/06/2013, SDCSD obtained a State of California arrest warrant charging DiMaggio with two counts of murder and one count of arson.

b3 -1

(U//~~FOUO~~) On 08/06/2013, SD SSA [redacted] spoke to a Supervisory Deputy of the USMS about FBI plans to obtain an Unlawful Flight to Avoid Prosecution (UFAP) warrant for DiMaggio. The Supervisory Deputy indicated [redacted]

b3 -1
b6 -1,5
b7C -1,5
b7E -1

(U//~~FOUO~~) On 08/08/2013, FBI Salt Lake City (SU), Boise Resident Agency, received a credible report of a possible sighting of DiMaggio and [redacted] in a wilderness area in Valley County, Idaho. On 08/09/2013 at approximately 9:00 am, DiMaggio's Nissan Versa was located abandoned near a trail leading to the wilderness area. The sighting and recovered vehicle established a sufficient basis for the issuance of a federal arrest warrant for a violation of Title 18, USC, Section 1201 (Kidnapping).

b6 -5
b7C -5

(U//~~FOUO~~) On 08/10/2013, the FBI's Hostage Rescue Team (HRT) located and rescued [redacted] at a remote campsite nearby Morehead Lake in Valley County, Idaho. During an exchange of gunfire, James DiMaggio was fatally shot.

b6 -5
b7C -5

[redacted]

b6 -5
b7C -5
b5 -2

(U//~~FOUO~~) **Recommendation 3a**: SAC, SD should ensure federal arrest warrants are obtained in Predicated Investigations when sufficient probable cause exists.

(U//~~FOUO~~) **Recommendation 3b**: AD, CID should coordinate [redacted]

b7E -5

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 15-cv-09133

Total Deleted Page(s) = 1
Page 9 ~ b5 - 2,3;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Salt Lake City/HRT Agent-Involved Shooting

**Date:** 06/24/2014

**CC:** [redacted]

b6 -1
b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted]

**Case ID #:** 297I-HQ-A3034064 (U) Shooting Incident Non-Delegated

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 05/21/2014.

**Administrative Notes:** (U//~~FOUO~~) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 05/07/2014, prepared by Inspector-in-Charge (IIC) David Paul Gelios.

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Shooting Incident Report Dated 05/07/2014

**Details:**

(U//~~FOUO~~) On 05/21/2014, the SIRG convened to review a shooting incident which occurred on 08/10/2013, involving Hostage Rescue Team (HRT) Special Agents (SA) [redacted]

b6 -1
b7C -1

(U//~~FOUO~~) On 08/10/2013 at approximately 5:30 p.m., two FBI Hostage Rescue Team (HRT) Operators were involved in a shooting incident in the remote area of Morehead Lake near Cascade, Idaho. The subject was at a

campsite with a [redacted] he kidnapped in Boulevard, California on or about 08/03/2013. The subject was shot and killed, and [redacted] was safely recovered. No HRT operators were injured. b6 -5 b7C -5

(U//~~FOUO~~) On 08/04/2013, while responding to a fire at the Boulevard, California residence of James Lee DiMaggio, the California Department of Forestry discovered the deceased bodies of Christina Anderson and her son, Ethan Anderson. [redacted] [redacted] was missing. A San Diego area highway camera captured video of DiMaggio driving his vehicle with [redacted] as a passenger. On 08/05/2013, the San Diego County Sheriff's Office (SDCSO) requested assistance from the FBI. On 08/06/2013, the SDCSO obtained an arrest warrant for DiMaggio for two counts of homicide and one count of arson, and the San Diego Field Office (SD) initiated a kidnapping investigation. b6 -5 b7C -5

(U//~~FOUO~~) On 08/08/2013, the Salt Lake City (SU) Field Office, Boise Resident Agency, was notified a [redacted] observed an unknown male and an unknown female hiking with a gray cat in a wilderness area in Valley County, Idaho. The [redacted] thought the male and female were out of place, and noted they were carrying blue backpacks. Intelligence received from the SDCSO indicated DiMaggio likely purchased two blue backpack covers, and his gray cat was missing from his residence in California. The [redacted] reported the sighting after he and his three companions returned home and saw an Amber Alert relating to [redacted] On 08/09/2013, DiMaggio's Nissan Versa was located abandoned near a trail leading to the wilderness area. The sightings triggered a manhunt and deployment of FBI and law enforcement resources, to include SU investigative, Crisis Management, SWAT, Crisis Negotiation Team (CNT), and Evidence Response Team (ERT) personnel. b6 -5,8 b7C -5,8

(U//~~FOUO~~) On 08/08/2013, a Command Post (CP) was established at the Valley County, Idaho Sheriff's Office and staffed by SU personnel. On 08/09/2013, a conference call between the SU Field Office, San Diego (SD) Field Office, Critical Incident Response Group (CIRG), and Criminal Investigative Division (CID) was initiated, and a decision was

made to deploy CIRG and San Francisco (SF) Field Office aviation assets; SF and Portland (PD) Field Office SWAT personnel; and an HRT contingent composed of 41 CIRG personnel. CIRG personnel, including HRT Command Staff, arrived in Cascade, Idaho at approximately 3:00 a.m. on 08/10/2013. The initial mission planned for tactical personnel to search, assisted by aviation assets, for DiMaggio and [redacted]

b6 -5
b7C -5
b7E -1

(U//~~FOUO~~) In the late morning and early afternoon of 08/10/2013, United Sates Marshal's Service (USM) and FBI aviation assets supporting the search for DiMaggio and [redacted] observed a campsite consistent with earlier reporting placing DiMaggio and [redacted] north of Morehead Lake near Cascade, Idaho. FBI aviation assets assumed the lead for ongoing surveillance and observed a male, female [redacted] and cat at the campsite. Based on the surveillance information, HRT deployed [redacted] HRT Operators to hike into the campsite to locate and identify the individuals observed near Morehead Lake.

(U//~~FOUO~~) At 2:08 p.m., the first [redacted] HRT Operators were inserted at a landing zone approximately [redacted] kilometers from the campsite. This unit of HRT Operators hiked for more than two hours over difficult terrain toward the campsite. As the HRT Operators patrolled towards the campsite, FBI aviation assets observed the male attempting to camouflage a tent and the female attempting to signal aviation assets. Based on the additional intelligence, HRT Team Leaders continued traveling in the direction of the campsite. [redacted]

b7E -1

[redacted] FBI aviation assets advised the distance between the male and female was increasing. At approximately 4:22 p.m., SU and CIRG command staff at the CP in Cascade, ID granted the HRT Operators [redacted] authority to execute a rescue and arrest operation at the campsite.

(U//~~FOUO~~) The primary assault force consisted of Team Leader Supervisory Special Agent (SSA) [redacted] Special Agent (SA)

b6 -1
b7C -1

Title: (U//~~FOUO~~) Salt Lake City/HRT Agent-Involved Shooting
Re: 297I-HQ-A3034064, 06/24/2014

[redacted] SA [redacted] SA [redacted] SA [redacted] and SA [redacted] accompanied by his canine. [redacted] As they reached approximately 100 meters from the campsite, SA [redacted] spotted an individual he believed to be DiMaggio. At this point, the over-watch element advised they were not able to advance further without compromise of their position. The operators in that element did not see DiMaggio or [redacted] before the shooting. As the assault element moved forward, DiMaggio raised a rifle in the direction of the assault force and fired two shots. SA [redacted] and SA [redacted] returned fire and struck DiMaggio multiple times. As SA [redacted] and SA [redacted] quickly closed the distance to DiMaggio, they witnessed him reaching for a handgun in his waistband. SA [redacted] fired one additional shot striking DiMaggio in the head. Operators then moved in to secure [redacted] handcuff DiMaggio, and clear the scene for explosives with two canines. Located on or near DiMaggio's body were a .22 caliber rifle, 9mm pistol in his waistband, and knife. Operators escorted [redacted] to a nearby landing zone where she was flown out of the area.

b6 -1,5
b7C -1,5
b7E -1

**SIRG Observations**

(U//~~FOUO~~) On 05/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SAs [redacted] on 08/10/2013 was in compliance with the Department of Justice's Deadly Force Policy.

b6 -1
b7C -1

2. **Provide the Director with evaluative analyses, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.** The SIRG made the following recommendations and observations:

(U//~~FOUO~~) **Weapons Evidence Observation 1:** HRT personnel retained

ammunition magazines used in a shooting incident prior to surrendering the magazines as evidence.

(U//~~FOUO~~) **Analysis 1**: FBI post shooting incident review guidelines, as established by INSD, required firearms and ammunition be collected, entered into evidence, and submitted to the FBI Laboratory for logical forensic examination(s).

(U//~~FOUO~~) The Field Evidence Management and Operations Policy Implementation Guide, Section 4.8, stated a "firearm/other" included "all accessories, parts, ammunition and associated items, including but not limited to: sites [*sic*], holsters, bayonets, cases, scopes, flash suppressors, magazines, muzzle attachments, and flashlights/laser sighting devices that are designed or meant to be used in conjunction with a firearm, and are to be classified and stored as a firearm and categorized and entered into the FBI's central recordkeeping system/collected items as a "Firearms/Other.""

(U//~~FOUO~~) INSD determined SAs [redacted] turned over their rifles to Unit Chief (UC) [redacted] for evidentiary purposes on 08/10/2013. On 08/11/2013, both rifles were turned over to SA [redacted] SU Evidence Response Team, for entry into SU evidence. Through interviews, INSD determined UC [redacted] advised SA [redacted] and SA [redacted] their magazines did not need to be submitted as evidence, rather UC [redacted] ejected the chambered round from each rifle, taped the round to the rifle, and returned the magazines to SAs [redacted] and [redacted]. When INSD discovered the magazines were not entered into evidence, the magazines were collected by CIRG SSA [redacted] on 08/12/2013, and turned over to SU Evidence Technician [redacted] the same day.

b6 -1
b7C -1

(U//~~FOUO~~) **Instruction 1**: AD, CIRG will ensure all weapons and ammunition utilized during Agent-involved shootings are promptly placed into evidence in compliance with established INSD post shooting incident response protocols and Field Evidence Management and Operations PG, Section 4.8.

Title: (U//~~FOUO~~) Salt Lake City/HRT Agent-Involved Shooting
Re: 297I-HQ-A3034064, 06/24/2014

(U//~~FOUO~~) **SES Air Transport Observation 2:** SAC Mary Rook, Salt Lake City (SU) Field Office, experienced a several hour delay in securing approval to use an FBI aircraft.

(U//~~FOUO~~) **Analysis 2:** On 08/09/2013, SAC Rook contacted the Office of Integrity and Compliance (OIC) to request authorization to use an FBI aircraft to travel to an incident Command Post (CP) in Cascade, Idaho to lead search and rescue operations for a [redacted] year-old female who was kidnapped by James DiMaggio, a wanted murderer. OIC AD Patrick Kelley approved SAC Rook's request and copied OGC Attorney, [redacted], who also concurred with the request. This concurrence was based on the understanding of Attorney [redacted] the aircraft was to be used to aid in the search operation. [redacted]

b6 -1,5
b7C -1,5
b5 -2,3

(U//~~FOUO~~) On 08/10/2013, at approximately 1:30 p.m., SAC Rook directed a SU ASAC to contact the SU Aviation Supervisor to schedule air transport from Salt Lake City, Utah to Idaho. A few minutes later, SAC Rook learned Assistant Section Chief (ASC) [redacted] Surveillance and Aviation Section (SAS), said the aircraft could not be utilized because SAC Rook did not have OGC approval. ASC [redacted] contacted Attorney [redacted] This changed the analysis under the pertinent regulation, OMB Circular A-126.

b6 -1
b7C -1
b5 -2,3

(U//~~FOUO~~) Thereafter, OGC Attorney [redacted] requested additional information regarding commercial flight availability and travel time to Idaho by automobile. SAC Rook determined there were no additional commercial flights to Boise that day, and it was an approximately nine hour drive to Cascade, Idaho. After receiving this information, OGC Attorney [redacted]

b6 -1
b7C -1
b5 -2,3

[redacted] Thereafter, DOJ concurrence was obtained the next business day. **b5 -2,3**

(U//~~FOUO~~) Office of Management and Budget (OMB) Circular A-126, Section 5, paragraph c, defined "Official Travel" as "(i) travel to meet mission requirements, (ii) required use travel, and (iii) other travel for the conduct of agency business."

(U//~~FOUO~~) Bureau Aviation Regulations (BAR) Manual, Section 3.3.3, Official Travel, stated, "Under certain circumstances aircraft may be used for official travel." The BAR Manual definition of "Official Travel" mirrored the definition contained in OMB Circular A-126. While the BAR Manual required prior OGC approval for Senior Executive Service (SES) personnel under the "required use" and "other travel to conduct Bureau business" provisions, per the BAR Manual and OMB Circular A-126, "travel to meet mission requirements" involving SES employees did not require approval by the "agency's senior legal official or his/her principal official."

(U//~~FOUO~~) OMB Circular A-126 defined "Mission Requirements" as "activities that constitute the discharge of an agency's official responsibilities. Such activities include, *but are not limited to*, the transport of troops and/or equipment, training, evacuation … intelligence and counter-narcotics activities, *search and rescue* … transportation of prisoners, and other such activities."

(U//~~FOUO~~) Based on the totality of the circumstances, SAC Rook's efforts to obtain OGC authorization may not have been necessary as the need of an SAC, in some narrow circumstances, to utilize an FBI aircraft to expedite travel to a crisis site to lead crisis or incident operations would arguably meet the definition of "travel to meet mission requirements."

(U//~~FOUO~~) **Recommendation 2:** General Counsel, OGC should coordinate with the Department of Justice, Deputy Attorney General's Office to evaluate whether a more expansive interpretation of OMB Circular A-126

strictures regarding "travel to meet mission requirements" could be applied to SES utilization of FBI aircraft in exigent circumstances necessitating the timely travel of SES personnel to lead crisis site or major incident operations.

**Post SIRT Discussion with DOJ**

(U//~~FOUO~~) On 11/25/2013, [redacted] Justice Management Division, United States Department of Justice, responded in an E-mail to a request from [redacted] OGC, regarding the use of a government plane for critical mission-related work which would qualify as "travel to meet mission requirements." The E-mail response is noted as follows:

b6 -1,3
b7C -1,3

***From:*** [redacted] *(JMD) [mailto:*[redacted]*@usdoj.gov]*
***Sent:*** *Monday, November 25, 2013 10:29 AM*
***To:*** [redacted]
***Cc:*** [redacted] *(JMD);* [redacted] *(JMD)*
***Subject:*** *Use of Government Plane*

b6 -1,3
b7C -1,3

[redacted]

b6 -1
b7C -1
b5 -2,3

Title: (U//~~FOUO~~) Salt Lake City/HRT Agent-Involved Shooting
Re: 297I-HQ-A3034064, 06/24/2014

[redacted] b5 -2,3

[redacted] b6 -3 b7C -3

*Office of General Counsel*

*Justice Management Division*

*U.S. Department of Justice*

*(p)* [redacted]

*(f)* [redacted]

(U//~~FOUO~~) Based upon the response from DOJ regarding the use of aircraft for mission-critical needs, INSD considers this recommendation resolved and no further response is necessary.

(U//~~FOUO~~) **Federal Arrest Warrant Observation 3:** FBI San Diego (SD) did not obtain a federal warrant for the arrest of James DiMaggio.

(U//~~FOUO~~) **Analysis:** On 08/04/2013, the United States Marshal Service (USMS) responded to a request for assistance from the San Diego County Sheriff's Department (SDCSD) in the homicide investigation of James Lee DiMaggio. SDCSD investigators also believed DiMaggio kidnapped [redacted] b6 -5 b7C -5 and requested assistance from FBI SD on 08/05/2013. SD thereafter initiated a federal kidnapping investigation on 08/06/2013.

(U//~~FOUO~~) [redacted] b3 -1 On 08/06/2013, SDCSD obtained a State of California arrest warrant charging DiMaggio with two counts of murder and one count of arson.

Title: (U//~~FOUO~~) Salt Lake City/HRT Agent-Involved Shooting
Re: 297I-HQ-A3034064, 06/24/2014

(U//~~FOUO~~) On 08/06/2013, SD SSA [redacted] spoke to a Supervisory Deputy of the USMS about FBI plans to obtain an Unlawful Flight to Avoid Prosecution (UFAP) warrant for DiMaggio. The Supervisory Deputy indicated [redacted] b6 -1,5 b7C -1,5 b3 -1 b7E -5

(U//~~FOUO~~) On 08/08/2013, FBI Salt Lake City (SU), Boise Resident Agency, received a credible report of a possible sighting of DiMaggio and [redacted] in a wilderness area in Valley County, Idaho. On 08/09/2013 at approximately 9:00 am, DiMaggio's Nissan Versa was located abandoned near a trail leading to the wilderness area. The sighting and recovered vehicle established a sufficient basis for the issuance of a federal arrest warrant for a violation of Title 18, USC, Section 1201 (Kidnapping). b6 -5 b7C -5

(U//~~FOUO~~) On 08/10/2013, the FBI's Hostage Rescue Team (HRT) located and rescued [redacted] at a remote campsite nearby Morehead Lake in Valley County, Idaho. During an exchange of gunfire, James DiMaggio was fatally shot. b6 -5 b7C -5

(U//~~FOUO~~) While FBI policy as specified in both the *Legal Handbook for Special Agents* and *DIOG* allows for the arrest of an individual who is the subject of an FBI Predicated Investigation when a state or local arrest warrant is outstanding, and the person is encountered during the investigation and would likely escape if not arrested, DIOG, section 19.2.1, stipulates "Whenever possible, an arrest warrant must be obtained prior to an arrest." The *Legal Handbook for Special Agents*, section 3-3.1, states "Whenever possible, prosecution should be authorized by the U.S. Attorney, and a warrant issued prior to an arrest."

(U//~~FOUO~~) [redacted] b5 -2

[redacted] b6 -5 b7C -5 b5 -2

(U//~~FOUO~~) **Recommendation 3a:** SAC, SD should ensure federal arrest warrants are obtained in Predicated Investigations when sufficient probable cause exists.

(U//~~FOUO~~) **Recommendation 3b:** AD, CID should coordinate [redacted] b7E -5

3. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SAs [redacted] as a result of their involvement in this shooting incident. b6 -1 b7C -1

(U//~~FOUO~~) Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector David P. Gelios, Office of Inspections (OI), (INSD) Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Robert E. Hughes, Violent Criminal Threats Section, Criminal Investigative Division; SC Roger A. Coe, East Asia Section, Counterintelligence Division; Unit Chief (UC) [redacted] FTU, TD; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, b6 -1,3 b7C -1,3

Title: (U//~~FOUO~~) Salt Lake City/HRT Agent-Involved Shooting
Re: 297I-HQ-A3034064, 06/24/2014

Critical Incident Response Group (CIRG). In addition to the voting members in attendance, DOJ SIRG member [redacted] was unable to attend but reviewed the Shooting Incident Review Team report and provided his vote in writing prior to the SIRG. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors Trent R. Teyema, Shawn W. Stroud, Paul D. Delacourt, and Justin R. Tolomeo, OI, INSD; Team Leaders [redacted] OI, INSD; SC Jay S. Tabb, CIRG; SSA [redacted] Evidence Response Team, LD; UC [redacted], FTU, TD; [redacted] Special Assistant, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6 -1,3
b7C -1,3

**Procedures for Responding to the Instruction**

(U//~~FOUO~~) AD, CIRG, AD, CID, and SAC, SD are responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) AD, CIRG, AD, CID, and SAC, SD are required to provide a written response via EC, detailing the actions taken to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit, INSD. Once the EC is serialized, please e-mail the Sentinel link to MAPA [redacted]

b6 -1
b7C -1

# U.S. Department of Justice

*United States Attorney*
*District of Idaho*

WENDY J. OLSON, United States Attorney
[redacted] First Assistant United States Attorney
[redacted] Criminal Chief
[redacted] Civil Chief

*Washington Group Plaza IV*
*800 E. Park Blvd., Ste. 600*
*Boise, ID 83712-7788*
*(208) 334-1211*


b6 -3
b7C -3

**NEWS RELEASE**

**FOR IMMEDIATE RELEASE**
**ON MAY 7, 2014**

**CONTACT:** [redacted]

b6 -3
b7C -3

**Public Information Officer**
**WENDY J. OLSON**
**United States Attorney**
**(208) 334-1211**

**JAY J. KIIHA**
**Valley County Prosecuting Attorney**
**(208) 382-7120**

## Wendy J. Olson, United States Attorney for the District of Idaho, and Jay Kiiha, Valley County Prosecuting Attorney, Jointly Announce Criminal Charges Not Warranted in FBI Agents' shooting of James DiMaggio Last August

*Agents helped rescue sixteen-year-old hostage from remote campsite near Morehead Lake*

Based upon the information reviewed from the FBI Inspection Division Shooting Incident Inquiry, including the Autopsy Report and Post-Rescue Interview of the sixteen-year-old victim, and evidence gathered by the Valley County Sheriff's Office, the United States Attorney's Office for the District of Idaho, the Civil Rights Division of the United States Department of Justice, and the Valley County Prosecuting Attorney's Office have determined that the shooting by FBI Hostage Rescue Team agents on August 10, 2013, near Cascade, Idaho, resulting in the death of James DiMaggio, does not warrant federal or state criminal prosecution.

The United States Attorney's Office and the Civil Rights Division have concluded that the evidence is insufficient to support a determination that there was a violation of the federal criminal civil rights statutes and that a federal criminal investigation is unwarranted. The Valley

County Prosecuting Attorney's Office has determined that the FBI Hostage Rescue Team agents used reasonable force in defending themselves and/or another as relating to the death of Mr. DiMaggio.

In early August 2013, DiMaggio kidnapped a sixteen year-old- girl after killing members of her family in Boulevard, California. Pursuant to local tips on August 8 and 9, a law enforcement airplane located DiMaggio and his hostage on August 10 at a campsite near Morehead Lake, approximately forty miles from Cascade, Idaho.

Hostage Rescue Team agents were taken by helicopter and dropped within hiking distance of the campsite. They hiked to the campsite, tactically surrounded it, and began to close in through a wooded area to attempt to arrest the subject and rescue the hostage. The wooded area was steep, and the terrain difficult to negotiate. The airplane remained above the campsite and provided its observation of the activities of the subject and his hostage to the Hostage Rescue Team. Infrared video recorded from the airplane showed the arrest and rescue, including an overhead view of the action of the individuals involved and the heat from the shots that were fired.

Some of the Hostage Rescue Team agents moved in when it was reported that DiMaggio was separated from the hostage. When several agents got within approximately 100 yards of the subject, DiMaggio fired two rifle shots. Two agents, who could see DiMaggio and were directly within his firing line, believed DiMaggio was shooting toward them. The two agents returned fire, striking DiMaggio multiple times. A third agent found and safely removed the hostage.

Under federal law, in determining whether a law enforcement officer has willfully used more force than is necessary, prosecutors examine all of the facts and circumstances from the perspective of a reasonable law enforcement officer. Based on the consistent evidence gathered during the FBI's shooting incident review and the Valley County Sheriff's Office investigation, both the U.S. Attorney's Office and the Civil Rights Division have concluded that it cannot be established beyond a reasonable doubt that either Hostage Rescue Team agent acted willfully, intending to violate the law, when they fired at DiMaggio. Accordingly, the U.S. Attorney's Office and the Civil Rights Division decline to pursue any prosecution or further investigation of the agents.

Under Idaho State Law, force that a person may lawfully use in self-defense is limited by what a reasonable person in the same situation would believe to be necessary. A person may act in self-defense if a reasonable man, in the same situation, would be justified in believing himself in danger. As such, the Valley County Prosecutor's Office declines to pursue any further prosecution or investigation of the agents.

#####

**INSPECTION DIVISION**
**OFFICE OF INSPECTIONS**

# INSPECTOR'S REPORT

**AGENT INVOLVED SHOOTING**
**CHICAGO FIELD OFFICE**
**February 24, 2015**

**Ronald Twersky**
**Deputy Assistant Director**
**Inspection Division**

# CHICAGO DIVISION, AGENT INVOLVED SHOOTING
February 24, 2015
Executive Summary

**Deliberative Process Privileged Document**

(U//~~FOUO~~) On February 24, 2015, at approximately 4:55 p.m., Special Agent (SA) [redacted] from the Chicago Field Office, was involved in an Agent Involved Shooting (AIS) in Chicago, Illinois. SA [redacted] was part of a [redacted] supporting [redacted] operation linked to a predicated [redacted] Investigation ([redacted]). During the operation, one of the subjects ([redacted]) displayed and pointed a weapon at [redacted] SA [redacted] responded and issued commands for [redacted] to drop the weapon. When [redacted] did not comply, [redacted] fired one round from his FBI issued Glock Model 22 handgun, serial number [redacted]. The round missed [redacted] who quickly surrendered and was taken into custody. No injuries or property damage were identified as a result of the AIS. The investigation was delegated to the Chicago Field Office.

b6 -1,5,7,8
b7C -1,5,7,8
b7A -1
b7D -1
b7E -3

## Background

(U//~~FOUO~~) On July 24, 2014, the Chicago Field Office opened a predicated investigation ([redacted]) to target the [redacted] Throughout February of 2015, SA [redacted] worked [redacted] with Chicago Police Department (CPD) Police Officer [redacted] authority to participate in [redacted] was properly documented with appropriate approvals. Officer [redacted] and SA [redacted] participated in several [redacted]

SA [redacted] drafted an operation plan which was approved by SSA [redacted] and by A/ASAC [redacted] SA [redacted] briefed the operation team on February 23, 2015, and planned to conduct [redacted], Chicago, Illinois.

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7E -1,3
b7D -1

(U//~~FOUO~~) SA [redacted] rescheduled and re-briefed the operation on February 24, 2015, due to operational need. The DOJ Deadly Force Policy was incorporated into the operation plan, and SA [redacted] briefed the Policy to the operation team during the February 23rd and 24th briefings. In addition, SA [redacted] advised CPD Task Force Officers (TFO) to follow the CPD Use of Force policy. Although briefings were conducted on the 23rd and on the 24th, several team members expressed during their interviews confusion about their assigned roles. In addition, Agent and TFO personnel indicated they were unfamiliar with the participating CPD [redacted] Officers.

b6 -1
b7C -1
b7E -3

(U//~~FOUO~~) On February 24, 2015, at approximately 1:59 p.m., SA [redacted] TFO [redacted] and CPD Officer [redacted] met with [redacted] At approximately 2:07 p.m., TFO [redacted] searched [redacted] with negative results. SA [redacted] searched [redacted] with negative results as well. At approximately 2:08 p.m., [redacted]

b6 -1,4,8
b7C -1,4,8
b7D -1
b7E -1,3

b6 -4,8
b7C -4,8
b7D -1
b7E -1,3

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7D -1
b7E -1,3

(U//~~FOUO~~) At approximately 4:55 p.m., TFO observed an unknown black male approach from the South on foot. As the unknown male (later identified as ) approached TFO called out the identifiers to the cover team via radio. walked past the continued Northbound, and out of sight. reappeared wearing a mask over his face brandished a revolver, pointed it in the direction of and demanded cash.

b6 -4,5,7
b7C -4,5,7
b7A -1
b7E -3

(U//~~FOUO~~) Members of the FBI cover team, comprised of FBI Special Agents, as well as CPD TFOs and Officers, observed the actions of indicating was robbing The cover team moved to the scene led by TFO and SA Upon arrival, SA placed his weapon in his left hand, pulled on the door handle with his right hand, announced himself as a law enforcement officer, and issued commands to which did not comply. Perceiving posed an imminent threat to himself, FBI Agents, and CPD Officers, SA fired a single shot from the back seat of TFO 's vehicle. immediately surrendered, was taken into custody, and a fully-loaded Rossi revolver was recovered. No other Agents or law enforcement officers fired their weapons.

b6 -1,4,5,7
b7C -1,4,5,7
b7A -1
b7E -1,3

(U//~~FOUO~~) was not hit by SA 's bullet. A subsequent interview and the post-arrest and recorded statements of the subjects confirmed conspired to rob until approximately

b6 -1,5,7
b7C -1,5,7
b7A -1
b7E -1,3

(U//~~FOUO~~) There were four Agents, three TFOs, three [redacted] Officers, and [redacted] in proximity to the shooting incident. b6 -1,4,5,7 b7C -1,4,5,7 b7E -3

(U//~~FOUO~~) SSA [redacted] responded to the scene at approximately 5:40 p.m. and secured SA [redacted]'s Glock 22. Chicago ERT began processing the scene at approximately 7:30 PM on February 24, 2015. Among the 11 evidentiary items collected, a Rossi Revolver handgun, serial number [redacted] and associated ammunition were recovered. The casing from the round fired by SA [redacted] was recovered from the rear passenger bench of the [redacted] driven by TFO [redacted] At 11:45 p.m., on February 24, 2015, ERT completed processing the scene. Though an extensive search was conducted, the single round fired by SA [redacted] was not recovered.

(U//~~FOUO~~) At approximately 7:45 p.m., Chicago Field Office Acting Special Agent in Charge (A/SAC) [redacted] notified Chief Inspector David Gelios of the AIS. At approximately 7:50 p.m., A/ASAC [redacted] notified SIOC of the shooting, and at approximately 11:08 p.m., A/ASAC [redacted] submitted an FD-1015 (ESR) to SIOC. b6 -1,7 b7C -1,7 b7A -1

(U//~~FOUO~~) On February 25, 2015, as a result of the AIS, Chicago Field Office opened an Assault on a Federal Officer Investigation ([redacted]) with [redacted] as named subjects. A National Crime Information Center (NCIC) criminal history check for [redacted] included prior arrests for Assault, Larceny, Robbery, Dangerous Drugs, Armed Robbery with a Firearm, and Violation of Parole. The NCIC criminal history check for [redacted] was negative. Neither [redacted] had active warrants on record.

(U//~~FOUO~~) On February 27, 2015, SA [redacted]'s FBI issued Glock 22, serial [redacted] handgun was submitted to the Training Division, Defensive Systems Unit (DSU), for a Weapon Serviceability Inspection. DSU reported the Glock 22 passed all function tests. b6 -1 b7C -1

(U//~~FOUO~~) SA [redacted] graduated from New Agent Training in [redacted] A review of his FBI Academy firearms training record revealed he last qualified with his pistol on December 8, 2014, when he shot three PQCs ([redacted]). On January 07, 2015, SA [redacted] qualified with the Colt Pattern Carbine when he shot one CQC ([redacted]). SSA [redacted] of the FBI's New Agent Academy staff, indicated SA [redacted]'s primary legal instructor was SSA [redacted]. She also indicated SA [redacted] scored a [redacted] on his October 10, 2014, legal exam, which covered the FBI Deadly Force Policy.

(U//~~FOUO~~) SA [redacted] signed an FD-927 (*Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident*) on March 6, 2015 and signed the Signed Sworn Statement (SSS) on April 24th, 2015. Other witness interviews included [redacted] These additional interviews, events, and witnesses were documented via FD-302s. The SSS and witness interviews were conducted voluntarily by [redacted] SA [redacted]'s SSS was consistent with the information provided by the other Agents and law enforcement personnel at the time of the shooting as well as the statements of [redacted] b6 -1,4,5,7 b7C -1,4,5,7 b7E -3

(U//~~FOUO~~) INSD determined many participants interviewed during the AIS investigation admitted they were unable to recall who was present during the operation briefings and who participated in the actual operation. Additionally, members of the CPD [redacted] were unfamiliar to the Agents and TFOs. In SA [redacted]'s interview, he stated he was "…unsure who was present for the operational briefing." TFO [redacted] advised she was not aware of the team members who had changed between February 23rd and February 24th. During TFO [redacted]s interview, he stated he was not sure who from the FBI teams were dropped and who were the new additions. TFO [redacted] added during her interviews: "Since she did not personally know these additional CPD [redacted] officers, nor know all the other Agents on the operation, she could not be sure of each and every individual on the operation, nor changes in the personnel from Monday to Tuesday since replacement did occur due to scheduling conflicts." Police Officer [redacted] stated he, "never met individual team members on either February 23rd or 24th."

b6 -1,4
b7C -1,4
b7E -3

(U//~~FOUO~~) Chief Division Counsel (CDC) [redacted] verified Department of Justice (DOJ)'s Civil Rights Section Attorney, [redacted] declined to pursue any prosecution of the AIS, "given that nobody was hit by the shots." Cook County State's Attorney (CCSA) Michael Golden advised the actions taken by the FBI on February 24, 2015, to include the use of deadly force, were justified and necessary in response to a reasonable belief the subject posed an imminent danger of death or serious physical injury to [redacted]

b6 -1,3,5
b7C -1,3,5

**Proposed Observations**

**PROPOSED OBSERVATION #1**: The operation plan briefing was inadequate, as defined roles and responsibilities were not communicated to all members of the multi-agency operation.

**PROPOSED INSTRUCTION #1**: SAC, Chicago will ensure operation plans are properly briefed for operations [redacted] b5 -2

**PROPOSED OBSERVATION #2**: The Special Agent involved in the AIS reviewed [redacted] [redacted] shortly after the incident. b7A -1 b7E -1,3 b7D -1

**PROPOSED INSTRUTION #2**: SAC, Chicago will ensure personnel involved in shooting incidents are separated to ensure their independent account of events is not unduly influenced.

**PROPOSED OBSERVATION #3**: Personnel assigned were not wearing their body armor at the commencement of the operation.

**PROPOSED INSTRUCTION #3**: SAC, Chicago, will ensure personnel assigned to Operations are fully equipped and wear their issued body armor, in accordance with DIOG 19.2.3.

OFFICIAL RECORD
Document electronically signed
All signatures have been verified by a
certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Agent Involved Shooting (AIS) **Date:** 05/15/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** CHICAGO
CG-WC-3
**Contact:** [redacted]

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297J-HQ-A6151928 (U) Chicago Field Office Shooting Incident

**Synopsis:** (U) To Report results of a review of a shooting incident involving Special Agent (SA) [redacted] which occurred on February 24, 2015. b6 -1 b7C -1

**Administrative Notes:** (U) None

**Package Copy:** (U) None

**Details:**

**I. Executive Summary**

In July 2014, Special Agent (SA) [redacted] initiated a [redacted] Investigation ([redacted]) predicated on Confidential Human Source (CHS) reporting, which targeted [redacted] of Chicago, Illinois. [redacted] SA [redacted] and his squad intended to [redacted] b6 -1,8 b7C -1,8 b7A -1 b7D -1 b7E -1,3

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS)
Re: 297J-HQ-A6151928, 05/15/2015

In early February 2015, SA [redacted] was introduced to a [redacted] he could SA [redacted] conducted a number of interviews of [redacted] In coordination with CPD, SA [redacted] orchestrated and drafted the operation plan [redacted] originally scheduled for February 23, 2015. Due to the in-availability [redacted] on the originally-planned operation date of Monday, February 23, 2015, the operation occurred on the afternoon of Tuesday, February 24, 2015.

b6 -1,8
b7C -1,8
b7A -1
b7D -1
b7E -1,3

On February 24, 2015, as the operation commenced, a meeting occurred [redacted] about 4:55 p.m. [redacted] The second subject, later identified as [redacted], subsequently walked up, and wearing a face mask, brandished a revolver, pointing it in the direction of [redacted] Members of the FBI cover team, comprised of FBI Special Agents, as well as CPD Task Force Officers (TFOs) and [redacted] Officers, observed the actions of [redacted] indicating [redacted] was robbing [redacted] The cover team moved in, led by a vehicle that contained FBI SA [redacted] and TFO [redacted]

b6 -1,4,5,7
b7C -1,4,5,7
b7A -1
b7E -1,3

Upon arrival, SA [redacted] announced himself as a law enforcement officer, gave commands to [redacted] that were not complied with, and then fired a single shot at [redacted] in order to eliminate the threat posed by [redacted] SA [redacted] himself, and other responding law enforcement officers. Following SA [redacted]'s actions, [redacted] immediately surrendered, was taken into custody, and his weapon was recovered. It was later determined neither of the subjects were hit by SA [redacted]'s bullet. A subsequent interview of [redacted] and the

b6 -1,5,7
b7C -1,5,7

post-arrest and recorded statements of the subjects, confirmed the subjects were attempting to rob [redacted] at gunpoint.

There were approximately 11 Agents, TFOs, [redacted] Officers, [redacted] in close proximity to the shooting incident. The Signed Sworn Statement (SSS) of SA [redacted], who fired his weapon, was consistent with the statements of the law enforcement personnel present at the time of the shooting, as well as [redacted] and the two subjects. No other law enforcement officers fired their weapons and none were injured. The shooting scene was processed by FBI Chicago ERT. A fully-loaded Rossi (serial #[redacted]) revolver was recovered on the ground, in close proximity to [redacted].

b6 -1,5,7
b7C -1,5,7
b7E -1,3

## II. Incident Details

### a. Substantive Case Files and Background Information

Prior to the shooting incident, the following substantive [redacted] case was opened. As a result of the AIS, the Chicago Field Office opened an Assault on a Federal Officer Investigation. The two cases are as follows:

b6 -1,4,7
b7C -1,4,7
b7A -1

1) Title: (U) [redacted]
OO: CG

File number: [redacted]
Date opened: July 24, 2014
Case Agent: Special Agent [redacted]
Supervisor: Supervisory Special Agent [redacted]
Squad: CE-1

2) Title: (U) [redacted]

SA [redacted] - VICTIM
TFO [redacted] - VICTIM
AFO

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS)
Re: 297J-HQ-A6151928, 05/15/2015

File number: [redacted] b6 -1 b7C -1 b7A -1
Date opened: February 25, 2015
Case Agent: Special Agent SA [redacted]
Supervisor: Supervisory Special Agent [redacted]
Squad: VC-1

**b. Listing of Personnel Involved in the Incident**

1. SA [redacted] b6 -1,4,5 b7C -1,4,5 b7E -3
2. SA
3. SA
4. SA
5. CPD TFO [redacted]
6. CPD TFO
7. CPD TFO
8. CPD [redacted]
9. CPD [redacted] Sergeant (Sgt.) [redacted]
10. CPD [redacted]
11. [redacted]

**c. Case Review and Operation Briefings**

In early February 2015, SA [redacted] was introduced to [redacted] b6 -1,7,8 b7C -1,7,8 b7A -1 b7D -1 b7E -1,3 [redacted] he could [redacted] SA [redacted] conducted a number of interviews of [redacted] As a result of SA [redacted]'s development of [redacted] The operation order, titled "Operations order for [redacted]" was originally briefed on February 23, 2015 (see [redacted] by SA [redacted] at the Chicago Field Office. All of the agents and TFOs, who were listed in the original Operations Order, participated in one of the two briefs, which occurred on February 23, 2015, and in a summarized, abbreviated

fashion on February 24, 2015 prior to the operation's commencement. The DOJ Deadly Force Policy was incorporated into the operations order, and SA [redacted] briefed the DOJ Deadly Force Policy to the surveillance teams during the February 23, 2015 briefing, while mentioning CPD TFOs would follow their own CPD use of force policy. b6 -1 b7C -1

The following personnel were present at the February 23, 2015 briefing in CE-1's squad area and later, participated [redacted] on February 24, 2015: b6 -1,4 b7C -1,4 b7A -1 b7E -3

1. SA [redacted]
2. SA
3. SA
4. SA [redacted] (Conducted briefing)
5. CPD TFO [redacted]
6. CPD TFO
7. CPD TFO
8. SSA [redacted] (initially supervised by radio from office, deployed after shooting occurred)

The following personnel were also present during the February 23, 2015 briefing but were unavailable for [redacted] on February 24, 2015: b6 -1,4 b7C -1,4 b7A -1 b7E -3

9. CPD TFO [redacted]
10. SA [redacted]
11. SA
12. SA
13. SA

The following personnel were present for the February 24, 2015 briefing in CE-1's squad area and participated in [redacted] operation: b6 -1 b7C -1 b7A -1 b7E -3

1. SA [redacted]
2. SA
3. SA

4. CPD TFO [redacted]
5. SA [redacted]
6. CPD TFO [redacted] (briefed enroute)
7. CPD TFO [redacted]

b6 -1,4
b7C -1,4

The following CPD [redacted] officers were briefed by SA [redacted] and TFO [redacted] at a CPD offsite, just prior to the operation commencing. However, the below CPD [redacted] officers did not attend a joint briefing with personnel listed above at the FBI Chicago Field Office on either February 23 or 24, 2015:

b6 -1,4
b7C -1,4
b7E -3

1. CPD [redacted] Officer [redacted]
2. CPD [redacted] Sgt. [redacted]
3. CPD [redacted] Officer [redacted]

A photograph of the known [redacted] subject, [redacted] was handed out to all present for the Operational briefing on February 23, 2015. The briefing, held on February 24, 2015, where those who had not attended the first briefing received a copy of the operational plan, which included a copy of [redacted]'s attached photograph. [redacted]

b6 -7,8
b7C -7,8
b7D -1
b7E -1,3

**d. Events Leading Up to the Shooting**

In February 2015, SA [redacted] was working [redacted] explained [redacted] Throughout February 2015, Case Agent [redacted] conducted a number of interviews of [redacted] side of Chicago on February 23, 2015, later re-scheduled for February 24, 2015.

b6 -1,7,8
b7C -1,7,8
b7A -1
b7E -1,3
b7D -1

In the late afternoon of February 24, 2015, FBI Chicago Division's

CE-1 conducted [redacted] b6 -5,7 b7C -5,7 b7A -1 b7E -1,3 b7D -1

**e. Shooting Incident Details**

[redacted] b6 -1,4,5,7 b7C -1,4,5,7 b7A -1 b7E -1,3 an unknown subject, later identified as [redacted] subsequently walked up wearing a face mask, brandished a revolver, and pointed it in the direction of [redacted] Observing this real time, [redacted] members of the FBI cover team, comprised of FBI Special Agents, CPD TFOs, and [redacted] Officers, responded in an effort to eliminate the threat to [redacted] and others. The first cover team vehicle arrived shortly after threats were made. This first responding vehicle contained FBI SA [redacted] and CPD TFO [redacted] Upon arrival, SA [redacted] announced himself as law enforcement, gave commands to [redacted] that were not complied with, and then fired a single shot at [redacted] in an effort to eliminate the threat to [redacted] SA [redacted] himself, and other responding law enforcement officers. Following SA [redacted]'s actions, [redacted] immediately surrendered, was taken into custody, and his weapon recovered. It was later determined neither of the subjects were hit by SA [redacted]'s bullet. Post-arrest interviews of [redacted] subjects confirmed the subjects were attempting to rob [redacted] at gunpoint. All witness accounts were consistent regarding the details of the shooting.

**f. Post Shooting Details**

Immediately following the shooting, CPD Sgt. [redacted] who was part of the cover team, made radio contact with CPD dispatch to alert the local police district. Primary Relief SA [redacted], who was part of the cover team, immediately assumed control of the scene. Along with Sgt. [redacted] SA [redacted] made the initial liaison with responding police officers and ensured the safety of all personnel, including SA b6 -1,4 b7C -1,4

[redacted] SSA [redacted] who had monitored the team's radio traffic throughout the operation and learned of the shooting via FBI radio as it occurred; responded to the scene immediately thereafter. The surveillance of [redacted] was captured by mobile video camera by SA [redacted] after which, the arrests and shooting were recorded by the [redacted] b6 -1 b7C -1 b7A -1 b7E -3

FD-302 interviews of the three Agents, and interviews of the two CPD TFOs, who observed the actions taken by SA [redacted] corroborated the factual accounting of the shooting. No other law enforcement officers fired their weapons and none were injured. The shooting scene was processed by the Chicago FBI ERT team, and the loaded Rossi revolver was recovered from the ground, under a jacket located beside [redacted] just following the take down and arrests of the subjects. b6 -1,7 b7C -1,7

The Chicago Field Office took precautions to minimize the threats to the community during [redacted] The task force personnel assumed positions to minimize potential cross fire and maximize direct observation of [redacted] The emergency medical plan was detailed and briefed appropriately. While [redacted] was the mission, Case Agent [redacted] had briefed, and planned to cease the operation within 30 minutes of dusk to ensure [redacted] b6 -1 b7C -1 b7E -1,3

**g. Accounting of Shots Fired**

SA [redacted] fired one .40 caliber round from his weapon. The single shell casing was recovered from his surveillance vehicle by the Chicago ERT team at the scene. Though an extensive search was conducted of the area post-shooting, due to the numerous snow banks surrounding the area of the incident, the bullet was not recovered. The response team, to include representation from the Chicago Field Office management team, b6 -1 b7C -1

ERT Team, and members of VC-1, the squad that handled the post-shooting investigation into the assault of federal officers, conducted an on scene review and confirmed no other personnel fired their weapons during the operation.

**h. Subject Information**

| | |
|---|---|
| Name | |
| Position | |
| Sex/Race | |
| Height | |
| Weight | |
| Hair | |
| Eyes | |
| DOB | |
| SSAN | |
| FBI# | |

b6 -7
b7C -7

The National Crime Information Center (NCIC) criminal history check for [redacted] was negative.

b6 -7
b7C -7

The NCIC criminal history check for [redacted] included prior arrest for assault, larceny, robbery, dangerous drugs, armed robbery with a firearm, and violation of parole. Neither [redacted] nor [redacted] had active warrants on record.

**i. Use of Body Armor and Law Enforcement Identifiers**

b6 -1,4
b7C -1,4
b7E -3

All Special Agent members of CE-1's [redacted] Task Force wore Level IV body armor with FBI and/or Police flaps displayed in the front, and/or the back. SA [redacted] confirmed the wearing of body armor, as did TFOs [redacted] clarified that, as the threat of the second subject became apparent and TFO [redacted] began to move their vehicle from the outer perimeter toward the parking lot, "the group in TFO [redacted]'s vehicle... put on their vests (FD-302, SA [redacted] page 3)." It was also noted some placards may have not been visible, as task force

members on the perimeter wore their body armor under winter clothing, given their surveillance responsibilities. SA [redacted] had noted his FBI placard had been removed at the time he addressed the threat of [redacted] due to the covert nature of his surveillance responsibilities. b6 -1,7 b7C -1,7 b7E -3

**j. Forensic Summary**

On February 24, 2015, the Chicago ERT deployed to the rear of the residential property located at [redacted] Chicago, Illinois, [redacted] At 7:30 p.m., 20 minutes after arriving, ERT began processing the scene. At 8:10 p.m., Chicago photographers began Spherical Photography, while ERT began utilization of Total Station to complete mapping of the location of the shooting. Among the 11 evidentiary items collected, a Rossi Revolver handgun, serial number [redacted] (Item #9, #1B13) and associated ammunition (Item #10, #1B14), were recovered. The casing from the one round fired by SA [redacted] [redacted] (Item #8) was recovered from the [redacted] of the [redacted] driven by TFO [redacted] At 11:45 p.m., on February 24, 2015, processing of the scene was concluded.

An inventory of all recovered evidentiary items follows:

| ITEMS | DESCRIPTION | WHERE FOUND | RECOVERED BY/ OBSERVED BY | PACKAGING METHOD | NOTES |
|---|---|---|---|---|---|
| 1 | LG Cell Phone | Top of garbage can | | Faraday Bag | |
| 2 | Apple iPhone | Top of garbage can | | Faraday Bag | |

b6 -1 b7C -1

b6 -1,7
b7C -1,7

| | | | | | |
|---|---|---|---|---|---|
| 3 | Apple iPhone Charger and Ear Phones | Top of garbage can | | Paper | |
| 4 | (2) Boxes of Cherry Head Candy | In front of garbage can | | Plastic | |
| 5 | Blue Bic Lighter | Top of garbage can | | Plastic | |
| 6 | Black Cap | Ground in front of garbage can | | Paper | |
| 7 | Black Down Vest | Ground in front of garbage can | | Paper | |
| 8 | 1 Cartridge Casing | | | Plastic | |
| 9 | Rossi Revolver Serial Number [redacted] | | | Gun Box | Moved from original position. Secured by SA [redacted] prior to ERT arrival and packaging |
| 10 | (5) 38 Special Cartridges | | | Plastic | Moved from original position. Secured by SA [redacted] prior to ERT arrival and packaging |

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS)
Re: 297J-HQ-A6151928, 05/15/2015

| | | | | | |
|---|---|---|---|---|---|
| 11 | Undetermined amount of US Dollars | | | Plastic | Moved from original position. Secured by SA [redacted] |

b6 -1
b7C -1

**k. Medical Summary**

No injuries of FBI Agents or arrested subjects.

**III. Shooting Incident Review Team Details**

**a. The Shooting Incident Review Team (SIRT) was comprised of the following personnel:**

Inspector-in-Place (IIP) David W. Paun
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]

b6 -1
b7C -1

**IV. Shooting Incident Review Protocol**

On February 24, 2015, at approximately 7:45 p.m., Chicago Field Office Acting Special Agent in Charge (A/SAC) [redacted] notified Chief Inspector David Paul Gelios of the shooting incident. At approximately 7:50 p.m, A/ASAC [redacted] telephonically notified SIOC of the shooting, and at approximately 11:08 p.m., A/ASAC [redacted] submitted an Emergency Situation report (ESR) to SIOC.

b6 -1
b7C -1

On February 25, 2015, the SIRT team assignments were made and the local AIIPs reviewed the Inspection Division shooting review protocol with IIP Paun, after having met with Chicago Division EM regarding the previous evening's incident. The same morning, SIRT members met with the involved FBI agents, CPD TFOs, and management personnel to explain the SIRT process and protocols, explaining their intention to schedule interviews of all witnesses in an expeditious manner. After consultation with CPD, it was determined that since no CPD TFOs had

fired their weapons, CPD would not be open an investigation, and would not need CPD investigative participation for CPD personnel interviews, outside of Fraternal Order of Police (FOP) representation, if so requested by CPD employees.

In total one SSS was taken from SA [redacted], who was directly involved in the shooting. Other witness interviews included three FBI Agents, six CPD officers, and [redacted] These additional interviews, events, and witnesses were documented via 302s. The SSS and witness interviews were conducted voluntarily. A FD-927 (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) was signed by the Agent interviewed by SSS. b6 -1,5 b7C -1,5

CDC [redacted] verified the Department of Justice's (DOJ) Civil Rights Section representative, [redacted] had declined to pursue any investigation into this matter, and declined to review for federal criminal prosecution "given that nobody was hit by the shots." CCSA Micheal Golden advised the actions taken by the Federal Bureau of Investigation on February 24, 2015, to include the use of deadly force, were justified and necessary in response to a reasonable belief the subject posed an imminent danger of death or serious physical injury to [redacted] Neither DOC Attorney [redacted] nor CCSA Golden requested a copy of the Shooting Incident Review results. b6 -1,3,5 b7C -1,3,5

**V. Administrative**

**a. Firearms Training**

Since SA [redacted] had only been out of the FBI Academy for approximately [redacted] his firearms qualifications records were provided to the SIRT by SSA [redacted] SA [redacted]'s Primary Firearms Instructor at the FBI Academy in Quantico, Virginia. A review of the training records reflected SA [redacted]s most recent qualifications with his FBI-issued Glock handgun on December 8, 2014, all of which reflected he was in compliance with the firearms qualifications requirements. b6 -1 b7C -1

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS)
Re: 297J-HQ-A6151928, 05/15/2015

**b. Deadly Force Training**

SSA [redacted] of the FBI Academy staff, indicated SA [redacted] s primary legal instructor was SSA [redacted] She also indicated SA [redacted] scored a [redacted] on his October 10, 2014 legal exam, which covered the FBI Deadly Force Policy. b6 -1 b7C -1

**c. DOJ Civil Rights Prosecutorial Decision**

On February 27, 2015, Chicago Division's Chief Division Counsel (CDC) [redacted] was notified by AUSA [redacted] of the U.S. Attorney's Office for the Northern District of Illinois (NDIL), that Department of Justice (DOJ)'s Civil Rights Section Attorney, [redacted] had declined to pursue any investigation into this matter, and declined to review for federal criminal prosecution [redacted] and since the actions taken by the Federal Bureau of Investigation on February 24, 2015, to include the use of deadly force, were justified and necessary in response to a reasonable belief the subject posed an imminent danger of death or serious bodily harm to [redacted] b6 -3,5 b7C -3,5 b5 -1

**d. Local Prosecutorial Decision**

Cook County States Attorney (CCSA) Michael Golden, Chief of the Public Integrity Unit, advised the actions taken by the Federal Bureau of Investigation on February 24, 2015, to include the use of deadly force, were justified and his office declined prosecution based upon the facts AIIP [redacted] provided in a detailed e-mail communication, noting the facts reflected SA [redacted] announced himself as law enforcement, gave commands to [redacted] that were not complied with, and then fired a single shot at [redacted] in an effort to eliminate the threat to [redacted] and others, who were being threatened by the unknown subject. With the subsequent [redacted] interview and post-arrest, recorded statements of the subjects confirming the subjects were attempting to rob [redacted] at gunpoint, CCSA Golden advised he needed no further b6 -1,5,7 b7C -1,5,7

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS)
Re: 297J-HQ-A6151928, 05/15/2015

information, nor an inspection report upon its completion based upon the facts provided.

◆◆

Official Record

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Agent Involved Shooting (AIS) in the Chicago Field Office **Date:** 07/21/2015

**CC:** [redacted] b6 -1 b7C -1

**From:** INSPECTION
**Contact:** [redacted]

**Approved By:** Timothy M. Feeney
David Paul Gelios
Nancy McNamara

**Drafted By:** [redacted] b6 -1 b7C -1

**Case ID #:** 297J-HQ-A6151928 (U) Chicago Field Office Shooting Incident

**Synopsis:** (U//~~FOUO~~) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned Agent Involved Shooting (AIS) following the SIRG meeting held on 07/01/2015

**Administrative Notes:** (U//~~FOUO~~) The AIS review was delegated to the Chicago Field Office by the Chief Inspector on 02/24/2015. The AIS Report was submitted electronically by SSA [redacted] on 06/01/2015. b6 -1 b7C -1

**Details:**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed an AIS which occurred on 02/24/2015, involving SA [redacted] SA [redacted] was participating in [redacted] operation. SA [redacted] was positioned in the back seat of the vehicle driven by Chicago Police Department (CPD) TFO [redacted] where his role was to take photographs of [redacted] During the operation, TFO [redacted] and SA [redacted] witnessed an b6 -1,4 b7C -1,4 b7A -1 b7E -1,3

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS) in the Chicago Field Office
Re: 297J-HQ-A6151928, 07/21/2015

UNSUB, wearing a mask, approach the vehicle [redacted] The UNSUB, later identified as [redacted] brandished a revolver, pointed it in the direction of [redacted] and Subject [redacted] and demanded cash. b6 -5,7 b7C -5,7 b7E -1,3

(U//~~FOUO~~) On 07/24/2014, the Chicago Field Office opened a predicated investigation [redacted] to target [redacted]. Throughout February of 2015, SA [redacted] worked [redacted] with CPD Police Officer [redacted] authority to participate in [redacted] was properly documented with appropriate approvals. Officer [redacted] and SA [redacted] participated in [redacted] SA [redacted] drafted an operation plan which was approved by SSA [redacted] and by A/ASAC [redacted] SA [redacted] briefed the operation team on 02/23/2015, and planned to conduct [redacted] the same afternoon in the vicinity of [redacted] Chicago, Illinois. b6 -1,4,7,8 b7C -1,4,7,8 b7A -1 b7D -1 b7E -1,3

(U//~~FOUO~~) SA [redacted] rescheduled and re-briefed the operation on 02/24/2015, due to operational need. The DOJ Deadly Force Policy was incorporated into the operation plan, and SA [redacted] briefed the Policy to the operation team during the February 23rd and 24th briefings. In addition, SA [redacted] advised CPD TFOs to follow the CPD Use of Force policy. Although briefings were conducted on the 23rd and on the 24th, several team members expressed during their interviews confusion about their specific assigned roles. In addition, Agent and TFO personnel indicated they were unaware of all law enforcement Agents and Officers participating in the operation. b6 -1 b7C -1

(U//~~FOUO~~) At approximately [redacted] b6 -1,4,8 b7C -1,4,8 b7D -1 b7A -1 b7E -1,3



NYT-1058

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS) in the Chicago Field Office
Re: 297J-HQ-A6151928, 07/21/2015

b6 -1,4,7,8
b7C -1,4,7,8
b7A -1
b7D -1
b7E -1,3

(U//~~FOUO~~) SA [redacted] was positioned in the back seat of the vehicle driven by TFO [redacted] and from that position he planned to take photographs of [redacted] surveillance vehicle was positioned approximately [redacted] from [redacted]

b6 -1,4,5
b7C -1,4,5
b7E -3,6

(U//~~FOUO~~) Approximately an hour later, [redacted] approached [redacted] and [redacted] TFO [redacted] and SA [redacted] relocated to a surveillance position approximately [redacted] from [redacted] with a direct line of sight.

b6 -1,4,5,7
b7C -1,4,5,7
b7E -3,6

(U//~~FOUO~~) At approximately 4:55 p.m., 02/24/2015, TFO [redacted] observed an unknown black male approach from the South on foot. As the unknown male (later identified as [redacted]) approached [redacted] and [redacted] TFO [redacted] called out the identifiers to the cover team via radio. [redacted] walked past the [redacted] continued Northbound, and out of sight. [redacted] reappeared wearing a mask over his face and approached [redacted] brandished a revolver, pointed it in the direction of [redacted] threatened to shoot [redacted] and demanded cash.

b6 -4,5,7
b7C -4,5,7

(U//~~FOUO~~) Members of the FBI cover team, comprised of FBI Special Agents, as well as CPD TFOs and [redacted] Officers, observed the actions of [redacted] indicating [redacted] The cover team, believing [redacted] life was at risk, moved to the scene led by TFO [redacted] and SA [redacted] Upon arrival, SA [redacted] placed his weapon in his left hand, pulled on the door handle with his right hand, announced himself as a law enforcement

b6 -1,4,5,7
b7C -1,4,5,7
b7E -3

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS) in the Chicago Field Office
Re: 297J-HQ-A6151928, 07/21/2015

b6 -1,4,5,7
b7C -1,4,5,7

officer, and issued commands to which [redacted] did not comply. Perceiving [redacted] posed an imminent threat to himself, [redacted] FBI Agents, and CPD Officers, SA [redacted] fired a single shot from the back seat of TFO [redacted] s vehicle. [redacted] immediately surrendered, was taken into custody, and a fully-loaded Rossi revolver was recovered. No other Agents or law enforcement officers fired their weapons. There were no injuries, and there was no property damage.

(U//~~FOUO~~) [redacted] was not hit by SA [redacted] s bullet. A subsequent interview of [redacted] and the post-arrest and recorded statements of the subjects confirmed [redacted] conspired to rob [redacted] The [redacted]

b6 -1,5,7
b7C -1,5,7
b7E -1,3

**SIRG OBSERVATIONS**

(U//~~FOUO~~) On 07/01/2015, the SIRG reviewed the AIS with the intent to:

**1. (U//FOUO) Evaluate the application of deadly force.**

(U//~~FOUO~~) The SIRG voted unanimously the application of deadly force by SA [redacted] on 02/24/2015 was in compliance with the DOJ Deadly Force Policy.

b6 -1
b7C -1

**2. (U//~~FOUO~~) Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions concerning operational planning and execution, training, and/or safety issues.**

**(U//~~FOUO~~) OBSERVATION #1:** The Special Agent involved in the Agent Involved Shooting reviewed [redacted] shortly after the incident.

b7D -1

**(U//~~FOUO~~) ANALYSIS #1:** SA [redacted] reported in his Signed Sworn Statement, he reviewed [redacted] shortly following the incident [redacted]

b6 -1,8
b7C -1,8
b7D -1

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS) in the Chicago Field Office
Re: 297J-HQ-A6151928, 07/21/2015

(U//~~FOUO~~) On page page 30 of the Inspection Division's Shooting Incident Guide, direction is provided to the Agents involved in a shooting as follows: "Understand you will be removed from the scene and separated from any other involved Agents and Task Force Officers as soon as possible. This is done to minimize exposure to the media or information or circumstances which could affect your independent recollection of the shooting incident."

**(U//~~FOUO~~) INSTRUCTION #1:** SAC, Chicago will ensure personnel involved in shooting incidents are removed from the scene and separated to ensure their independent account of the shooting incident is not compromised.

**(U//~~FOUO~~) OBSERVATION #2:** Personnel assigned were not wearing their body armor at the commencement of the operation.

**(U//~~FOUO~~) ANALYSIS #2:** INSD interviewed personnel assigned to the Chicago Field Office [redacted] operation who reported they only put on their body armor after hearing reports of shots fired and prior to moving into the scene. **b7E -1,3**

(U//~~FOUO~~) Defensive Systems Unit (DSU), Principal Firearms Instructor Administrative Reference, revised 05/12/2015, stated: Wearing of DSU issued FBI body armor by SAs is mandatory during planned arrests, execution of search warrants, the conducting of surveillance or any operation which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s).

**(U//~~FOUO~~) INSTRUCTION #2:** SAC, Chicago, will ensure personnel assigned to Operations are fully equipped and wear their issued body armor, in accordance with the PFI Administrative Reference.

**(U//~~FOUO~~) OBSERVATION #3:** The operation plan briefing was inadequate, as specific roles and responsibilities were not communicated to all members of the multi-agency operation.

**(U//~~FOUO~~) ANALYSIS #3:** INSD determined [redacted] operation **b7E -1,3**

order was well written; however, the briefing of the plan was inadequate. Personnel assigned to the Chicago Field Office [redacted] operation were unfamiliar with [redacted] and Agent and TFO personnel indicated they were unaware of all law enforcement Agents and Officers participating in the operation. In addition, many members were uncertain of their specific roles. INSD interviews determined at least one FBI Agent admitted he was unaware of the non-verbal distress signal for this specific operation. b7E -1,3

**(U//~~FOUO~~) RECCOMENDATION #3:** SAC, Chicago will ensure operation plans are thoroughly briefed and all participants are familiar with their assigned roles and the identities of other participants.

**3. (U//~~FOUO~~) Provide recommendations for administrative action if deemed necessary.** The SIRG determined the captioned Agent Involved Shooting incident would not be referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential administrative action.

(U//~~FOUO~~) Deputy Assistant Director Ronald Twersky, INSD, chaired the meeting and was a non-voting Board Member. The following Board Members were in attendance: Chief Inspector David P. Gelios, Office Of Inspections (OI), INSD; Deputy Chief [redacted] Civil Rights Division, Criminal Section, Department of Justice (DOJ); Unit Chief (UC) [redacted] Investigative Law Unit, Office Of General Counsel; A/SSA [redacted], Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division(TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group; Section Chief Robert E. Hughes, Violent Crime and Gang Section; UC [redacted] Defensive Systems Unit(DSU), TD; Section Chief (SC) Roger A. Coe, CD-2, Global Section, Counterintelligence Division; and SSA [redacted] Evidence Response Team, Laboratory Division. The following non-voting individuals were also in attendance: Inspectors Scott Vito, Timothy M. Feeney, Eric Welling, Trent R. Teyema, Kathryn Peterson, Justin b6 -1,3 b7C -1,3

Title: (U//~~FOUO~~) Agent Involved Shooting (AIS) in the Chicago Field Office
Re: 297J-HQ-A6151928, 07/21/2015

Tolomeo, Vadim D. Thomas, and Douglas A. Leff, OI, INSD; Assistant Inspectors/Team Leaders [redacted] b6 -1 b7C -1
[redacted] OI, INSD; Management Program Analyst (MAPA) [redacted] Inspection Management Unit (IMU), INSD; Supervisory MAPA [redacted] and MAPA [redacted] Inspection Analysis Unit, [redacted] Safety and Occupational Health Manager, Occupational Safety and Environmental Programs, (FLSD), SSRA [redacted] (SD), and SSA [redacted] Investigative Law Unit, OGC.

**Procedure for Responding to the Observations**

(U//~~FOUO~~) SAC, Chicago is responsible for ensuring the inspection Instructions and Recommendation are satisfactorily resolved. The inspection process is not complete until the Instructions and Recommendation are addressed by Chicago. The Inspector-in-Charge will review CG's responses to determine if Instructions and Recommendation are adequately addressed or require further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//~~FOUO~~) SAC, Chicago, is required to provide a written response, via EC, detailing the actions taken by Chicago to resolve the Instructions and recommendation. Follow-up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit, INSD. Once the EC is serialized, please email the Sentinel link to MAPA [redacted] b6 -1 b7C -1
Any questions may be directed to Assistant Inspector/Team Leader [redacted]

♦♦



NYT-1063

**From:** [redacted](CRT)[redacted]@usdoj.gov] b6 -3 b7C -3
**Sent:** Monday, August 12, 2013 4:09 PM
**To:** Stroud, Shawn W.
**Subject:** Chicago Shooting March 25, 2013 -

Inspector Shawn Stroud
Inspections Division

Based upon a review of materials from your shooting inquiry, we have determined, and the USAO for the ND of Illinois concurs, there is insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by an FBI agent in Chicago on March 25, 2013, that resulted in a non-life threatening wound to a passenger in a car driven while escaping apprehension toward the agent so as to endanger his life. The local District Attorney has also declined prosecution.

Three FBI agents observed a man behaving suspiciously in a parking lot. Two agents approached the man and the car that he was entering and exiting and observed that he was stealing hub caps from another car. The two agents approached from the rear of the car. They noticed two passengers in the car, another male and a female, in addition to the male driver, and loudly identified themselves as "FBI" and "police" and instructed the car to "stop." Instead, the driver accelerated in reverse and almost struck one of the agents who jumped out of the way.

Meanwhile, the third agent moved his car to block the exit in the parking lane. That agent was unaware of what the other two agents had observed and only saw what he thought was the subject's car strike another agent who had drawn his weapon. The fleeing car then sped toward the front end of the agent's car that agent exited, blocking the escape route with his body and his car. The subject car struck the front of the agent's car, continuing toward the agent.

The agent backed up alongside his car and eventually away from the back of his car to avoid being pinned between the cars. The agent stated that he feared he would be crushed between the cars or run over as the car came head on toward him. He dodged the car and fired multiple shots aiming at the driver, through the window and through the driver side door.

In addition to the two other FBI agent witnesses, there were a number of non-law enforcement witnesses and a video of much of the action taken by a video cam in a nearby parked ambulance. The two witness agents and other witnesses saw the subject car speeding toward the agent who before the agent fired his weapon. One witness [redacted] observed that had the agent not fired at the driver of the car he believed "it would have run him over." b6 -8 b7C -8

The best evidence is a video that records the action between the time that the subject car has cleared the rear of the agent's car and is aimed directly toward him. About two seconds expire between when the subject car appears to strike the agent head on (the agent does not think he was hit by the car) and the agent appears to fire his weapon at the subject car that he has avoided and is just passing him. In that time period, the agent draws his weapon and fires at the driver. The agent keeps his body up and away from going under the front of the car speeding at him while drawing and then firing his weapon – very much like a matador avoiding a charging bull.

The subjects' car sped away from the parking lot and the three agents gave chase in the Bureau car. The subjects' car travelled some distance before it crashed and the male passenger was apprehended by the agents at the accident site with a wound to his leg. The driver and other passenger ran from the scene but were identified and later located. The passenger subjects admitted to stealing hub

caps and driving to escape law enforcement. The driver was later captured and charged with assault on a federal officer.

Given the driver demonstrated an intent to run over the agent with his car, the rapidly unfolding events, the information known to the agent (another agent appeared to have been already struck by the car), and the fact that the agent's agility alone prevented his being run over by a speeding car, there is insufficient evidence to support a conclusion that the agent willfully violated the 4th Amendment's requirement of reasonable seizure and thus the criminal civil rights statutes. A federal criminal civil rights investigation of the agent's action is unwarranted. Please continue your administrative review and action.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

[redacted]
cell - [redacted]

601 D Street, N.W.
Room [redacted]
Washington D.C. 20004

b6 -3
b7C -3

**From:** [redacted] (USAILN)
**Sent:** Tuesday, July 16, 2013 12:17 PM
**To:** [redacted] (CRT)
**Subject:** FW: Agent-Involved Shooting March 25, 2013 - 297-HQ-A1271285-D

b6 -3
b7C -3

**From:** [redacted] (States Attorney) [mailto:[redacted]@cookcountyil.gov]
**Sent:** Tuesday, July 16, 2013 10:46 AM
**To:** [redacted] (USAILN)
**Cc:** [redacted] (States Attorney); [redacted] (States Attorney)
**Subject:** Agent-Involved Shooting March 25, 2013 - 297-HQ-A1271285-D

b6 -3,4
b7C -3,4

[redacted]

As we discussed, the SAO has declined prosecution in the above-referenced matter. Please give me a call if you have any questions. Thanks.

[redacted]
Chief, Special Prosecutions Bureau
Cook County State's Attorney's Office, 13th Floor
2650 South California Avenue
Chicago, Illinois 60608

# Fw: Peoria Shooting

Tolomeo, R.Justin

**Sent:** Friday, June 27, 2014 3:34 PM

**To:** [redacted] b6 -1 b7C -1

[redacted]

Please route to file.

Justin

R Justin Tolomeo
Inspector
Federal Bureau of Investigation
Desk: [redacted]
Mobile: [redacted]
[redacted]@ic.fbi.gov

----- Original Message -----
From: [redacted] (CRT) <[redacted]@usdoj.gov> b6 -3 b7C -3
To: Tolomeo, R.Justin; Teyema, Trent R.
Cc: [redacted] (CRT); [redacted] (OIG)
Sent: Fri Jun 27 14:57:21 2014
Subject: Peoria Shooting

Gentlemen -

Based upon the information that the Inspection Division has provided by telephone, we have concluded that the agent involved shooting resulting in death of Jason Moore in Peoria, Illinois, on June 14, 2014, does not warrant a federal criminal civil rights investigation. It is our understanding that the agent was fortuitously present at a social event when Moore arrived and shot and killed his ex-wife and her boyfriend. The agent then fired his weapon killing the subject shooter.

The facts suggest that the agent, who may or may not have acted under the color of law, fired his weapon to protect himself and others from potentially more deadly gunfire from the subject. We need not resolve whether the agent acted under the color of law. The information provided indicates that the agent did not act "willfully," that is using force that he knew to be unlawful. Accordingly, a federal criminal civil rights investigation is not warranted.

Please continue your administrative review. If in the course of the administrative inquiry, you determine that there are contradictory relevant facts suggesting that a federal criminal investigation may be warranted, please advise.

[redacted] b6 -3 b7C -3
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

## Twersky, Ronald

**From:** [redacted](CRT) [redacted]@usdoj.gov] b6 -3
**Sent:** Monday, July 16, 2012 3:47 PM b7C -3
**To:** Twersky, Ronald
**Subject:** Dayton FBI shooting

Inspector Ron Twersky
7/16/12
Inspections Division

Based upon the information reported by Inspector Twersky and a review of the statements of the agents present at a shooting in Dayton on June 28, 2012, by FBI Special Agent [redacted] b6 -1
[redacted] resulting in the death of arrestee Fallacy M. Myers, I have determined that this b7C -1
matter does not warrant federal criminal investigation. There is insufficient information to suggest a violation of the federal criminal civil rights statues. Additionally, the local district attorney's office has reported to Inspector Twersky that it will not conduct a criminal investigation nor present the matter to its grand jury.

SA [redacted] shot Mr. Myers from about a distance of six feet inside Myers' kitchen, after he b6 -1
had repeatly stabbed himself with a knife, refused orders to drop the knife, and turned with b7C -1
the knife extended toward both SA [redacted] and a second agent, who was slight closer the subject and next to SA [redacted]

FBI agents had conducted a search of Mr. Myers' home pursuant to a federal search warrant for evidence related to federal crimes, including crimes related to children. The USAO had advised the agents to arrest Mr. Myers based the fact that four firearms had been discovered during the search and the subject was a person prohibited from possessing firearms. While Mr. Myer was being escorted to dress himself, he grabbed a knife in the kitchen and with his back to the arresting agents began to stab himself. SA [redacted] and other agents gave several b6 -1
commands to drop the knife and drew their weapons but did not initially fire them. b7C -1
Eventually, as one agent moved closer toward Mr. Meyer, he turned and raised the knife toward that agent and SA [redacted] both of whom had remained near the kitchen doorway. Both agents believed that Mr. Meyers, who had already severely stabbed himself, might next stab an agent. Neither agent had immediate cover. After a quickly issued final order to drop the knife was ignored, SA [redacted] fired three shots. The other agent, who advised that she also intended to fire, was unable to shoot before SA [redacted] had done so and did not fire. A medic on the scene respond quickly after the shooting and the subject who had been shot in the chest, was pronounced dead.

SA [redacted] gave a voluntary statement, which was consistent with facts presented during b6 -1
interviews of the other agent witnesses. We appreciate SA [redacted]'s willingness to provide a b7C -1
voluntary statement to help an informed, timely decision on the merits of a criminal investigation. The Inspector's Office should complete its administrative investigation.

[redacted] b6 -3
Special Legal Counsel b7C -3
[redacted]
cell - [redacted]

Civil Rights Division
US Department of Justice
601 D Street, NW
Room [redacted]
Washington D.C. 20004



NYT-1067

ASSISTANT DISTRICT ATTORNEYS
CHARLES L. MURPHY
JEREMY D. BALL
TONYA D. THORNTON
BARRY A. WILLIAMS
GREGORY C. ESHBAUGH
GEORGE C. IOANNIDES
PAMELA HUDDLESTON
ASHLEY D. McDERMOTT
TIMOTHY C. NORRIS
RON C. NEWCOMB
S. JOANNE SHELDON

CRIMINAL INVESTIGATORS
H. DAVID HUTCHISON
TRACY C. IVY

VICTIM WITNESS COORDINATOR
KIM HUDSON

ASSISTANT VICTIM WITNESS COORDINATOR
ROBIN HUGHES

OFFICE OF THE
District Attorney General
FOURTH JUDICIAL DISTRICT
SERVING COCKE, GRAINGER, JEFFERSON, & SEVIER COUNTIES
James B. Dunn
SEVIER COUNTY COURTHOUSE
125 COURT AVENUE, SUITE 301E
Sevierville, Tennessee 37862

DEPUTY DISTRICT ATTORNEY
WILLIAM BROWNLOW MARSH

OFFICES:

COCKE (423) 623-1285
FAX (423) 623-2012

SEVIER (865) 429-7021
FAX (865) 429-7025

JEFFERSON (865) 397-2367
FAX (865) 397-4697

March 14, 2013

Inspector Christopher Davis
U.S. Department of Justice
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, D.C. 20535

Re: Incidents Surrounding the Arrest of Scott Evans (March 6, 2013)

Dear Inspector Davis:

Please be advised that at my request, [redacted] Deputy District Attorney for my office, has reviewed all the statements and other documents contained in the folder you provided regarding the unfortunate events that occurred March 6, 2013 at the residence of Scott Evans, 2332 Stapleton Road, New Market, Tennessee. b6 -4 b7C -4

It appears from this review that there was ample probable cause for the procurement of the federal criminal complaint and search warrant. It further appears that your agents were appropriately equipped with insignias and other indicators of their status as law enforcement officers when they were in the process of serving the criminal complaint and search warrant. It further appears that SA [redacted] relying on the aforesaid insignias as well as verbal announcements made both at the front door of the Evans residence before entry and inside the residence and directed to Scott Evans, reasonably gave notice of his identity as a law enforcement officer and that deadly force might be used b6 -1 b7C -1

unless resistance ceased and that Scott Evans must acquiesce to SA [redacted]'s orders to disarm. As such, SA [redacted]'s actions were in full compliance with Tennessee Code Annotated Section 39-11-620 regarding the use of deadly force by a law enforcement officer in effecting an arrest. b6 -1 b7C -1

Furthermore, for the same reasons and additionally since it also appears that there was a reasonable belief that there was imminent danger of death or serious bodily injury to SA [redacted] SA [redacted] among others, and/or to Scott Evans, SA [redacted]'s actions were in full compliance with Tennessee Code Annotated Sections 39-11-611 and 612 regarding the use of self defense and defense of third persons. b6 -1 b7C -1

Therefore, based on the foregoing, although the incidents of March 6, 2013 unfortunately resulted in the death of Scott Evans, the actions of SA [redacted] were reasonable and justified under and by the circumstances then and there existing. b6 -1 b7C -1

Sincerely,

James B. Dunn

James B. Dunn
District Attorney General

by [redacted] b6 -4 b7C -4

# Miami shooting declination

[redacted](CRT) [redacted]@usdoj.gov] b6 -3 b7C -3

**Sent:** Friday, March 15, 2013 7:34 AM

**To:** Ravenelle, Thomas P.

**Cc:** [redacted](CRT)

*Inspector Ravenella*
*FBI Inspection Division*

*Based upon information provided by your office and consultation with the USAO in Miami, we have determined that the shooting that involved an FBI agent in Miami on July 31, 2013, which resulted in the death of Geraldo Delgato and the wounding of a local task force detective, does not warrant criminal investigation. There is no evidence to support an investigation to determine whether the federal criminal civil rights statutes could have been violated.*

*Two video recordings from cameras installed outside the Miami home, a "Grow House," where the shooting occurred, provide an unequivocal record of what occurred before and during the exchange of gunfire between the law enforcement officers and the shooting victim. Mr. Delgado initiated the fatal exchange of gunfire by aiming a hand gun at the law enforcement officers as he unexpectedly exited a car parked in the driveway. His aggressive conduct with a dangerous weapon would have created a reasonable fear for the safety of self and others, justifying the a return of gunfire that resulted in Mr. Delgado's death.*

*Please complete the administrative review of the matter.*

[redacted] b6 -3 b7C -3
Special Legal Counsel
[redacted]
cell - [redacted]

Civil Rights Division
US Department of Justice
601 D Street, NW
Room [redacted]
Washington D.C. 20004

## Peterson, Kathryn (INSD) (FBI)

**From:** [redacted](CRT) [redacted]@usdoj.gov] b6 -3
**Sent:** Wednesday, November 04, 2015 5:23 PM b7C -3
**To:** Peterson, Kathryn (INSD) (FBI)
**Subject:** RE: St. Louis AIS

Hi Kathryn -- we concur in declining this case for prosecution.

Thanks --
[redacted]

From: Peterson, Kathryn (INSD) (FBI)
Sent: Wednesday, November 04, 2015 4:01:01 PM
To: [redacted](CRT) b6 -1,3
Subject: FW: St. Louis AIS b7C -1,3

[redacted]
e-mail documenting DOJ approval to compel SA [redacted]

Kate

Kathryn Peterson
Inspector
Office of Inspections
desk
cell [redacted]

From: [redacted] (CRT) [mailto:[redacted]@usdoj.gov] b6 -3
Sent: Thursday, January 15, 2015 11:27 AM b7C -3
To: Peterson, Kathryn (AL)(FBI)
Subject: RE: St. Louis AIS

Thanks Kate. I confirm DOJ approval to compel. Let me know how it goes and if you need anything else.

[redacted]

[redacted]
Deputy Chief
Civil Rights Division, Criminal Section
U.S. Department of Justice
[redacted]

From: Peterson, Kathryn (AL)(FBI) [mailto:[redacted]@ic.fbi.gov] b6 -1,3
Sent: Thursday, January 15, 2015 11:19 AM b7C -1,3
To: [redacted](CRT)
Subject: St. Louis AIS

[redacted]
The St. Louis SAC reached out this morning regarding the interview of [redacted] is ready to be interviewed but still wants to be compelled. He is having additional surgery in

three weeks and would like to be interviewed prior to the surgery. INDS is prepared to move forward with the interview but I wanted to reach out and confirm DOJ approval of the compelled interview. A/DAD Gelios is also confirming the 7th floor approval.
Call me if you have any questions or want to discuss.
Thanks
Kate

Kathryn Peterson
Inspector
Office of Inspections
desk
cell [redacted]

b6 -1
b7C -1



NYT-1072

**From:** [redacted] (CRT) [redacted] @usdoj.gov] b6 -1,3 b7C -1,3
**Sent:** Thursday, January 16, 2014 2:25 PM
**To:** [redacted]; Bretzing, Greg T.
**Cc:** [redacted] (CRT)
**Subject:** RE: MOI Revised

Inspector Bretzing
Inspection Division
Based upon the reports provided by this email, as well as the summary of the incident previously provided, no further DOJ review is necessary of this shooting involving local officers on an FBI task force. Civilian witnesses and the subject himself corroborate the law enforcement officers' account that, while task force officers searched for the fugitive subject, he hid from them in a second story room and ambushed them as they entered. The subject was wounded and he wounded one of the task force officers. A criminal civil rights investigation is not warranted. Please complete your administrative inquiry.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

---

**From:** [redacted] (FBI) b6 -1,2,3 b7C -1,2,3
**Sent:** Wednesday, January 15, 2014 7:18 PM
**To:** [redacted] (CRT)
**Cc:** Bretzing, Greg T. (FBI); [redacted] (FBI); [redacted] (FBI)
**Subject:** Fw: MOI Revised

Attached are the statements of the subject of the fugitive investigation, [redacted] all were in the house at the time of the incident.

Please let me know if you have any trouble opening them and if you need anything else.

Thanks,
[redacted]

---

**From:** [redacted] b6 -1 b7C -1
**To:** [redacted]
**Sent:** Wed Jan 15 17:41:09 2014
**Subject:** Fw: MOI Revised

You may receive these from Charlotte, too, but I just wanted to be sure you got them. These are the Memoranda of Interview you were waiting for.
[redacted]

---

**From:** [redacted] (CO)(FBI)
**To:** [redacted]
**Sent:** Wed Jan 15 17:38:23 2014
**Subject:** FW: MOI Revised

---


NYT-1073

**From:** [redacted] [mailto [redacted]
**Sent:** Wednesday, January 15, 2014 5:27 PM
**To:** [redacted] (CO)(FBI)
**Subject:** MOI Revised

b6 -1,4
b7C -1,4

Ok I think they are done—let me know

[redacted]

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED//~~FOUO~~

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//~~FOUO~~) Summary of Richmond Investigation

**Date:** 03/04/2013

**To:** [redacted] b6 -1 b7C -1

**From:** RICHMOND
RH-5
**Contact:** [redacted]

**Approved By:** [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271903-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//~~FOUO~~) Document Richmond investigation of shooting incident involving SA [redacted] on 02/14/2013. b6 -1 b7C -1

**Enclosure(s):** Enclosed are the following items:
1. (U//~~FOUO~~) Signed Sworn Statement for Agent [redacted]
2. (U//~~FOUO~~) FD-927
3. (U//~~FOUO~~) 2012 and 2013 FIRST Data
4. (U//~~FOUO~~) 2012 and 2011 Shoot Data

**Details:**

Serial 20 of captioned case file documents Richmond's report to Inspection Division (INSD) of a shooting incident involving Agent [redacted] on 02/14/2013. As reported in referenced communication, on 2/14/2013 at approximately 9:00pm, Agent [redacted] b6 -1 b7C -1 stopped at an accident where a deer had been struck by a pick up truck. An unknown adult male, operating the pick up truck, had struck the deer and he advised SSA [redacted] that he had called the police. Agent [redacted] observed that the deer was mortally wounded and was attempting to crawl away from the vehicles. Agent [redacted] determined the safest course of action was to dispatch the deer in a safe manner. After

UNCLASSIFIED//~~FOUO~~

ensuring there were no surrounding hazards, Agent [redacted] dispatched the deer using her Bureau issued Glock 22. b6 -1 b7C -1

On 02/19/2013, INSD delegated the investigation of the shooting incident to Richmond Division. In conducting the assigned writer conducted the following interviews, which are serialized separately to the captioned case file:

- 02/28/2013, Officer [redacted] Richmond Police Department (See Serial 21) b6 -2,4 b7C -2,4
- 02/28/2013, [redacted] (See Serial 22)
- 03/01/2013, [redacted] (See Serial 23)

In addition to the above interviews, writer also obtained a Signed Sworn Statement (SSS) from Agent [redacted] on 03/01/2013. On 02/28/2013, Agent [redacted] was provided with a Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident (FD-927). The SSS and FD-927 are enclosed as 1A exhibits with this communication. b6 -1 b7C -1

Writer completed an FD-1085 and obtained firearms training records for Agent [redacted] The FD-1085 was submitted electronically to INSD by Infopath. The firearms training records are attached to this communication as a 1A exhibit. Writer contacted the Richmond Police Department communications center and identified the responding police officer as Officer [redacted] b6 -1,4 b7C -1,4

Writer's investigation revealed that on 02/14/2013, at approximately 8:00PM to 9:00PM, Agent [redacted] discharged her Bureau-issued weapon, one time, shooting a deer, in an effort to eliminate what Agent [redacted] reasonably assessed to be a threat to public safety. b6 -1 b7C -1

The enclosed SSS and the referenced FD-302s reveal that on 02/14/2013, at approximately 8:00 PM, Agent [redacted] was riding as a passenger in a vehicle driven by [redacted] when she saw a separate vehicle, driven by [redacted] strike a deer. After striking the deer, [redacted] pulled the deer to the right shoulder and called the police. While waiting for police to arrive, Agent [redacted] determined that the b6 -1,2 b7C -1,2

deer presented a threat to oncoming traffic. The deer was badly injured and moving around on the right shoulder. Agent [redacted] informed [redacted] that she intended to shoot the deer. Agent [redacted] fired one round from her Bureau-issued firearm to kill the deer. After killing the deer, Agent [redacted] left the scene, as a passenger in [redacted]'s vehicle, and [redacted] waited for for the police to respond. Sometime after Agent [redacted] departed the scene, Officer [redacted] Richmond Police Department arrived and conducted a field interview of [redacted] Officer [redacted] did not file a police report.

b6 -1,2,4
b7C -1,2,4

◆◆

Fw_ChicagoRichmond_Ill_shooting

From: Davis, Christopher W.
Sent: Thursday, September 12, 2013 6:06 PM
To: [redacted] b6 -1 b7C -1
Subject: Fw: Chicago/Richmond, Ill shooting

Fyi... CD

From: [redacted] (CRT) <[redacted]@usdoj.gov> b6 -1,3 b7C -1,3
To: Davis, Christopher W.
Cc: [redacted] (CRT)
Sent: Thu Sep 12 17:24:27 2013
Subject: FW: Chicago/Richmond, Ill shooting

Inspector Chris Davis
Inspection Division

Based upon a review of materials from your shooting inquiry, we have determined, and the USAO for the ND of Illinois concurs, there is insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by two FBI agents in Richmond, Illinois, that resulted the death of Anthony Starnes, on May 10, 2013. The facts support a conclusion that the agents were attempting to thwart a bank robbery, from which Starnes was escaping apprehension, by ramming the agents' vehicle and driving a car toward the agent so as to endanger his life. The

local District Attorney has also declined prosecution.

A team of FBI agents followed three men, suspected of involvement in previous armed bank robberies, as they drove in two cars from Chicago to Richmond and deployed their cars in a parking lot near a bank that they intended to rob. While parked in a Honda that was driven by Starnes and was to be used as the get-a-way car, Starnes and another man donned masks. They had three handguns inside the Honda.

The team of FBI agents moved in on the two men in the Honda after an arrest was approved by supervisors. [redacted] b7E -12 [redacted] three agents approached on foot to make the arrest. Commands to "show me your hands" were given and the agents identified themselves as "FBI." The driver elected to attempt to escape in the Honda. He rammed the SUV and accelerated toward one of the agents on foot. That agent and a second agent, who saw that the first agent was in jeopardy, fired multiple shots at the driver of the Honda, striking and killing him.

The occupant of the Honda and the occupant of the second car were arrested and charged with attempted armed robbery. The occupant of the Honda

admitted that the three men
were preparing to rob the bank while armed and were waiting for customers to vacate the bank.

Given the driver rammed the agent's car, demonstrated an apparent intent to run over an
agent with his car, the rapidly unfolding events, the information known to the agents (that the
men in the car were about to commit an armed robbery), there is insufficient evidence to support
a conclusion that either agent willfully violated the 4th Amendment's requirement of reasonable
seizure when he fired at the speeding driver escaping from an attempt to rob a bank while armed.

A federal criminal civil rights investigation of the agents' action is unwarranted. We appreciate
the agents voluntary statements that helped us make a fully informed prosecutive decision.

Please continue your administrative review and action.

[redacted]

b6 -3
b7C -3

Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

[redacted]

cell - [redacted]

**From**: [redacted] (CRT) <[redacted]@usdoj.gov> b6 -3 b7C -3
**To**: Bretzing, Greg T.
**Cc**: [redacted] (USALAE); [redacted] (CRT)
**Sent**: Wed Jan 15 15:48:11 2014
**Subject**: New Orleans shooting

Inspector Gregory Bretzing
Inspection Division

Based upon a review of materials from your shooting inquiry, we have determined that there is insufficient evidence to warrant a federal criminal civil rights investigation into a shooting by an FBI agent in New Orleans on July 30, 2013, resulting in the death of Allen Desdunes. An FBI task force team initiated an arrest of Desdunes during a surveillance after he was observed selling narcotics. Desdunes attempt to evade arrest by striking blocking FBI task force cars with his car. An FBI agent fired once after the subject refused commands to stop, continued ramming the blocking law enforcement cars, and appeared to reach for a weapon. The local District Attorney has declined prosecution.

Desdunes was a gang member well known to the FBI. He had previously been arrested on narcotics and weapons charges [redacted] b7D -1
The FBI agent, who shot the subject, had used non-deadly physical force to arrest Desdunes on a prior occasion when he ran from arresting agents.

On July 30, an FBI task force was conducting surveillance on Desdunes in order to plan a later arrest by warrant. During this surveillance, Desdunes was observed selling drugs in a motel parking lot. Based upon that law violation, the surveillance team decided to detain the subject then and there. They were all known to Desdunes because of prior contact with him, but nonetheless donned clothing identifying themselves as police to detain him.

The two agents and a task force officer drove two of their vehicles into the parking lot to box-in Desdunes car. As Desdunes saw the cars approaching, he tried to evade them and attempted to escape in his car. Eventually, the drivers maneuvered the two law enforcement cars and boxed Desdunes' car between them. The two agents and the task force officer exited their cars as Desdunes drove his car alternately in forward and reverse to ram the blocking law enforcement cars. The law enforcement team yelled commands, "don't move," "open the door," "stop," and "put your hands up," and words to that effect. As a result of the first collision, the airbag inflated inside the subject's car, causing further confusion and limiting vision. Nevertheless, Desdunes continued to ignore commands and drove his car back and forth, ramming the other cars. The shooter agent broke the driver's window, pointed his M-4 rifle through the car window at Desdunes, and repeated the commands.

Despite this dramatic show of force, the subject continued to ignore commands and to drive back and forth attempting to open a space between his car and the others. He then reached into the back seat. The shooter proffers that he perceived this action to be a threat to himself and the other officers. The agent was aware that Desdunes had been convicted of carrying a firearm and, based upon that knowledge and the subject's desperate behavior, he believed Desdunes was reaching for a gun. The agent was further alarmed by the subject's unwillingness to submit to

the law enforcement show of force. He states that he in fact feared that the subject had reached a gun in the back seat with which he would shoot the agent. The agent moved his body to protect himself and, at the same time, fired one shot. He did not fire again when he saw the subject go limp.

The other two law enforcement officers relate a consistent account. Significantly, both saw the subject reach into the back seat and also thought that the subject was going for a gun. The beliefs were understandable, but mistaken. No weapon was found in the car. However, Desdunes' friend, who was a passenger in his car, provides some supporting information. He observed that Desdunes attempt to evade arrest in his car, heard commands -- the same commands described by the agents -- repeatedly given, and conceded that Desdunes refused to obey the commands. There were no independent witnesses to the events at the time of the shooting. The Inspection Division attempted to interview family members whom claimed to have relevant information, but Desdunes family refused to talk with the FBI.

Based on the available, non-contradicted facts, a federal criminal civil rights investigation of the agent's action is unwarranted. Regardless of the viability of the arrest plan and problems with its execution, the agent's perceived fear that the subject's action posed a deadly threat was not unreasonable. There is insufficient evidence to support a finding that the agent acted with an intent to do anything that he believed to be unlawful, a conclusion necessary to prove a willful violation of the 4th Amendment's requirement of reasonable seizure, a necessary element of 18 USC 242. We appreciate the agent's voluntary statement that permitted a fully informed decision in this matter. Please continue your administrative review and action.

[redacted]
Special Legal Counsel
Civil Rights Division
U.S. Department of Justice

b6 -3
b7C -3

OFFICIAL RECORD

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident New York Division **Date:** 02/18/2014

**CC:** [redacted] b6 b7C

**From:** INSPECTION
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** [redacted] (U) SHOOTING INCIDENTS b7A

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the meeting held on 11/20/2013.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 10/25/2013 by former Inspector In Charge (IIC) Christopher W. Davis. This communication does not provide a complete account of the original INSD Shooting Incident Report. A copy of the INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Report dated 05/30/2013

**Details:**

This communication serves to memorialize the SIRT Investigation of the captioned shooting incident involving New York Field Office (NYO) SA [redacted] and the results of the 11/20/2013 SIRG meeting. b6 b7C

On 07/19/2012, the SIRT traveled to SA [redacted] residence, [redacted] New York, to review the scene of the b6 b7C

b7A

shooting. NYPD's Evidence Response Team processed the scene on 07/18/2012. The SIRT was not allowed entry into SA [redacted] residence. Federal Law Enforcement Officers Association (FLEOA) attorney, [redacted] who represented SA [redacted] advised the SIRT he would not allow SA [redacted] to provide a voluntary statement.

b6
b7C

The New York Police Department (NYPD) provided the SIRT a compilation of reports, the [redacted] 911 call, and video surveillance. The SIRT did not interview SA [redacted] The following three paragraphs summarize the shooting incident:

b6
b7C

At approximately 5:15 am, on 07/18/2012, an Agent-involved shooting occurred in [redacted] SA [redacted] assigned to the [redacted] was off-duty at his residence, [redacted] New York, when the shooting occurred. At approximately 5:00 a.m., SA [redacted] heard a car alarm activate. Upon looking out of her second story window, she observed two unidentified males attempting to burglarize the family's vehicle, [redacted] began to bang on the window in an attempt to stop the burglary.

b6
b7C

SA [redacted] asleep in an adjacent room, was awakened by the commotion, and was advised by [redacted] their vehicle was being burglarized. SA [redacted] went to the bedroom window, raised the blinds and observed a black male wearing a white t-shirt at the rear of their vehicle "pulling" on the trunk. SA [redacted] observed a "shiny" object in the right hand of the subject, which he described as either a ratchet or a knife. SA [redacted] opened the window and yelled "Police, what the fuck are you doing?" SA [redacted] also yelled get away from my car. The subject did not respond and continued to pull on the trunk. SA [redacted] advised the subject took his left hand and placed it in the area of his waistband, while still pulling on the trunk with his right hand.

b6
b7C

Based on his experience and training, SA [redacted] believed the

b6
b7C

b7A

waistband area to be a location where weapons were kept. Upon seeing this, SA [redacted] and removed his Bureau issued service weapon from its holster. SA [redacted] returned to the window with his firearm and found the subject still pulling on the trunk. SA [redacted] again shouted at the subject to move away from his vehicle. Immediately following the command, the subject looked up at SA [redacted] reached to his waistband area and made suspicious movements directed towards him. In response to the subject's actions, SA [redacted] fired one shot from his weapon. Following the shot, the subject fled [redacted]

b6
b7C

On 07/18/2013, as part of the Assault on a Federal Officer (AFO) investigation, NYO Agents responded to [redacted] was being treated for a gunshot wound which entered the right rear side of his body. It was later determined [redacted] was burglarizing the vehicle of SA [redacted] when he was shot.

b6
b7C

On 07/19/2012, in exchange for immunity from prosecution, SA [redacted] and [redacted] provided statements to representatives of the [redacted], and NYPD. As part of the ongoing AFO investigation, NYO obtained a copy of SA [redacted] and [redacted] statements.

b6
b7C

On 07/22/2012, NYO Agent [redacted] met with the QCDAO and [redacted] Attorney [redacted] In exchange for immunity from prosecution for [redacted] provided the following statement to the [redacted]

b6
b7C

[redacted] and [redacted] travelled to [redacted] in the early morning of 07/18/2012. They intended to steal a car stereo and navigation system from a [redacted] similar to the one driven by [redacted] All four met near the back of SA [redacted] took up look-out positions at the opposite ends of [redacted] and [redacted] and [redacted] used

b6
b7C

b7A

tools, to include a screwdriver, to burglarize the car. [redacted] heard someone shouting at him and [redacted] and then heard a gunshot. All four men began to flee the scene. [redacted] realized [redacted] was injured and assisted him as they entered [redacted] After dropping off [redacted] at [redacted] drove away in [redacted] vehicle.

b6
b7C

On 07/02/2013 [redacted] Special Counsel, Civil Rights Division, United States Department of Justice (USDOJ), requested SA [redacted] provide a voluntary statement through his attorney [redacted] declined to allow SA [redacted] to provide a voluntary statement unless compelled.

b6
b7C

On 09/17/2013, in exchange for immunity from prosecution for violation of Title 18, United States Code, Section 1001, [redacted] and [redacted] made statements to the SIRT, composed of INSD Team Leaders [redacted] and [redacted] AUSA [redacted] Eastern District of New York, and [redacted] Special Legal Counsel, Civil Rights Division, United States Department of Justice (USDOJ). The statements of [redacted] and [redacted] were consistent with the previous statement provided by [redacted] to the [redacted]

b6
b7C

**SIRG Deliberations:**

[redacted]

b5
b6
b7C

b7A

morning of 07/18/2012, which depicts a male running from the direction of [redacted] vehicle and subsequently falling on [redacted]

b6
b7C

The SIRG voted regarding the application of deadly force. Eight of 12 voting members determined the use of deadly force by SA [redacted] violated the DOJ Deadly Force policy.

b6
b7C

The DOJ Deadly Force Policy provides a core principle that agents "may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person."

The United States Supreme Court has explained that "the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application." Graham, 490 U.S. at 396. The Court advised that "proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." Id. The Court also stated that reasonableness "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and that the "calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount fo force that is necessary in a particular situation." Id.at 396-97. The ultimate question is "whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Id. at 397.

Some of the factors, while not all-inclusive, cited by the voting members in evaluating the objective reasonableness of SA [redacted] use of deadly force and the application of the DOJ Deadly Force Policy core principle included: (1) insufficient facts showing

b6
b7C

b7A

it was reasonable for SA [redacted] to believe that the subject out on the street posed an imminent danger of death or serious bodily injury to SA [redacted] or others; (2) [redacted] was involved in a minor property crime out on the street while SA [redacted] and his family were inside the house on the second floor of the residence; and (3) the actions of SA [redacted] to include the presence of the structure in which SA [redacted] resided, verbal commands issued by SA [redacted] and SA [redacted] ability to safely move away from the window to retrieve his weapon prior to re-engaging the subject and using deadly force.

b6
b7C

In particular, the verbal commands issued by SA [redacted] were "Police, What the fuck are you doing," and to get away from his car; these commands did not indicate that SA [redacted] believed that there was an imminent danger to himself or others, but rather that he was concerned about his car. While particular language for verbal commands is not required by the DOJ Deadly Force policy, it was noted during the SIRG that the standard language taught to all new SAs by PAU is "FBI, don't move," followed by commands to the subject such as "FBI, show me your hands," in order to clearly address a threat posed to the agent or others by the movement of a subject. SA [redacted] verbal commands, in contrast, reflected a concern about protecting his vehicle and its contents.

b6
b7C

Four members of the SIRG requested further information from SA [redacted] in the form of a voluntary statement, to determine if additional circumstances existed which might be relevant to determining whether SA [redacted] use of deadly force was reasonable. The four voting members who requested additional information agreed that if SA [redacted] did not provide an additional statement that they would have to rely upon the existing record, and based upon the existing record, they would be unanimous in their decision that SA [redacted] failed to adhere to the DOJ deadly force policy.

b6
b7C

Chief Inspector [redacted] contacted [redacted] the attorney representing SA [redacted] on 12/10/2013, in an attempt to allow SA

b6
b7C

[redacted] to provide a voluntary statement. [redacted] again stated his client would not be available for an interview, absent being compelled. Accordingly, the 12 members voted unanimously regarding the SA [redacted] failure to adhere to the deadly force policy. b6 b7C

**SIRG Observations**

On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 07/18/2012 was not in compliance with the Department of Justice's deadly force policy. The SIRG made the following observation: b6 b7C

**Observation 1:** SA [redacted] did not adhere to the deadly force policy. b6 b7C

[redacted] b5 b6 b7C

**Instruction 1:** AD, INSD, will refer this matter to the IIS for action deemed appropriate.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint.**

The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training and/or safety issues**. The SIRG made the following observation requesting additional

 b7A

training:

**Observation 2**: SA [redacted] surrendered his weapon without consulting NYO CDC or EM, and did not adhere to NYO's [redacted] b6 b7C b7E

[redacted] b5

SIRT interviews and analysis of NYPD reports indicated relinquished possession of his Bureau-issued weapon to an outside agency without consulting the appropriate personnel.

Additionally, SIRT interviews revealed SA [redacted] contacted SA personnel, but did not contact the NYOC Duty Agent, and did not secure the scene. b6 b7C

Title: (U) Shooting Incident New York Division
Re: [redacted] 02/18/2014 b7A

**Instruction 2a**: ADIC, NYO will ensure SA [redacted] is provided remedial training regarding the application of the deadly force policy. b6 b7C

**Instruction 2b**: ADIC, NYO will ensure all Special Agent personnel are aware of the [redacted] New York Division, [redacted] b7E

[redacted]

**Recommendation 2c**: ADIC, NYO should consider changing the [redacted]

[redacted] b5 b6 b7C

Title: (U) Shooting Incident New York Division
Re: [redacted] 02/18/2014 b7A

[redacted] b5 b6 b7C

**Procedures for Responding to the Instruction**

ADIC, New York Division, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

ADIC, New York Division, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow- up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. b6 b7C
Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted]

Title: (U) Shooting Incident New York Division
Re: [redacted] 02/18/2014

b7A

♦♦

263 (Rev. 10-18-2012)

# FEDERAL BUREAU OF INVESTIGATION

| REPORTING OFFICE | OFFICE OF ORIGIN | DATE | INVESTIGATIVE PERIOD |
|---|---|---|---|
| FBIHQ - INSD | FBIHQ | 10/25/2013 | 07/18/2012 – 10/25/2013 |

TITLE OF CASE
Shooting Inquiry
Report of Shooting Incident
New York Field Office
07/18/2012

REPORT MADE BY
**HC Christopher W. Davis**

TYPED BY

CHARACTER OF CASE
Shooting Incident Review

b6
b7C

REFERENCES:

Telephone call on 07/18/2012 from New York SAC April D. Brooks to Chief Inspector Robert J. Shields Jr., and New York FD-1015, Executive Situation Report to the Director dated 07/18/2012.

APPROVED

ASSISTANT DIRECTOR

DO NOT WRITE IN SPACES BELOW

COPIES MADE:
1 - Inspection (Attn: SIRT)
1 - TD (Attn: FTU)
1 – N (297-HQ-A1271697-D
1 – FBIHQ (297-HQ-A1271697-D

| DISSEMINATION RECORD OF ATTACHED REPORT | | | | |
|---|---|---|---|---|
| Agency | | | | |
| Request Recd. | | | | |
| Date Fwd. | | | | |
| How Fwd. | | | | |
| By | | | | |

Notations

# EXECUTIVE SUMMARY
# UNITED STATES DEPARTMENT OF JUSTICE
## Federal Bureau of Investigation

Date: 05/30/2013

Report of: IIC Christopher Davis Office: FBIHQ – INSD

Case ID#: 297-HQ-A1271788-D

Title: SHOOTING INCIDENT REVIEW
REPORT OF SHOOTING INCIDENT
NEW YORK FIELD OFFICE
07/18/2012

Investigative Period: 07/18/2012 – Present

**Synopsis**

On July 18, 2012, at approximately 5:15 a.m., an Agent-involved shooting occurred in [redacted]. The Agent involved, SA [redacted] assigned to the [redacted] was off-duty at his residence, [redacted] b6 b7C

At approximately 5:00 a.m., SA [redacted] heard a car alarm. Upon looking out of a second story window of their residence, she observed two unidentified males attempting to burglarize her vehicle. The vehicle was parked directly in front of their residence. [redacted] began to bang on the window in an attempt to stop the subjects. SA [redacted], asleep in an adjacent room, was awakened by the commotion and was advised by [redacted] their vehicle was being burglarized. SA [redacted] looked out of the window, began yelling verbal commands at the subjects and identified himself as a law enforcement officer. One subject turned toward SA [redacted] The subject reached to his waistband area and made suspicious movements directed toward SA [redacted] SA [redacted] armed with his Bureau issued firearm, fired one shot at the subject through the window screen of his second story bedroom window. b6 b7C

Video footage [redacted] two subjects approaching the vicinity of SA [redacted] personally owned vehicle. Approximately two minutes later, the [redacted] two subjects attempting to flee from the vicinity of SA [redacted] vehicle. One subject fell to the ground alongside a light colored truck parked between SA [redacted] Bureau vehicle and personally owned vehicle. The second subject ran back to the first subject and dragged him down the street [redacted] Subsequent investigation by the NYPD revealed both subjects entered a vehicle [redacted] the vehicle departed the scene. b6 b7C

[redacted] called 911. NYPD officers responded to the residence. SA [redacted] advised them he fired his weapon one time. He surrendered his Bureau-issued firearm, as well as the shell casing from the fired round to the NYPD. SA [redacted] was uninjured, but was taken to a local hospital for evaluation as a precautionary measure. b6 b7C

Shortly after the incident, an individual identified as [redacted] arrived at [redacted] for treatment of a gunshot wound to his back. NYPD investigators responded to the hospital and identified [redacted] and [redacted] as the individuals who transported [redacted] to the hospital. b6 b7C

[redacted] departed the area of the hospital with the vehicle and was not seen until 07/22/2012 when he surrendered to the NYPD's 106th Precinct to address charges related to the incident.

**Details**

The SIRT dispatched to the NYO during the evening hours of 07/18/2012. Contact was made with NYPD upon arrival at SA [redacted] residence. NYPD officials provided the SIRT with the following information: b6 b7C

At approximately 5:15 am, an Agent-involved shooting occurred in [redacted] SA [redacted] assigned to the [redacted] was off-duty at his residence [redacted] when the shooting occurred. At approximately 5:00 a.m. [redacted] heard a car alarm activate. Upon looking out of her second story window, she observed two unidentified males attempting to burglarize the family's vehicle, [redacted] The vehicle was parked directly in front of their residence. [redacted] began to bang on the window in an attempt to stop the burglary. SA [redacted] asleep in an adjacent room, was awakened by the commotion, and was advised by [redacted] their vehicle was being burglarized. SA [redacted] went to the bedroom window, raised the blinds and observed a black male wearing a white t-shirt at the rear of their vehicle "pulling" on the trunk. SA [redacted] observed a "shiny" object in the right hand of the subject, which he described as either a ratchet or a knife. SA [redacted] opened the window and yelled "Police, what the fuck are you doing?" SA [redacted] stated he yelled the command twice. The subject did not respond and continued to pull on the trunk. SA [redacted] advised the subject took his left hand and placed it in the area of his waistband, while still pulling on the trunk with his right hand. Based on his experience and training, SA [redacted] believed the waistband area to be a location where weapons were kept. Upon seeing this, SA [redacted] went to a drawer beneath his bed and removed his Bureau issued service weapon from its holster, a Glock 23 (SN# [redacted] SA [redacted] returned to the window with his firearm and found the subject still pulling on the trunk. SA [redacted] again shouted at the subject to move away from his vehicle. Immediately following the command, the subject looked up at SA [redacted] reached to his waistband area and made suspicious movements directed towards him. In response to the subject's actions, SA [redacted] fired one shot from his weapon. Following the shot, the subject fled [redacted] b6 b7C

SA [redacted] went outside and found his vehicle had been burglarized and recalled seeing the passenger side window lying on the grass. Additionally, he looked [redacted]

observed a male lying near the crosswalk of [redacted] The subject looked towards him and stated, "You're killing me man." SA [redacted] was unsure how many other subjects were in the area and did not go further. Video footage [redacted] a subject, later identified as [redacted] returning to the subject on the ground [redacted] pulled [redacted] across the crosswalk and both men entered a waiting vehicle. SA [redacted] reported seeing a dark colored vehicle, possibly a [redacted] A male exited the passenger side and pulled [redacted] from the ground into the backseat. All subjects entered the vehicle and drove away [redacted]

b6
b7C

Upon re-entering his residence, SA [redacted] found [redacted] to be on the telephone with a 911 dispatcher. NYPD officers arrived on-scene within minutes and SA [redacted] identified himself as an FBI Agent. SA [redacted] advised a NYPD Sergeant he shot someone who was dragged into a [redacted] SA [redacted] described the individual he shot as a black male, with a shaved head, wearing a white T-shirt and dark shorts. After being questioned about the status of his weapon, SA [redacted] relinquished it, along with the spent shell casing, to the Sergeant.

b6
b7C

Shortly after the incident, [redacted] arrived a [redacted] for treatment of a gunshot wound in his back. NYPD investigators responded to the hospital and identified [redacted] as the individuals who transported [redacted] to the hospital. [redacted] departed the area of the hospital with the vehicle and was not seen until 07/22/2012 when he surrendered to the NYPD's 106th Precinct, to address charges related to the incident.

b6
b7C

The SIRT interviewed SA [redacted] Surveillance Team Leader for SA [redacted] SA [redacted] advised he received a call from SA [redacted] who told SA [redacted] he had been involved in a shooting. SA [redacted] unable to reach SA [redacted] immediate supervisor, contacted SA [redacted] a squad member of SA [redacted] and instructed him to respond to SA [redacted] residence.

b6
b7C

The SIRT interviewed SA [redacted] who advised he arrived at SA [redacted] residence and observed him to be visibly shaken. He asked SA [redacted] where the shooting incident occurred, in an attempt to determine if the residence was a crime scene. He was unable to remember SA [redacted] response, but recalled he mentioned someone breaking into his car, and feeling he had to shoot. He requested SA [redacted] not provide any further details. He advised on scene NYPD officers he wanted SA [redacted] to go to the hospital and requested they contact an ambulance. He accompanied SA [redacted] in the ambulance to [redacted]

b6
b7C

The above-noted information regarding the interviews of SAs [redacted] and [redacted] was documented via FD-302.

b6
b7C

As part of the SIRT investigation, a digital copy of a 911 call made by [redacted] on 07/18/2012 was received from the NYPD. As the 911 recording began [redacted] was heard to yell "shoot the car." She identified herself as [redacted] to the 911 operator, provided her address, and told the operator two black males attempted to burglarize her vehicle. She told the 911 operator a [redacted] was headed down [redacted] and "they" picked

b6
b7C

someone up. She stated there were two or three black males and one of them was possibly injured. She noted [redacted] would be able to tell the police if one of the men was injured. She told the 911 operator [redacted] was outside looking at her car and "they" stole her radio. She then identified [redacted] The 911 operator asked her if any weapons were involved. [redacted] stated [redacted] drew his weapon and fired one shot. She told the 911 operator she did not know if "they" drew a weapon and the incident occurred less than five minutes before the 911 call. b6 b7C

NYO, squad [redacted] began pursuing an AEO investigation [redacted] Agents responded to SA [redacted] residence, [redacted] and [redacted] on the morning of the shooting. SAs [redacted] and [redacted] responded to [redacted] and learned [redacted] was treated for a gunshot wound to the back. The bullet was not removed during surgery due to its proximity to [redacted] spine [redacted] was cleared for interview upon release from surgery at approximately 8:15 a.m. on 07/18/2012. During the interview with SAs [redacted] and [redacted] stated he went to [redacted] with [redacted] and two friends. He told the Agents he was walking in a crosswalk and "got shot." He then terminated the interview due to discomfort from the surgery. b7E b7C b7A

On 07/19/2012, in exchange for immunity from prosecution, SA [redacted] and [redacted] made statements to representatives of the Queens County District Attorney's Office (QCDAO) and the NYPD. SA [redacted] statement was consistent with his statement to NYPD on the morning of the shooting. [redacted] Attorney for SA [redacted] advised neither SA [redacted] nor [redacted] would be available for an interview with the SIRT. As a part of the ongoing 89B investigation, NYO obtained a copy of the NYPD and QCDAO interview of SA [redacted] and [redacted] These interviews were made part of the SIRT's investigation. b6 b7C

As a part of the ongoing 89B investigation, NYO SA [redacted] met with the QCDAO and the attorney for [redacted] on 07/22/2012. In exchange for immunity from prosecution fo [redacted] provided the following information to the QCDAO, which conflicted with the information provided by [redacted] to the FBI on 07/18/2012: [redacted] an [redacted] travelled to [redacted] in the early morning of 07/18/2012 to steal a car stereo and navigation system from a [redacted] similar to the one driven by [redacted] All four men met near the back of SA [redacted] and [redacted] took up look-out positions at the opposite ends o [redacted] an [redacted] used tools, to include a screwdriver, to burglarize the car. [redacted] heard someone shouting at him and [redacted] and then heard a gunshot. All four men began to flee the scene [redacted] realized [redacted] was injured and assisted him as they entered [redacted] After dropping of [redacted] drove away in [redacted] vehicle. b6 b7C

To date, the SIRT is not aware of any evidence indicating the subjects were armed.

Pursuant to a SIRT team request, on 07/19/2012, NYO ERT completed photographs and video of the outside of SA [redacted] residence and began Total Station processing. b6 b7C

On 09/17/2013, in exchange for immunity from prosecution for violation of Title 18, United States Code, Section 1001 [redacted] and [redacted] made statements to the SIRT, the USAO for the Eastern District of New York, and [redacted] Special Legal Counsel, Civil b6 b7C

Rights Division, DOJ. [redacted] and [redacted] were interviewed separately in the presence of their attorney [redacted] stated he [redacted] and two friends were searching for a [redacted] similar to the vehicle owned by [redacted] Once they located the [redacted] owned by [redacted] they devised a plan to break into the vehicle to steal the stereo so it could be placed in [redacted] vehicle. [redacted] and one of the friends acted as lookouts while [redacted] broke the passenger side window o[redacted] and entered the vehicle. [redacted] attempted to disarm the vehicle's alarm with a small ratchet. [redacted] used a screwdriver to access and remove the radio. During this time [redacted] moved to the rear wheel of the driver's side of the vehicle. [redacted] heard a male banging on a window and yelling, "What the fuck are you doing?" [redacted] handed the radio to one of the friends who ran away with the stereo. [redacted] hit the horn with his feet while exiting the vehicle, causing the alarm to go off and the lights to flash on the vehicle. He began to run down the street when he heard a gunshot and the [redacted] said "I got shot." Prior to hearing the gunshot, the last time he saw [redacted] was at the rear of the driver's side of the [redacted] He ran t[redacted] who was lying in the street [redacted] observed a male approach pointing a handgun at them. [redacted] told the male, "You shot me, you really shot me." The male did not say anything to [redacted] o[redacted] then pulled [redacted] to a sidewalk where one of his friends picked them up in a [redacted] and they too[redacted] to a nearby hospital.

b6
b7C

In a separate interview [redacted] stated he [redacted] and [redacted] identified as [redacted] y the NYPD) were driving around neighborhoods in two vehicles on the morning of 07/18/2012, looking for [redacted] so they could steal the radio and install it in [redacted] vehicle. Once they found [redacted] which met their criteria, they parked the vehicles and approached the vehicle on foo[redacted] attempted to disarm the alarm with a screwdriver while [redacted] broke the passenger side window and entered the vehicle. [redacted] moved to the rear of the driver's side of the vehicle to act as a lookout. At some point [redacted] activated the vehicle alarm, causing the lights to flash and the horn to go off. [redacted] noticed blinds move in an upstairs window of a house located near the vehicle and heard banging on the window. [redacted] ducked down behind the vehicle. [redacted] heard [redacted] yell, "Let's go," and [redacted] began to run up the street. He heard one shot and fell to the ground. He thought he was shot but did not feel it immediately. [redacted] told [redacted] he was shot and looked back in the direction of where it occurred. He saw a male with a gun pointed in his direction and told the male, "You fucking shot me." [redacted] could not recall if the male responded. [redacted] helped [redacted] into a [redacted] and they drove to the hospital.

b6
b7C

The Subjects were:

| Name | [redacted] | |
|---|---|---|
| Position | Rear of car | Unknown |
| Sex | Male | Male |
| Race | Black | Black |
| Height | 5'10" | 5'10" |
| Weight | 161 lbs | 155 lbs |
| Hair | Black | Black |
| Eyes | Brown | Brown |
| DOB | [redacted] | |
| SSAN | | |
| FBI # | | |

b6
b7C

**Substantive Case Files**

The following substantive case was opened regarding this incident:

**Title:** [redacted]; b6 b7C
UNSUB(S);
[redacted] - VICTIM; b7A
07/18/2012
[redacted]

**Enclosures**

All enclosures have been made part of this report and are identified in the enclosed table of contents.

A. **Administrative**

The Shooting Incident Review Team (SIRT) was comprised of the following personnel:

Inspector-in-Charge (IIC) Christopher W. Davis
Inspector [redacted] b6 b7C
Assistant Inspector (AI)/Team Leader (TL) [redacted]
AI/TL [redacted]
Assistant Inspector-in-Place (AIIP) [redacted]
AIIP [redacted]

B. **Shooting Incident Review Protocol**

On 07/18/2012, IIC Davis communicated with NYO Special Agent in Charge (SAC) April D. Brooks to arrange logistics for the SIRT. SAC Brooks served as the point of contact for the SIRT. The SIRT arrived during the evening hours of 07/18/2012. On 07/19/2012, IIC Davis and Inspector [redacted] met with the NYO Assistant Director in Charge (ADIC) Janice K. Fedarcyk to discuss SIRT protocols. IIC Davis was informed the NYPD was conducting a parallel investigation and would provide their reports to the SIRT. ADIC Fedarcyk was advised all statements taken by the SIRT would be provided to the NYPD for inclusion in their investigative file. b6 b7C

On 07/19/2012, IIC Davis met with all SIRT personnel, members of the NYO executive management as well as the squad conducting the Assault on a Federal Officer (AFO) investigation. IIC Davis introduced members of the SIRT and outlined the SIRT protocols. There was an opportunity for dialogue regarding concerns, clarification, or questions prior to the investigation commencing. On 07/19/2012, SIRT team members visited the scene of the shooting along with members of the investigative squad [redacted] and a representative of the NYO Evidence Response Team (ERT). b7E

SA [redacted] through the advice of his attorney [redacted], appeared for an interview with the NYPD and the QCDAO. The SIRT was provided a copy of a summary of the b6 b7C

interview. SA [redacted] refused to provide a Signed Sworn Statement to the SIRT. Additional interviews, events and observations were documented in FD-302s. FBI personnel were interviewed and allowed to read the FD-302 documenting their interview and confirm the accuracy of the information provided. b6 b7C

Neither the FD-644 (Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis) nor the FD-645 (Warning and Assurance to Employee Required to Provide Information) were utilized. The interviews of witnesses were conducted voluntarily. FD-927's (Warning and Assurance to Employee Requested to Provide Information Following a Shooting Incident) were executed for each Agent interview.

On 07/22/2012, an exit brief was provided by IIC Davis to ADIC Fedarcyk and SAC Brooks.

## C. Personnel Involved in the Shooting

SA [redacted] (fired weapon) b6 b7C

## D. Firearms Training

The NYO provided qualifications records for SA [redacted] INSD analysis revealed he was in compliance with all firearms requirements.

## E. Deadly Force Training

CDC [redacted] advised FBI Deadly Force Policy Training was conducted on 12/12/2011. This training was memorialized via Electronic Communication (EC) dated 11/09/2011, 66F-NY-9318, ("Schedule for Uniform Course of Legal Instruction for Third and Fourth Quarter 2011"). This EC included the topic of "DOJ Policy re Use of Force." CDC [redacted] provided the NYO Legal Instruction sign-in sheet, dated 12/21/2011, which included the signature of SA [redacted] b6 b7C

## F. Use of Body Armor and Law Enforcement Identifiers

SIRT investigation did not obtain information regarding SA [redacted] use of body armor during the incident. SA [redacted] did not provide a statement to the SIRT. b6 b7C

## G. FBI Indices and National Crime Information Center (NCIC)

National Crime Information Center (NCIC), New York State (NYS) Division of Criminal Justice Services, [redacted] for [redacted] and [redacted] revealed numerous entries which are detailed below. Additionally, FBI indices checks were completed for all subjects and returned with negative results. Copies of the arrest reports were placed in the 1A section of the file. b6 b7C b7E

Name: [redacted] (wounded subject)
Date of Birth [redacted]

Sex: Male
Race: Black
Arrest Date:
Arrest Charges

b6
b7C

Name: wounded subject)
Date of Birth:
Sex: Male
Race: Black
Arrest Date: Arrest Charges

Name:
Date of Birth:
Sex: Male
Race: Black
Arrest Date
Arrest Charges

Name:
Arrest Date
Arrest Numbe
Arrest Charges

Copies of the aforementioned printouts were placed in the 1A section of the file.

## H. Evidence Recovery and Laboratory Division Reports

Prior to the arrival of the SIRT, NYPD Detective Tax ID# accepted custody of SA Bureau-issued weapon from NYPD Sergeant who initially took custody of the weapon, and entered it into NYPD:

b6
b7C

Detective [redacted] also accepted custody of one (1) Glock model 23 magazine and 13 Winchester .40 caliber cartridges from Sergean[redacted] All the items were taken to the NYPD Police Lab for analysis under vouche[redacted] a copy of which will be maintained in the 1A section of the file). Two (2) cartridges were test fired at the NYPD Lab by NYPD Det. [redacted] Tax ID [redacted] and were retained as evidence at the NYPD Firearms Analysis Section (FAS), under laborator[redacted] No mention was made of the spent shell casing collected by the Sergean[redacted] from SA[redacted] within the NYPD Property and Evidence Tracking System (PETS), vouche[redacted] A copy of this report was included in the 1A section of the file. b6 b7C

On 07/18/2012, SA[redacted] Bureau-issued weapon and 11 cartridges were released to NYPD TFO Detectiv[redacted] Squad[redacted] NYO pursuant to an official written request from the NYO. TFO[redacted] released the items into the custody of SSA[redacted] [redacted] Squad[redacted] on 07/18/2012. SSA[redacted] relinquished custody of the weapon on 07/20/2012 to firearms instructor SA[redacted] NYO Firearms Training Unit (NYO FTU), who accepted the weapon for storage. b6 b7C b7E

The NYPD Crime Scene Unit (CSU) processed the scene following the shooting incident. On 07/20/2012, Bureau Chief[redacted] Career Criminal Major Crimes Bureau, [redacted] met with HC Davis[redacted] provided HC Davis with crime scene photographs of SA[redacted] residence. NYPD conducted a forensic examination of the second story window screen from the residence. Based on an analysis of the threads from the window screen, NYPD was of the opinion the shot fired by SA[redacted] was directed towards the rear portion of the[redacted] owned by[redacted] Based upon the forensic examination of the window screen and the supporting photographs, NYPD concluded the shot was angled towards the rear of the vehicle. b6 b7C

Also, on 07/20/2012, the following members of the NYO ERT responded to SA[redacted] residence at the request of the SIRT: Special Agent (SA)[redacted] NYO ERT Senior Team Leader, SA[redacted] SA[redacted] SA[redacted] and SA[redacted] Also present was NYO Photographe[redacted] b6 b7C

NYO ERT and Photographer documented the exterior of the residence and the surrounding area, through individual and spherical photography. They also collected digital sketching data via Total Station. The original photographs were forwarded to the case file and digital Total Station data was submitted to FBI Operational Projects Unit (OPU) for processing. [redacted] refused the SIRT request for entry into SA[redacted] residence. This precluded the SIRT from obtaining the necessary data to complete Total Station Processing. b6 b7C

I. **Medical Report**

**FBI Agents Involved in the Shooting:**
No injuries.

**Subjects:**
Shortly after the incident, an individual identified as [redacted] arrived at [redacted] for treatment of a gunshot wound in his back. NYPD investigators b6 b7C

responded to the hospital and identified [redacted] and [redacted] as the individuals who transported [redacted] to the hospital. b6 b7C

J. **Declination by the Civil Rights Division**

Upon completion of the on-site inquiry, IIC Davis coordinated SIRT investigative findings with [redacted], Special Legal Counsel, Department of Justice, Civil Rights Division. By letter dated 10/04/2013 [redacted] stated the evidence did not "support a prosecutable violation of federal law" and noted the USAO for the Eastern District of New York concurred with the recommendation to close the matter. b6 b7C

K. **Local Prosecution Opinion**

In exchange for their statements, SA [redacted] and [redacted] were granted immunity by the QCDAO. As a result, QCDAO was unable to present this information before a Grand Jury, absent a signed and executed waiver by the affected parties. The attorneys representing SA [redacted] and [redacted] reached an agreement in which neither party would testify against the other. Due to this, on 03/05/2013, QCDAO dismissed all charges against SA [redacted] and [redacted] b6 b7C

L. **Inspector's Observations**

The SIRT identified the following issues:

**OBSERVATION**: SA [redacted] surrendered his weapon without consulting NYO CDC or EM, and did not adhere to [redacted] b6 b7C b7E

**ANALYSIS:** MIOG, Part 12, Section 11.2, Guidelines for Intervention at the Shooting Scene, states the following:

*(4) If the Agent's weapon is secured for evidence or ballistics tests, another will be issued immediately unless there is cause not to issue a weapon. The Principal Legal Advisor, Office of General Counsel, FBIHQ, or the United States Attorney's Office should be consulted if questions arise regarding whether an Agent's weapon should be surrendered to local authorities.*

[redacted] updated 03/29/2012, documents the procedure to be followed in the NYO in the event of an Agent involved shooting. The relevant section of [redacted] is cited as follows: b7E b7E

[redacted] b5

[redacted] b5

SIRT interviews and analysis of NYPD reports indicated relinquished possession of his Bureau-issued weapon to an outside agency without consulting the appropriate personnel.

Additionally, SIRT interviews revealed SA [redacted] contacted SA personnel, but did not contact the NYOC Duty Agent [redacted] and did not secure the scene. b6 b7C b7E

**INSTRUCTION 1a:**

ADIC, NYO will ensure all Special Agent personnel are aware of MIOG, Part 12, Section 11.2, Guidelines for Intervention at the Shooting Scene, as well as the [redacted] b7E

**RECOMMENDATION 1b:**

ADIC, NYO should consider changing the [redacted] b5

# New York SIRT
# Tab Divider

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-52-1162 Date: Oct 4, 2013

To: Chief, Criminal Section

Re: FBI Agent [redacted], Victim [redacted]
144-52-1162
CIVIL RIGHTS

b6
b7C

This matter should be closed for the reasons described below:

1. Date of the Incident: July 18, 2012

2. Synopsis of the Facts and Reasons for Closing:

On July 18, 2012, around 5: 15 a.m., in [redacted], FBI Special Agent [redacted] shot and wounded [redacted] while he was involved in the theft of a car radio from the agents' family vehicle parked outside his home. The agent shot through a window screen from a second story room striking [redacted] in the right rear side of his body. [redacted] survived the wound without significant lasting adverse consequences.

b6
b7C

The agent claims that, after he was awakened by [redacted] screams from the next room, he looked out the window and saw [redacted] bent down behind the car with a shiny tool, while another man was inside the car. The agent identified himself as "police," ordered the intruders away from the car, and grabbed his service weapon beneath his bed. According to the agent, rather than obey the commands, the man at the rear of the car turned toward the agent with the shiny object in his right hand and reached to his waist band with his left hand for what the agent

b6
b7C

/S/
[redacted]
Special Legal Counsel

b6
b7C

---

To: Records Section
Office of Legal Administration

The above numbered file has been closed as of this date

Date

Chief, Criminal Section
FORMERLY CVR-3 FORM CL-3

thought might be a gun. Fearing for himself and [redacted] at the window in the next room, the agent fired one shot at the man [redacted] and [redacted] (inside the car removing the radio) both claim that [redacted] was running away in the street about a car length away from the subject's car when he was shot. Forensic evidence, on the other hand, supports the fact that [redacted] was at or near the rear of the car when the agent fired and wounded him. b6 b7C

The Civil Rights Division and the United States Attorney's Office for the Eastern District of New York carefully reviewed the evidence from the federal investigation and the independent Queens District Attorney's office (Queens DA) investigation to determine whether there was sufficient evidence to prove a federal criminal civil rights violation of the applicable statute, 18 United States Code, Section 242. That evidence included the Queens DA interviews of the agent [redacted] and the [redacted] an FBI/Department attorney interview of the [redacted] the FBI Lab enhancement of a video that recorded the events that appear to occur just after the shooting; and the ballistics testing and analyses performed by the Firearms Analysis Section of the NYPD Lab. The Queens DA declined a criminal prosecution of the FBI agent for any violation of state law. b6 b7C

A violation of the federal criminal civil rights statutes requires proof beyond a reasonable doubt that a subject law enforcement officer acted willfully, that is, with the intent to do something that he knew to be unlawful. Mistake of fact, and even seriously bad judgment, would not establish such willful intent. There is insufficient evidence to refute the agent's claim that he fired his weapon in order to counter what he believed to be a threat to himself and to [redacted] in the window next to him – a thief appearing to be reaching to his waistband to draw a handgun. Accordingly, with the concurrence of the United States Attorney's Office for the Eastern District of New York, it is recommended that there is insufficient evidence to support a violation of Title 18, United States Code, Section 242 beyond a reasonable doubt and the matter should be closed. b6 b7C

3. Predication and Allegations Investigated:

The matter was immediately investigated by the FBI Inspections Division and the Queens District Attorney's office. The agent and [redacted] represented by counsel, were interviewed by Queens DA attorneys and New York Police Department (NYPD) investigators. After [redacted] was located in a hospital, he was interviewed by the FBI. Later, both he and [redacted] both represented by counsel, were also interviewed by the Queens DA and NYPD investigators. b6 b7C

A neighborhood investigation revealed there were no other witnesses to the shooting. Significantly, there was a video recording of events [redacted] the time of the shooting. The frame of the video recording included [redacted] The video was enhanced by the FBI laboratory, providing a slightly better resolution of the recorded events. b6 b7C

Additionally, the agent reenacted the shooting in his bedroom and provided local law enforcement with the window screen through which he fired. Local law enforcement investigators took crime scene photographs of both the inside of the residence as well as the

outside street area. They made measurements of relevant distances and conducted ballistics testing on the screen. FBI Inspectors, local investigators, and attorneys from Queens DA and DOJ visited the scene.

The agent an[redacted] as well as both [redacted] declined to testify before Queens grand jury. The Queens DA declined prosecution of the agent and of the [redacted] b6 b7C

[redacted] and [redacted] are represented by an attorney in potential civil litigation. Both [redacted] agreed to be and were interviewed by FBI inspectors and Department attorneys. The attorney representing the agent refused to permit either the agent o[redacted] to be interviewed by the FBI/DOJ. b6 b7C

4. Subject's Version of the Events:

The agent [redacted] advised the Queens DA that she was awake[redacted] room adjacent to the couple's bedroom on the second floor in the front of the house when she heard her car alarm go off at about 5:15 a.m. Looking out the window, she observed two individuals breaking into her car. She yelled to [redacted] who was asleep in bed in the next room. b6 b7C

The agent advised the Queens DA that, after he was alerted by [redacted] he looked out the window and saw one man inside the car and a second man at the rear of the car, holding a silver object. The agent opened the left-hand-most pane of a three-paned bay window and yelled, "Police, get away from the car (or words to that effect)." The men ignored the command. b6 b7C

The agent reached under his bed for his service handgun and pointed it toward the men, repeating his command. The man behind the car (later identified as [redacted] looked up, still holding the object that appeared to the agent to be a tool in his right hand, and reached towards his left rear waistband area, turning his body towards the agent. According to the agent, he believed the man was reaching for a weapon and feared for himself an[redacted] in the adjoining room. He fired one shot at the man. b6 b7C

After he fired the shot, the agent ran downstairs and out the front door. Once outside, he observed a man dragging another man to an automobile in a nearby intersection. Upon seeing more men, the agent returned to his house[redacted] called 911. On a 911 recording [redacted] reports the shooting to the dispatcher. On the same recording, she can be heard yelling to [redacted] imploring him to shoot at the men getting away in a car. b6 b7C

An attorney representing the agent and [redacted] was present when they were both interviewed by the Queens DA office. The agent also conducted a reenactment of the shooting in his bedroom for the Queens DA, again with his attorney present. On that occasion, he also permitted the Queens DA to take custody of the screen with a gunshot hole for examination. b6 b7C

5. Witness Accounts:

Initially, when questioned by FBI agents at the hospital, claimed that he was shot while innocently walking in a crosswalk. Later, while represented by counsel, he and provided a proffer to the Queens DA in which they admitted that they were involved in a theft from the car at the time of the shooting. Later, when interviewed separately by the Queens DA, the accounts evolved. They were initially deceptive about their actions on the night of the incident. Also, their stories were inconsistent. At first told the Queens DA that he was merely passing by the location when he observed another individual breaking into the car and that, when as a good Samaritan he sought to stop him, he was shot later admitted to being actively involved in breaking into the car and trying to steal the radio. After claiming it was a crime of opportunity, ultimately admitted that the car had been spotted on a previous day.

b6
b7C

Months later, after the federal government made assurances that would not be prosecuted for previously making a false statement to a federal officer, both were interviewed in the presence of their attorney by an FBI Inspector and Department attorneys. and candidly admitted that, with the help of two accomplices, they broke into the car parked in front of the agent's home and stole its radio. Using a screwdriver, attempted to disable the alarm at the front of the car. He then went to stand at the rear of the car, leaning against it to appear less conspicuous to passers-by. Meanwhile broke out the side window, crawled into the car, removed the radio, and handed it outside to a confederate.

b6
b7C

Both were alerted to a pounding on the second floor window of the house in front of which the car was parked. heard pounding only. heard someone yell "get the F - away from the car (or words to that effect)." Both insisted they did not hear anyone yell "police."

b6
b7C

claims that he ducked down, trying to hide behind the car, when he heard the pounding at the window. He still had the tool that he used to attempt to disarm the alarm in his hand or pocket. believed that was in possession of a ratchet tool, not the screwdriver, which he carried into the car. Significantly insisted that he never reached for his waist band when he was behind the car.

b6
b7C

Both ran away from the car in the same direction – on the sidewalk an in the street. Both claimed they heard a loud boom, later determined by them to be a gunshot estimated that he had run from the rear of the car to a place in the street adjacent to the vehicle parked immediately in front of the burglarized car, when he heard a boom corroborated that, when he heard the boom, he saw, in his peripheral vision, running and falling at the approximate same spot in the street.

b6
b7C

When interviewed by federal authorities, recalled falling at the sound of the boom immediately upon being struck by a bullet. However, whe was interviewed earlier by the Queens DA, he stated that, while he had begun to run from the rear of the car, he did not specifically remember where he was when the bullet struck him confirmed later claim that he fell immediately when he was shot at previously indicated location.

b6
b7C

Both [redacted] advised tha[redacted] came to the aid of [redacted] and helped him to the nearby intersection. Before getting to the intersection, both men saw a man came out of the house. He was holding a gun and pointing it at them. The man did not say anything. [redacted] ran to get a car parked nearby and with the help of a confederate put [redacted] inside the car at the intersection and drove him to a hospital. b6 b7C

[redacted] was treated for a gunshot wound that entered the right rear side of his body with a trajectory that took the bullet near the spine and causing minor liver damage. He has fully recovered and demonstrates no significantly adverse lasting effects of having been shot. b6 b7C

The Queens DA interviewed the confederates who acted as lookouts during the crime. They concocted conflicting accounts. While it is believed that they were nearby at the time of the shooting, it is not believed that they actually witnessed the shooting.

6. Video and Physical and Forensic Evidence:

Significant physical evidence was collected and forensically analyzed. As part of a canvass by police, video was obtained [redacted] b6 b7C
[redacted] Additionally, the victim's sandals and a silver ratchet tool were found in the street adjacent to a truck parked immediately in front of the agent's car in the direction that the [redacted] ran. Finally, the agent provided the window screen with a hole through it from the gunshot he fired to the Queens DA for forensic analysis.

The video does not appear to capture the actual shooting, but it does show [redacted] b6 b7C
[redacted] running and then falling to the ground. It initially appeared that the video recorded [redacted] fall to the ground as he was shot. However, other forensic evidence contradicts such an assumption and supports the agent's contention that [redacted] was near the rear of the car when he was shot and then ran a few steps before he fell. In any event, in light of the totality of the physical evidence, the agent's contention that he shot at a man when he was behind the car -- and turning toward him with a hand at his waistband, as the agent further contends -- cannot be refuted beyond a reasonable doubt.

The stationary video camera ran continually. The video frame does not include the [redacted] Instead, it records in its frame [redacted] b6 b7C

The recording shows figures approaching the agent's car. Then, a few seconds after the car alarm engages, a figure, later determined to b[redacted] runs on the street into the [redacted] The figure falls as it crosses in front of a truck parked immediately in front of the agent's car. Thereafter, the video records another figure [redacted] drag the figure that fell down the street to the intersection where a car eventually arrives to carry everyone away. b6 b7C

The distance at which the figure fell is twelve feet from the rear of the agent's car. In that same vicinity [redacted] sandals were discovered in the street next to one another, as well as a silver ratchet. A blood drag was also discovered in the street from that spot to the intersection. b6 b7C

An examination of the agent's bedroom window revealed a tear consistent with a bullet hole in the left-side bay window screen. Weeks later, the agent conducted a reenactment of the shooting for the Queens DA. For the reenactment vehicles were placed where crime scene photographs pictured them at the time of the shooting. Measurements of distances and angles were made from the window to the location at the rear of the car the night of the shooting, as well as to the location where [redacted] sandals were discovered, and the same estimated location where he fell on the video recording. Thereafter, the Firearms Analysis Section of the NYPD Lab conducted forensic ballistic testing with the window screen. Also of forensic significance, there is a large fully-leafed curbside tree in the front yard of the agent's residence that partially blocks the view from the bay window. b6 b7C

We concur with the opinion ultimately reached by the Queens DA. First, after multiple, careful reviews of the FBI lab enhancement of the video, the image is consistent with [redacted] tripping on his sandals, causing him to fall, rather than [redacted] falling from the impact of a bullet strike. Such a bullet impact would have jarred both his body and his feet forward. Instead, in the video recording, [redacted] body falls forward while his feet remain stationary on the street. b6 b7C

Second, the agent had a clear line of site from the window screen through which he shot to the rear of [redacted] car. At the same time, the agent's view of the area from the rear of the car to the location on the street where [redacted] fell would have been obscured by the curbside tree in addition to the window frame and window blinds covering the other parts of the bay window. Due to obstructions, it is highly unlikely that the agent would have been able to hit [redacted] with a gunshot if he shot while [redacted] was in the vicinity where he fell, twelve feet away from the rear of the car. Because of trajectory angles, it seemed almost impossible that the agent could have shot [redacted] anywhere on the street other than at the location at the rear of the [redacted] car. b6 b7C

Finally, to further confirm this conclusion, forensic testing was conducted on the window screen. The actual window screen with the bullet tear hole was taken to the Firearms Analysis Section of the NYPD Lab. Upon examination of the window screen, the bullet hole from the incident was identified and marked. The screen fibers disturbed by the round passing through it were photographed. Then, the angles of fire that were consistent with both the agent's statement and the location at which [redacted] fell, as indicated on the video and by the location of his sandals, were replicated. A weapon and ammunition, which were identical to that used by the agent during the incident, were used to fire through the window screen in an attempt to replicate the hole created at the time of the incident. b6 b7C

The results of the ballistic testing revealed that a hole generated by firing through the screen at an extreme angle (as if to shoot [redacted] where he fell in the videotape) was inconsistent with the hole created during the incident. In fact, it could not have been more

different. The hole was much bigger and the fibers when disturbed by the bullet at the extreme angle bent interior on the top and exterior on the bottom of the hole. Yet, the hole created by firing through the screen at an angle consistent with firing toward the rear of the car (the agent's version of the events) generated a tear nearly identical to the original hole in both size and direction of disturbed fibers, all bending outward. Accordingly, the ballistics experts opined that the hole created during the incident was consistent with the agent's account of where the victim was located when the agent fired at him.

7. Legal Issues

To prove a violation of 18 U.S.C. § 242, the applicable federal criminal civil rights statute, the government must prove, beyond a reasonable doubt, that a police officer subject willfully used more force than was reasonably necessary under the circumstances. This burden of proof has both an objective and a subjective component. The reasonableness of the amount of force used is determined objectively and from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. Graham v. Connor, 490 U.S. 386, 396 (1989). Allowance must be made for the fact that law enforcement officials are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. Id. 396-97.

Even if there is evidence of unreasonable force, the government must further show that an officer acted willfully, that is with a bad purpose to violate the law. Screws v. United States, 325 U.S. 91 (1945). Accident, mistake, misperception, fear, or even poor judgment, do not constitute willful conduct prosecutable under the statute. The officer must intend to do that which he knew to be wrong.

8. Conclusion

There is insufficient evidence to refute beyond a reasonable doubt the agent's claim that he fired his weapon in order to eliminate what he believed to be a threat to himself and [redacted] b6 b7C
[redacted] in the window next to him – a car thief appearing to be reaching to his waistband to draw a handgun. Forensic evidence supports the agent's claim that he fired one shot at [redacted] who [redacted] was at the rear of [redacted] car. [redacted] admits that he was bent down behind the car when confronted by the agent, just as the agent claims to have seen him. [redacted] admits, and the evidence confirms, that he likely had a silver object in one hand. Even [redacted] is correct, that he did not reach toward his waist band, the agent's contention that he believed that he saw such a movement cannot be disproven. Further, the agent's claim that he was afraid for himself and his family similarly cannot be disproven.

While it is difficult to understand why the agent chose to shoot rather than to remove himself and [redacted] from harm's way, such second guessing does not prove the b6 b7C
specific criminal intent beyond a reasonable doubt necessary to prosecute the agent under Title 18, United States Code, Section 242. As indicated in the previous section, accident, mistake, misperception, fear, or even poor judgment, do not establish willful conduct. Accordingly, the evidence does not support a prosecutable violation of federal law and it is recommended that the matter should be closed. The United States Attorney's Office for the Eastern District of New York concurs with this recommendation.

[redacted]
DJ 144-52-1162

b6
b7C

[redacted] Esquire
[redacted]

Re: DJ 144-52-1162

Dear [redacted]

This is to memorialize our prior telephone conversation and to request that you reconsider your earlier decision to decline to permit a voluntary interview by me and the FBI of your client, Special Agent [redacted] and [redacted]

b6
b7C

As you know, the Inspection Division and the Department's Civil Rights Division are conducting a criminal investigation of the July 18, 2012 shooting in which SA [redacted] wounded [redacted] outside the agent's home in [redacted] to determine whether the agent willfully used unreasonable force under color of law in violation of 18 United States Code Section 242. During the Queens District Attorney's criminal investigation, which ultimately concluded with a declination of any charges related to your client's conduct, he spoke with attorneys from that office. While we have been advised of the details of that interview, we would like the same opportunity to hear his account of the events and to question him.

b6
b7C

For your information [redacted] attorney has agreed to permit an interview of his client in this federal investigation. While we recognize that your client has a 5th Amendment privilege to decline to provide a voluntary interview, we would obviously prefer to hear all eye witness accounts to assess them in order to make a fully informed decision in this important matter.

b6
b7C

Cc: Chron Records [redacted] T 7/2/13
[redacted]

b6
b7C

We will consider any ground rules for such an interview, except use immunity (no interview will be compelled at this stage of our review). Please advise me of your decision at your earliest convenience or call if you wish to discuss my request further. My office number is [redacted] b6 b7C

Sincerely,

[redacted]

Special Legal Counsel

PEOPLE V. ADRIAN RICKETTS 2012QN039081
PEOPLE V. ANDRAE RICKETTS 2012QN039274

STATEMENT BY ADA ROBERT HANOPHY (READ INTO THE RECORD)

[redacted]

AT THIS TIME, THE PEOPLE MOVE TO DISMISS BOTH DOCKETS CURRENTLY BEFORE THE COURT. THE DISTRICT ATTORNEY'S OFFICE HAS CONDUCTED AN ALMOST 8 MONTH INVESTIGATION INTO THIS INCIDENT.

WE BELIEVE THE PERTINENT FACTS SURROUNDING THIS INCIDENT TO BE AS FOLLOWS: ON JULY 18, 2012 BROTHERS ANDRAE AND ADRIAN RICKETTS WERE BREAKING INTO AN AUTOMOBILE OWNED BY AN FBI AGENT [redacted]. THEIR ACTS WERE OBSERVED THROUGH THE WINDOW BY THE AGENT'S WIFE WHO WOKE UP HER HUSBAND. THE FBI AGENT YELLED SEVERAL TIMES, "POLICE GET AWAY FROM THE CAR." AT SOME POINT THE FBI AGENT BELIEVED THAT ADRIAN RICKETTS WAS REACHING FOR A WEAPON AND HE FIRED ONE ROUND FROM HIS SERVICE WEAPON, STRIKING ADRIAN RICKETTS IN THE SIDE OF HIS BODY, AFTER WHICH, THE RICKETTS BROTHERS FLED THE SCENE. BOTH RICKETTS BROTHERS AS WELL AS THE FBI AGENT [redacted] AND HIS WIFE HAVE BEEN INTERVIEWED. DURING THE PROGRESSION OF THE INVESTIGATION, THE DISTRICT ATTORNEY'S OFFICE LEARNED THROUGH THEIR ATTORNEYS THAT NEITHER ANDRAE NOR ADRIAN RICKETTS WOULD VOLUNTARILY TESTIFY IN THE GRAND JURY WITHOUT A GRANT OF IMMUNITY. SIMILARLY WE LEARNED FROM THE FBI AGENT'S ATTORNEY LAWRENCE BERGER, THAT THE FBI AGENT [redacted] WOULD NOT TESTIFY BEFORE THE GRAND JURY IF HE WAS REQUIRED TO SIGN A WAIVER OF IMMUNITY. THE DISTRICT ATTORNEY'S OFFICE WILL NOT "CHOOSE SIDES WITH REGARDS TO THIS INCIDENT. IT WAS OUR INTENTION TO SUBMIT THE

ENTIRE MATTER TO A GRAND JURY FOR ITS' CONSIDERATION. IT APPEARS THAT THE ATTORNEYS FOR THE AGENT AND THE RICKETTS HAVE AGREED TO HAVE THEIR CLIENTS NOT TESTIFY AGAINST EACH OTHER. THE DISTRICT ATTORNEY'S OFFICE WAS NOT A PARTY TO ANY SUCH ARRANGEMENT. I HAVE CONFERRED WITH MR. BERGER AND MR. DAVID LEVINE WHO REPRESENTS THESE DEFENDANTS. EACH HAS TOLD ME THAT THEY EXPRESSLY ENDORSE DISMISSAL OF THE CASE AGAINST THE RICKETTS BROTHERS AND REALIZE THAT AS A RESULT, A GRAND JURY WILL NOT CONSIDER THE FBI AGENT'S ACTS THAT NIGHT. EACH PARTY FURTHER UNDERSTANDS THE FINALITY OF THIS DISMISSAL AND THAT WE WILL NOT LATER RE- ENTERTAIN ANY COMPLAINTS ARISING FROM THE EVENTS OF JULY 18, 2012.

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT SAN JUAN DIVISION 10/14/2010 **Date:** 06/06/2013

**To:** INSPECTION (Route)

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271921-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/14/2010, involving Supervisory Special Agent (SSA) [redacted] and Special Agent (SA) [redacted] b6 b7C of the Critical Incident Response Group (CIRG). During the rescue of a kidnapping victim SSA [redacted] fired approximately eight to ten rounds and SA [redacted] fired approximately five rounds, resulting in the death of a subject as well as a dog. SIRG members recommended that no administrative action be taken against SSA [redacted] and SA [redacted] as a result of their involvement in this shooting incident.

**Administrative Notes:** (U) Reference Report of Former Inspector Aaron T. Ford, dated 10/21/2010.

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Detail of the shooting Incident**

On 10/08/2010, [redacted] a local businessman from a wealthy family in [redacted] was kidnapped. José Antonio Ortíz-Albarrán, [redacted] and an unknown b6 b7C

coconspirator were involved in the kidnapping. [redacted] was held hostage at an unknown location and an initial ransom demand of $1 million, later reduced to $250,000, was made. Because Ortiz-Albarran and [redacted] did not wear face coverings there was concern [redacted] may be killed, rather than be released. b6 b7C

At approximately 4:00 p.m. on 10/12/2010, a secure video teleconference (SVTC) was held between San Juan Special Agent in Charge (SAC) Luis S. Fraticelli, Assistant Special Agent in Charge (ASAC) [redacted] ASAC [redacted] San Juan Special Weapons and Tactics (SWAT) Senior Team Leader (STL) [redacted] Hostage Rescue Team (HRT) Special Agent (SA) [redacted] and (Critical Incident Response Group) CIRG personnel Assistant Director (AD) Robert A. Blecksmith, Deputy Assistant Director (DAD) M. Chris Briese, HRT Section Chief (SC) James F. Yacone and HRT Assistant Section Chief (ASC) [redacted] A Type B, partial deployment of HRT resources comprised of fewer operators than a full team, was approved by AD Blecksmith during the SVTC. The deployment was to be immediate, with HRT to arrive in San Juan at approximately 12:50 a.m. on 10/13/2010. b6 b7C

San Juan FBI identified the location where [redacted] was being held hostage at [redacted] As part of the investigation, physical surveillance identified a delivery of a Burger King bag to the [redacted] on the afternoon of 10/13/2010. A proof of life call was received later that evening and during the call [redacted] advised he had eaten Burger King for lunch. With this information SAC Fraticelli, was confident the hostage was being held inside the [redacted] b6 b7C

On 10/13/2010, at approximately 11:00 p.m., an Operations Order prepared by HRT personnel was briefed to SAC Fraticelli, which he verbally approved. SAC Fraticelli advised he would not authorize the execution of the Operations Order until he received confirmation the hostage was located inside of [redacted] The original written b6 b7C

Operations Order bore the approval signatures of SAC Fraticelli, ASAC [redacted] ASAC [redacted] Chief Division Counsel (CDC) [redacted] and ASC [redacted] b6 b7C

The Operations Order was briefed to all HRT members, with each respective Team Leader (TL) briefing the members of their team. Approximately half of the San Juan SWAT Team were responsible for effecting the arrest of [redacted] who was expected to be located other than the [redacted] while the other half of the team was to provide rear security during the operation to be undertaken by HRT. During the briefing the deadly force policy was read verbatim. b6 b7C

After a proof of life call was successfully accomplished, and during which the victim indicated he had eaten Burger King for lunch, SAC Fraticelli directed the Operations Order be executed at approximately 4:00 AM.

ASAC [redacted] served as the On-Scene-Commander. While en route to the scene the Command Post advised ASAC [redacted] that [redacted] was in a Mercedes-Benz, possibly heading towards the [redacted] Because the rescue operation was imminent, ASAC [redacted] instructed SSA [redacted] who was pre-positioned with a Task Force Officer (TFO) at the entrance to the subdivision, to prevent [redacted] from entering. SSA [redacted] directed San Juan SAs to set up a road block on the main road, adjacent to the subdivision entrance. [redacted] rammed the road block, broke through and was pursued. [redacted] was later arrested at another location. b6 b7C

As HRT members entered the rear yard of a residence adjacent to [redacted] multiple motion sensor lights were activated, and the entire yard was illuminated, making it possible for team members to be seen from [redacted] As HRT members positioned themselves, and compensated for the activation of the lights, two dogs, which had started barking when the lights were activated, started to become more agitated and aggressive. Suddenly, the dogs stopped barking and retreated towards a door previously identified as the breach point. SSA [redacted] one of the HRT TLs, saw a man, later identified as b6 b7C

José Antonio Ortíz-Albarrán, exit the residence. SSA [redacted] saw a handgun in the man's right hand. SSA [redacted] announced the presence of the man over the HRT radio. The man began to slowly move away from the door and appeared to be assessing the area. b6 b7C

SSA [redacted] knew his team members were at their last point of concealment before moving into position, could be given the command to execute the rescue operation at any moment, and would be in imminent danger if they proceeded. Additionally, SSA [redacted] was cognizant the armed man could not be allowed back inside the residence because he could injure or kill [redacted] b6 b7C

Through his Night Vision Goggles (NVGs), SSA [redacted] could see the laser of his and SA [redacted] Bureau-issued Hecker&Koch (H&K) 416 weapon on the man. In a loud, clear, commanding voice, SSA [redacted] told the man, "Alto, policia," which he knew to mean, "Stop, police," in Spanish. Immediately after SSA [redacted] said, "Alto, policia," the man, who was still moving away from the door, looked in SSA [redacted] and SA [redacted] direction and stretched his head in a forward motion as if he was attempting to see one or both of them better. As SSA [redacted] began to command "Alto, policia" a second time, the armed man raised his handgun from his hip to his chest level. The barrel of the man's handgun was pointed directly towards SSA [redacted] and SA [redacted] Fearing for his personal safety, SSA [redacted] fired his H&K 416 weapon eight to ten times at the man, and ceased shooting when he and SA [redacted] were no longer in imminent danger. SSA [redacted] saw the man fall backwards onto the ground, with his left shoulder lying in a flower bed. The man's handgun fell to the ground and landed a short distance from his right hand. Simultaneous to SSA [redacted] observations and actions, SA [redacted] saw the man and thought the man could see him. SA [redacted] saw the man raise his weapon and point it in his direction. SA [redacted] called out the observation of the man but, due to the short time period to react, SA [redacted] did not issue verbal commands to the man. SA [redacted] fired his H&K 416 approximately five times at the man. The man was approximately 13-14 yards away from SSA [redacted] and SA [redacted] at the time they fired at him. b6 b7C

The weapons fire indicated a compromise had occurred and the command, "Execute, execute, execute" was broadcast over the HRT radio channel. Immediately, the explosive breaching charges were initiated and all entry team personnel moved forward toward the [redacted] b6 b7C SSA [redacted] held his position and continued to cover the downed man. Out of his peripheral vision, SSA [redacted] saw team members moving down the side perimeter wall and along the back side of the residence. As the assaulters reached the corner of the house near the canopy and side door, the larger of the two dogs began barking wildly and aggressively moving toward the assaulters. SSA [redacted] believed the dog posed an imminent threat to team members. SSA [redacted] used his H&K 416 and fired four to six rounds, striking the dog. Assaulters at the corner of the residence covered the downed man and SSA [redacted] and SA [redacted] crossed into the rear yard of [redacted]

Entry team members located [redacted] and broadcasted "Jackpot" to communicate his safe recovery to other personnel. Entry team members brought [redacted] out of the [redacted] through the side door. [redacted] was attended to by a physician. b6 b7C

The weapon was moved away from the downed man and he was initially assessed by SSA [redacted] a trained Emergency Medical Technician. Once the scene was secured, the man was assessed by the HRT medic, SA [redacted] There was sufficient light for the medical assessment to be conducted and an entry wound to the left side of the man's head could be seen as well as substantial blood in his ear. SSA [redacted] informed SA [redacted] the man showed no signs of life. SA [redacted] checked the man again and determined he had sustained injuries incompatible with life, SA [redacted] exited the residence and informed the physician of his observations of the man. The physician agreed no additional medical efforts would be beneficial to the man because of his gunshot wounds and continued to provide medical attention to the hostage, assisted by SA [redacted] b6 b7C

HRT secured the scene and accounted for all personnel. No law enforcement personnel were injured.

Title: (U) SHOOTING INCIDENT SAN JUAN DIVISION 10/14/2010
Re: 297-HQ-A1271921-D, 06/06/2013

By letter dated 10/19/2011, [redacted] District Attorney in Charge, Department of Justice of Puerto Rico (DJPR), advised no criminal charges would be filed against FBI agents SSA [redacted] and SA [redacted] for the death of José Antonio Ortíz-Albarrán. By letter dated 08/22/2012, the United States Department of Justice, Civil Rights Division, advised a criminal investigation is not warranted in this matter. b6 b7C

On 11/28/2012, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Eric S. Birnbaum, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Trial Attorney, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit; Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted] OI, INSD; Assistant Inspector [redacted] OI, INSD; SSA [redacted] INSD; Unit Chief [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; and Management and Program Analyst [redacted] Inspection Management Unit, OI, INSD. b6 b7C

Title: (U) SHOOTING INCIDENT SAN JUAN DIVISION 10/14/2010
Re: 297-HQ-A1271921-D, 06/06/2013

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force employed by the Agents was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SSA [redacted] and SA [redacted] as a result of their involvement in this shooting incident. b6 b7C

No other recommendations or observations were made by SIRG members.

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 06/23/2013

**Lead Type:** Action

**Deadline:** 08/22/2013

**Lead Number:** 1

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271921-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271921-D Serial 67

**Details:** (U) That no administrative action be taken against SSA [redacted] b6 b7C and Special Agent [redacted] as a result of their involvement in this shooting incident.

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT CRITICAL INCIDENT RESPONSE GROUP 12/02/2010 **Date:** 06/06/2013

**To:** DA-INTERNAL INVESTIGATIONS SECTION

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/02/2010, involving Supervisory Special Agent (SSA) [redacted] of the Critical Incident Response Group (CIRG). SSA [redacted] accidentally discharged one round from his Bureau-issued Glock, Model 27 pistol while participating in firearms training, injuring his upper right thigh. SIRG members recommended that SSA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication of Office Services Specialist [redacted] dated 12/06/2010. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 12/02/2010, at approximately 2:20 p.m., SSA [redacted] was participating in the Hostage Rescue Team (HRT) firearms training on the HRT range at Quantico, Virginia. While withdrawing his weapon from b6 b7C

its holster, SSA [redacted] accidently discharged one round into his upper thigh. b6 b7C

Immediately following the incident Agents participating in firearms training on the same range began to administer first aid. The CIRG, Tactical Section's Physicians Assistant also responded and provided advanced care.

Following the initial treatment, SSA [redacted] was transported to Mary Washington Hospital in Fredericksburg, Virginia, via Bureau helicopter where he was treated and released the same day.

On 12/03/2010, SSA [redacted] firearm was forwarded to the Defensive Systems Unit, Training Division, for inspection to determine if the weapon was working properly. The inspection of the weapon determined the weapon contained dust and lint; the spring loaded bearing and extractor depressor plunger spring had light rust. The weapon also had unauthorized modifications and/or parts including a Scherer floorplate on the magazine and the rear underside of the trigger guard had been modified. However, examination determined the modifications did not contribute to the accidental discharge. b6 b7C

On 11/28/2012, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Eric S. Birnbaum, Office of Inspections (OI), INSD; [redacted] b6 b7C [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Trial Attorney, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT)

Operations Unit; Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] OI, INSD; Assistant Inspector [redacted] OI, INSD; SSA [redacted] INSD; Unit Chief [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; and Management and Program Analyst [redacted] Inspection Management Unit, OI, INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SSA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

b6
b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 06/11/2013
**Lead Type:** Action
**Deadline:** 08/10/2013
**Lead Number:** 3

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271970-D Serial 69

**Details:** (U) That SSA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Assistant Director of CIRG to ensure SSA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training. b6 b7C

Re: 297-HQ-A1271970-D
Lead: 3, 06/11/2013

**Location**

**To:** DA-INTERNAL INVESTIGATIONS SECTION
**Recipient:** DA-INTERNAL INVESTIGATIONS SECTION
**Assignee:** [redacted] b6 b7C
**Attn:** Section Chief Stuart P. Fronk
**Status:** Covered

**Coverages:**
06/11/2013 by [redacted]
Reference: 297-HQ-A1271970-D Serial 69
(U) Read and cleared.

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 07/19/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] b6 b7C

**Approved By:** Bennett Keith L. [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271749-D

**Title:** SHOOTING INCIDENT
MILWAUKEE DIVISION
02/03/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/03/2011, involving Special Agent (SA) [redacted] of the Milwaukee Division. While conducting a vehicle stop, SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, striking the non-complaint subject in the right thumb. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**Administrative:** Reference report of former Inspector [redacted] dated 07/18/2011. b6 b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 02/03/2011, at 8:39 a.m., SA [redacted] telephonically requested the assistance of SA [redacted] with the surveillance and eventual arrest of [redacted] the subject of an arrest warrant for a state drug offense. SA [redacted] met with SA [redacted] and Milwaukee Police Department (MPD) Task Force Officer (TFO) [redacted] who b6 b7C

were all members of the High Intensity Drug Trafficking Area/Drug Task Force (HIDTA). The Agents and TFO [redacted] planned to conduct a "traffic stop" to arrest [redacted] Although no written Operations Plan existed, the participants decided TFO [redacted] would initiate the stop of the subject's vehicle, and SA [redacted] would "box in" the vehicle from the front to prevent the subject's escape. b6 b7C

At approximately 9:15 a.m., on 02/03/2011, SAs [redacted] and [redacted] along with TFO [redacted] initiated a surveillance of [redacted] at a residence in [redacted] At approximately 12:00 p.m., SA [redacted] observed the subject exit his residence and enter a green minivan. As the three law enforcement vehicles followed the subject, TFO [redacted] radioed the Agents that he observed [redacted] lean over toward the right side floor board of his vehicle causing SA [redacted] to believe he was hiding drugs or reaching for a weapon. b6 b7C

TFO [redacted] activated his emergency lights and [redacted] immediately pulled over to the right side of the street. TFO [redacted] pulled within approximately eight feet behind [redacted] minivan and SA [redacted] vehicle was approximately eight feet behind [redacted] SA [redacted] pulled in front of the subject vehicle to prevent his escape, quickly exited, and walked toward TFO [redacted] SA [redacted] exited his vehicle and took a position near the rear left corner of his vehicle. As SA [redacted] walked toward the front of the subject vehicle with his weapon drawn, he shouted, "Police, shut off the vehicle, hands, hands." TFO [redacted] ordered [redacted] to exit his vehicle several times; however, [redacted] refused to comply. TFO [redacted] advised [redacted] he was under arrest. SA [redacted] heard TFO [redacted] shouting commands for [redacted] to exit the vehicle, and the subject reply, "No I'm not going to get out," and saw [redacted] rolling up his window. b6 b7C

[redacted] abruptly shifted his vehicle into reverse, shifted into drive, and aggressively proceeded forward toward SA [redacted] As the subject vehicle approached closer, SA [redacted] braced himself against the hood with his left hand as the front right bumper hit his right shin and slightly spun him. SA [redacted] planted his feet and fired one round which penetrated the glass of the front passenger side window. [redacted] fled the scene. b6 b7C

Law enforcement personnel briefly pursued [redacted] however, lost sight of him in traffic. The pursuit was discontinued and the three law enforcement officers returned to secure the scene. SA [redacted] and TFO [redacted] notified their FBI and HIDTA supervisors of the shooting incident by cell phone. b6 b7C

Within hours, [redacted] was arrested by an FBI Agent and MPD officers assigned to the HIDTA Task Force. Investigators determined SA [redacted] discharged round struck [redacted] right thumb. b6 b7C

On 04/20/2011, [redacted] Milwaukee County District Attorney, opined SA [redacted] "responded to a lethal threat with an appropriate and justifiable use of force, and that the use of force was privileged as self defense and defense of others." b6 b7C

On 05/18/2011, [redacted] United States Department of Justice, Civil Rights Division, advised the facts do not warrant a federal investigation as a potential willful use of unreasonable deadly force. b6 b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

SIRG members unanimously adopted the following observations made by the Shooting Incident Review Team:

OBSERVATION #1:

**SA [redacted] did not prepare a written operations plan for the surveillance and arrest of the subject.** b6 b7C

A written operations plan was not prepared for the surveillance and arrest of the subject, who had a conviction for carrying a concealed weapon and demonstrated reluctance to cooperate with law enforcement as a source in the past. The plan was finalized and verbally briefed within an approximated 36 to 51 minute window from the time SA [redacted] contacted SA [redacted] on 02/03/2011, at 8:39 a.m., to request his participation in the operation, and the initiation of surveillance at the subject's residence between 9:15-9:30 a.m. There were no exigent circumstances which precluded appropriate preparation of an operation plan. b6 b7C

Corporate Policy Notice 0242N, Requirement for Written Operations Order - Field Operations, dated 07/15/2010, states, in part:

> 8. Policy Statement:
>
> 8.1 The necessity to have clear, concise, and complete operational plans, in the form of operations orders, is essential to successful arrest and search operations and any other activity in which the practical application of firearms might be reasonably anticipated. Operations orders are the vehicle through which the Case Agent's and/or On-Scene Commander's strategy is reduced to a tactical directive. Their most important function is to ensure success. By standardizing format, the chance for omission of essential data is eliminated thus providing subordinate elements with the complete picture for mission completion.

8.2 Written Operations Orders: Absent exigent circumstances, written operations orders will be prepared prior to conducting arrest and search operations and any other activity in which the practical application of firearms might be reasonably anticipated.

8.3 Exigent Circumstances: Exigent circumstances may necessitate an oral briefing in lieu of the written operations order.

13. Definitions:

13.1 Exigent circumstances: Generally, an emergency, a pressing necessity requiring immediate action.

9. Roles and Responsibilities:
9.1. Case Agent
9.1.1 Responsible for preparing the operations order
9.1.2 Responsible for briefing the operations order

9.2. Substantive Squad Supervisor
9.2.1 GS-14 Supervisory Special Agent responsible for reviewing the operations order

**Instruction #1:**

That SAC, Milwaukee ensure Milwaukee personnel comply with the above Corporate Policy Notice.

OBSERVATION #2:

**SA [redacted] executed a vehicle block in a manner inconsistent with FBI tactics.** b6 b7C

TFO [redacted] activated his emergency lights to initiate a vehicle stop of [redacted] vehicle. [redacted] immediately pulled over toward the snow bank on the right side of the street. TFO [redacted] pulled within approximately eight feet behind [redacted] minivan. SA [redacted] pulled in front of and in alignment with [redacted] vehicle. SA [redacted] backed up and parked within one foot of [redacted] front bumper to "box in" [redacted] vehicle, in order to prevent him from fleeing. SA [redacted] quickly exited his vehicle and stood by the rear of his own vehicle, while TFO [redacted] addressed [redacted] through the driver's window. Once [redacted] decided not to cooperate with TFO [redacted] verbal commands, the positioning of SA [redacted]

vehicle, along with the eight feet between [redacted] rear bumper and TFO [redacted] front bumper, afforded [redacted] room to maneuver to flee. b6 b7C

[redacted] b7E

**Instruction #2:**

That SAC, Milwaukee ensure Agent personnel receive additional training in vehicle stop and vehicle block techniques, consistent with FBI tactics. Task force personnel should be afforded the opportunity to observe FBI tactics to improve interoperability.

OBSERVATION #3:

**SA [redacted] did not wear his issued ballistic vest during the operation as mandated by Bureau policy.** b6 b7C

After the initial stop of [redacted] vehicle by TFO [redacted] and SA [redacted] maneuvering to block [redacted] vehicle, SA [redacted] stopped approximately eight feet behind TFO [redacted] vehicle. SA [redacted] exited his vehicle, took a position near the rear left corner of his own vehicle, and remained there until [redacted] fled the scene. SA [redacted] was not wearing his ballistic vest; the vest remained on the front seat of SA [redacted] vehicle. [redacted] had a conviction for carrying a concealed weapon and made movements while being stopped, which caused TFO [redacted] to believe he may have been reaching for a weapon. TFO [redacted] immediately announced [redacted] movement on the HIDTA radio to all participants.

The issued ballistic vest can be reconfigured to support surveillance operations by removing the ballistic panels and wearing them in the issued concealment carrier. The outer tactical carrier with FBI markings can be donned over clothing to facilitate identification as law enforcement during the transition from covert to overt activity.

The MIOG, Section 12-13.1 states, in part:

"Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

**Instruction #3:**

That SAC, Milwaukee ensure all division personnel comply with the above MIOG requirement.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Joyce, Room 7142
1 - Mr. Perkins, Room 7142
1 - Mr. Weissmann, Room 7427
1 - [redacted] USDOJ b6 b7C
1 - [redacted] USDOJ
1 - Ms. Challman, Room 3246
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted], Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT OKLAHOMA CITY DIVISION 05/04/2011 **Date:** 05/17/2013

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271801-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Oklahoma City Division on 05/04/2011. Special Weapons and Tactic (SWAT) team Special Agents (SAs) [redacted] b6 b7C as well as two Oklahoma Highway Patrol (OHP) Troopers, fired rounds at a subject aiming an AK-47 in the direction of law enforcement personnel. SIRG members recommended that no administrative action be taken against the Agents as a result of their involvement in this shooting incident.

**Administrative Notes:** (U) Reference report of Inspector [redacted] dated 06/13/2011. b6 b7C

**Details:**

On 05/03/2011, at approximately 9:42 p.m., Supervisory Special Agent (SSA) [redacted] of the Jacksonville Division, telephonically contacted Oklahoma City ASAC [redacted] and JTTF SSA [redacted] SSA [redacted] advised the Jacksonville Division obtained a federal arrest warrant for Sandlin Matthews Smith, who was considered armed and dangerous, and was wanted for the bombing of a mosque in Jacksonville. SSA [redacted] advised Smith was believed to possess explosives and an AK-47 rifle; was known to abuse drugs and alcohol; and, was possibly suicidal. Smith's cellular telephone was tracked to the vicinity of Enid, Oklahoma. SSA [redacted] advised Smith operated a black Toyota Tundra with a Florida license plate and a b6 b7C

silver tool box in the bed. He also provided Smith's drivers license information and a photograph via blackberry.

Assistant Special Agent in Charge (ASAC) [redacted] contacted Special Agent in Charge (SAC) James E. Finch, while SSA [redacted] contacted the Oklahoma Highway Patrol Troop responsible for the Enid territory. SAC Finch was briefed on the information provided by SSA [redacted] and authorized the deployment of the division's SWAT team. ASAC [redacted] was designated the On-Scene Commander (OSC). As SSA [redacted] and ASAC [redacted] proceeded to Enid, SSA [redacted] advised SSA [redacted] that recent information indicated Smith's phone was stationary in the area of Glass Mountain State Park. The SWAT team was redirected by ASAC [redacted] to travel to Glass Mountain, located in Orienta. b6 b7C

Upon arrival in Orienta, ASAC [redacted] and SSA [redacted] met with OHP personnel and established a forward command post. The OHP, with the assistance of a Oklahoma Department of Wildlife Game Warden Officer, established a perimeter around the state park with roadblocks at all exits. b6 b7C

SSA [redacted] continued to relay information as it was obtained through ongoing interviews in the Jacksonville area. Investigation determined Smith made "goodbye" calls and stated he "cannot do twenty," meaning he could not go to prison. Interviews revealed Smith made recent statements referring to dying at the hands of law enforcement because he could not go to prison, and could not kill himself. During the execution of a search warrant at Smith's residence, Agents seized ammunition for a .270 caliber weapon wrapped in tin foil which indicated a triggering device for an Improvised Explosive Device (IED). b6 b7C

Although continuous attempts were made throughout the night to contact Smith via his cellular phone in order to initiate negotiations, Smith never answered. No additional "pinging" was detected, indicating the phone was most likely turned off.

On 05/04/2011, at approximately 1:30 a.m., the Oklahoma Division SWAT team arrived at Glass Mountain and established a joint

command post with the OHP.

ASAC [redacted] and Team Leader (TL) [redacted] initially devised a two part plan to apprehend Smith. The first part of the plan established and [redacted] south of Smith's location. The second part of the plan, involved the [redacted] Smith as he was leaving the park. The operation plan was briefed to the entire Oklahoma Division SWAT team and Assistant TL SA [redacted] assigned specific roles to each team member. Team members rehearsed the [redacted] scenario focusing on officer safety concerns due to the intelligence regarding Smith's use of explosives, possession of firearms, drug and alcohol abuse, and his overall mental instability. b6 b7C b7E

At approximately 3:00 a.m., TL [redacted] directed the deployment of a [redacted] comprised of SAs [redacted] and [redacted] to a location atop a large butte which overlooked the area where Smith's cellular telephone last transmitted a signal. The Agents were instructed to search for Smith near the base of the back side of the butte and report on his location; however, due to dangerous conditions they returned before reaching their assigned position. b6 b7C b7E

At approximately 7:00 a.m., the Oklahoma City Division surveillance airplane arrived in the area to assist in the search for Smith and his truck. At approximately 7:15 a.m., the surveillance spotted a vehicle and tent in the same location as the last known Global Positioning Satellite (GPS) coordinates for Smith's telephone. The tent was essentially a one-person cot with a supported fabric cover and flaps to enter and exit. At 7:30 a.m., the [redacted] of SAs [redacted] and [redacted] established an elevated position atop a butte 210 yards south of Smith's tent and vehicle. SAs [redacted] and [redacted] observed and reported the entrance flap of the tent was facing to the north and SA [redacted] observed what he believed to be a subject laying on a cot inside. Between 9:30 and 10:00 a.m., SA [redacted] could see the top b6 b7C b7E

of Smith's head inside the tent. Later SA [redacted] observed Smith exit the tent, look around, sit up on the edge of the cot, then lay back down on the cot with his hands across his chest. He saw Smith's head extend outside the tent's door-flap and then quickly retreat inside on at least two occasions. b6 b7C

The operations plan was modified to approach to Smith's position, attempt to engage him verbally, and persuade him to surrender. The plan was to [redacted] From his position, SA [redacted] would verbally guide the drivers of the SWAT vehicles into close proximity of Smith's position. Once vehicles were in place, SA [redacted] was to cover Smith [redacted] with SWAT members [redacted] TL [redacted] was to give verbal commands directing Smith to surrender. The SWAT team was assembled and briefed by TL [redacted] on the modified operations plan which covered all facets of the operation including situation, mission, execution, administration/equipment, and control/communication. Other contingencies were addressed including medical issues, specifically staging an ambulance with paramedics nearby in the event of a critical injury. b6 b7C b7E

Prior to deployment, SSA [redacted] recited the FBI Deadly Force Policy over the FBI radio to all SWAT team members, who responded by affirming their understanding of the policy. b6 b7C

The SWAT team, staged at the Command Post, just outside Glass Mountain State Park, began their approach to Smith's location in the [redacted] shortly before 12:00 p.m. At approximately 12:30 p.m., the SWAT vehicles arrived near Smith's location while Smith remained under surveillance by the [redacted] The [redacted] stopped approximately 40-50 yards away from Smith's location. TL [redacted] identified the presence of the FBI, and gave verbal commands to surrender, including: "Sandlin Smith, you are under arrest. This is the FBI. Please come out of the tent with your hands over your head. We do not want to hurt you." These commands were repeated for over one b6 b7C b7E

hour with no response from Smith. OSC [redacted] TL [redacted] and SSA [redacted] considered, based on Smith's drug and alcohol history, Smith may have overdosed, passed out or committed suicide. SAs [redacted] and [redacted] continued to observe Smith while the verbal commands were given and advised TL [redacted] that Smith appeared to be "completely out." As a result, TL [redacted] consulted the OHP Trooper Negotiator regarding options. b6 b7C

After a long period of unsuccessful attempts to engage Smith in conversation, an OHP Lieutenant offered the use of a canine to obtain a response from Smith. TL [redacted] met with the OHP canine handlers, while SA [redacted] continued to use the PA system to call out to Smith. OSC [redacted] approved modifying the plan to use the OHP canine and SWAT personnel to protect the canine unit. b6 b7C

The OHP canine unit personnel met with TL [redacted] to discuss details of the canine unit's operation, including the need for FBI personnel to remain in their positions as motionless as possible. TL [redacted] was briefed on the canine teams ' capabilities, and was advised if Smith was asleep, the canine would not bite. The canine team was provided with an FBI radio for communications and proceeded to Smith's tent. b6 b7C

TL [redacted] advised all SWAT members the Oklahoma Troopers would deploy a canine, and to maintain their positions. The SWAT team was told to remain motionless to prevent the canine from becoming distracted from the intended target. Subsequently, OHP Troopers [redacted] and Canine Trooper [redacted] moved closer to the tent, and noted the positions of the FBI SWAT team positioned east of the tent. Trooper [redacted] obtained target identification with the canine, and deployed the dog which started moving toward the FBI SWAT SAs; however, with a subsequent command the dog turned toward Smith according to Trooper [redacted] it appeared Smith saw the canine advancing and reached down and grabbed a black rifle, with his hand on the pistol grip. Believing Smith posed an imminent threat to law enforcement officers on the scene, Trooper [redacted] fired multiple b6 b7C

rounds from his Colt Model M-4, .223 caliber carbine. Trooper [redacted] observed the dog make contact with Smith and retreat. Smith reached into the tent and came out with an assault weapon in his left hand pointing the weapon at the FBI SWAT team. Trooper [redacted] fired four rounds from his Colt Model M-4, .223 caliber carbine. b6 b7C

Observing the subject with a gun and believing he posed an imminent threat to law enforcement officers at the scene, SA [redacted] fired one round from his Colt Model M-4, .223 caliber carbine; SA [redacted] fired multiple rounds from his Rock River Arms Model LAR-15, .223 caliber carbine; SA [redacted] fired multiple rounds from his Colt Model M-4 A1, .223 caliber carbine; SA [redacted] fired one round from his Cot Model M-4 A1, .223 caliber carbine; SA [redacted] fired one round from his Rock River Arms, Model LAR-15, .223 caliber carbine; and SA [redacted] fired one round from his HS Precision Model 2000, .308 caliber sniper rifle. b6 b7C

When the gunfire stopped, Smith was prone, face down next to his tent, with a rifle within his reach. In order to ensure a safe approach, OHP Trooper [redacted] To determine if Smith was feigning injury, Trooper [redacted] discharged a non-lethal [redacted] from a shotgun striking Smith, who did not respond. The FBI SWAT team, using a ballistic shield for protection, approached Smith, removed the rifle and secured him with handcuffs. Agents immediately provided emergency medical assistance to the subject until paramedics arrived and transported him to Fairview Regional Medical Center where Smith was later pronounced decreased. b6 b7C b7E

On 05/09/2012, Assistant District Attorney (ADA) [redacted] opined the shooting was unavoidable and justified, and he declined prosecution. b6 b7C

On 08/07/2012, [redacted] Civil Rights Division, USDOJ advised the incident did not warrant criminal investigation. b6 b7C

On 11/28/2012, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Cory B. Nelson,

Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Eric S. Birnbaum, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Trial Attorney, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit; Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] OI, INSD; Assistant Inspector [redacted] OI, INSD; SSA [redacted] INSD; Unit Chief [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; and Management and Program Analyst [redacted] Inspection Management Unit, OI, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force employed by the Agents was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SAs [redacted] as a result of their involvement in this shooting incident. b6 b7C

No other recommendations or observations were made by SIRG members.

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 06/07/2013
**Lead Type:** Action
**Deadline:** 08/06/2013
**Lead Number:** 5

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271801-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271801-D Serial 132

**Details:** (U) That no administrative action be taken against SAs [redacted] b6 b7C as a result of their involvement in this shooting incident.

Re: 297-HQ-A1271801-D
Lead: 5, 06/07/2013

**Location**

**To:** INSPECTION
**Recipient:** INSPECTION
**Assignee:** SHIELDS ROBERT J JR
**Attn:** Acting Assistant Director Robert J. Shields, Jr.
**Status:** Assigned

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/09/2011 **Date:** 06/07/2013

**To:** DA-INSPECTION FRONT OFFICE (AD)

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271788-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/09/2011, involving Special Agent (SA) [redacted] formerly of the New York Field Office, currently assigned to the Training Division. During the execution of an arrest warrant, SA [redacted] fired five rounds from his Bureau-issued Colt Model M4, Carbine, killing an attacking pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 10/12/2011. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 08/09/2011, at approximately 5:00 a.m., members of the New York Special Weapons and Tactics (SWAT) Team executed an arrest warrant in Yonkers, New York. SWAT breachers knocked on the door of the residence, and announced the presents of the arrest team. After a short time without response, forced entry was made into the residence,

utilizing a breaching tool. SA [redacted] was the first to enter the residence followed by SA [redacted] Upon entering the SWAT operators were confronted by an aggressive pit bull dog in the living room area. SA [redacted] observed an individual in a bedroom directly ahead, and started to move across the living room SA [redacted] followed SA [redacted] into the living room and focused his attention on the dog. SA [redacted] ordered the dog to "stay", but the pit bull was unresponsive, and became more agitated. As SA [redacted] moved closer to the bedroom, the pit bull moved towards him while barking, growling and baring its teeth. Once the pit bull stated to move aggressively towards SA [redacted] posing a threat of serious injury to SA [redacted] SA [redacted] fired 2 rounds at the dog. As the pit bull continued to move towards SA [redacted] SA [redacted] fired 2 additional rounds, and one final round, all in rapid succession killing the pit bull.

b6
b7C

On 11/28/2012, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Eric S. Birnbaum, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Trial Attorney, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit; Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted] OI, INSD; Assistant Inspector [redacted] OI, INSD; SSA [redacted] INSD; Unit

b6
b7C

Title: (U) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/09/2011
Re: 297-HQ-A1271788-D, 06/07/2013

Chief [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; and Management and Program Analyst [redacted] [redacted] Inspection Management Unit, OI, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 06/11/2013
**Lead Type:** Action
**Deadline:** 08/10/2013
**Lead Number:** 3

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271788-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271788-D Serial 71

**Details:** (U) That no administrative action be taken against SSA [redacted] b6 b7C [redacted] as a result of his involvement in this shooting incident.

Re: 297-HQ-A1271788-D
Lead: 3, 06/11/2013

**Location**

**To:** DA-INSPECTION
**Recipient:** DA-INSPECTION
**Assignee:** SHIELDS ROBERT J JR
**Attn:** Chief Inspector Robert J. Shields, Jr.
**Status:** Covered

**Coverages:**
06/14/2013 by SHIELDS ROBERT J JR
Reference: 297-HQ-A1271788-D Serial 71
(U) Read and Cleared

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT OMAHA DIVISION 08/29/2011 **Date:** 05/03/2013

**To:** DO-OFFICE OF PROF RESPONSIBLITY (Route)
INSPECTION (Route) Attn: Section Chief Stuart P. Fronk

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271802-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/29/2011, involving Special Agent (SA) [redacted] of the Omaha Division. While "dry firing" his weapon inside his apartment, SA [redacted] accidentally discharged one round from his Bureau-issued Glock Model 22, .40 caliber pistol, striking the frame of the window. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication of Assistant Special Agent in Charge (ASAC) [redacted] dated 09/07/2011. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 08/29/2011, at approximately 10:40 p.m., SA [redacted] b6 b7C

[redacted] was "dry firing" his weapon inside his apartment. According to SA [redacted] prior to beginning practice, he emptied and rendered his weapon safe. After several successful draws, he reloaded the pistol. Approximately ten minutes later, SA [redacted] decided to practice drawing his weapon again. Dropping the magazine but forgetting to clear the chambered round, he pointed his weapon toward the living room window, and pulled the trigger. The expended round struck the aluminum frame of the window and penetrated through the screen. b6 b7C

SA [redacted] immediately notified Omaha Division management of the incident and advised the management of the apartment complex the following day. b6 b7C

No personal injuries were incurred as a result of SA [redacted] accidental discharge and he paid to have the minimal property damage repaired. b6 b7C

On 11/28/2012, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Eric S. Birnbaum, , Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Trial Attorney, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit; Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] b6 b7C

Title: (U) SHOOTING INCIDENT OMAHA DIVISION 08/29/2011
Re: 297-HQ-A1271802-D, 05/03/2013

[redacted] and [redacted] OI, INSD; Assistant Inspector [redacted] OI, INSD; SSA [redacted] INSD; Unit Chief [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; and Management and Program Analyst [redacted] Inspection Management Unit, OI, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 05/07/2013

**Lead Type:** Action

**Deadline:** 07/06/2013

**Lead Number:** 1

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271802-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271802-D Serial 12

**Details:** (U) That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Omaha Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training. b6 b7C

Re: 297-HQ-A1271802-D
Lead: 1, 05/07/2013

**Location**

**To:** DA-INTERNAL INVESTIGATIONS SECTION
**Recipient:** DA-INTERNAL INVESTIGATIONS SECTION
**Assignee:** [redacted] b6 b7C
**Attn:** Section Chief Stuart P. Fronk
**Status:** Assigned

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT CLEVELAND DIVISION 09/03/2011 **Date:** 07/29/2013

**To:** DA-INSPECTION FRONT OFFICE

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271292-D (U) Shooting Incident

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/03/2011, involving Special Agent (SA) [redacted] of the Cleveland Division. During the apprehension of a violent fugitive Brian Lipp, SA [redacted] fired two rounds from his Bureau-issued Rock River LAR-15 rifle. SIRG members recommended that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference report of Former Inspector Deirdre L. Fike, dated 09/21/2011.

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Detail of the Shooting Incident**

Brian Lipp was being sought in connection with a violent crime spree which began on 08/29/2011, with the armed robbery of a Rite-Aid Pharmacy in Toledo, Ohio. Three days later Lipp committed an armed robbery of a drug store and was also suspected of being responsible for a home invasion robbery of [redacted] b6 b7C

Title: (U) SHOOTING INCIDENT CLEVELAND DIVISION 09/03/2011
Re: 297-HQ-A1271292-D, 07/29/2013

[redacted] on 08/20/2011, where money and a Ruger 9mm semi-automatic pistol were stolen. b6 b7C

On 09/02/2011, Toledo Police Department (TPD) officers responded to reports from a business owner who recognized Lipp near a recycling business in the Toledo area. Responding officers conducted a search using K-9s and helicopters with negative results.

09/03/2011, at approximately 9:17 a.m., Lipp was confronted by a TPD officer while walking near the Towne Square Mall in Toledo. Lipp pointed a weapon at the officer, who took cover as Lipp fled the scene on foot. In a second confrontation with the officer, Lipp was captured on video as he brandished a firearm while the officer sought cover behind a vehicle. Lipp conducted an armed carjacking of a citizen and fled the scene in the stolen vehicle. At approximately 9:28 a.m., responding TPD officers pursued Lipp in the stolen vehicle as he entered the northbound lane of I-75 traveling in a southerly direction. Lipp's actions caused a head-on collision between a responding TPD unit and a civilian motorist which resulted in the motorist death.

At approximately 11:00 a.m., the TPD contacted all available task force personnel, to enlist support in apprehending Lipp. SA [redacted] b6 b7C [redacted] a member of the Northwest Ohio Violent Crimes/Fugitive Safe Streets Task Force, contacted SA [redacted] the Acting Supervisory Special Agent, to request approval to participate in the fugitive investigation. SA [redacted] contacted Assistant Special Agent in Charge (ASAC) [redacted] to provide background information of the situation. ASAC [redacted] concurred with providing FBI assistance and instructed SA [redacted] to determine the task force requirements.

A meeting for all available task force members was scheduled for 11:00 a.m. Prior to leaving his residence, SA [redacted] put on his Bureau-issued ballistic vest and placed his Rock River LAR-15 in the front seat of his vehicle. While traveling towards Toledo, SA [redacted] overheard radio traffic indicating the pursuit of Lipp was headed in his direction. SA [redacted] was traveling southbound on I-75 when the b6 b7C

suspect passed him in the northbound lanes being pursued by the TPD and Ohio State Highway Partol (OSHD). SA [redacted] lost visual sighting of the pursuit and heard the radio report of the subject crashing his vehicle. b6 b7C

As SA [redacted] arrived on the scene, law enforcement personnel were observed confronting the subject who was still inside the stolen vehicle. SA [redacted] retrieved his LAR-15 rifle and proceeded to the site to support the responding officers. According to participants interviewed, Brian Lipp was conscious in the vehicle and waving what appeared to be a semi-automatic pistol. Lipp refused to respond to commands of the responding officers. On one occasion officers observed Lipp smoking a "crack-pipe." At 12:03 p.m., Lipp brandished his weapon in a threatening manner to the responding officers, to include SA [redacted] and several shots were fired in response. SA [redacted] fired two rounds from his LAR-14 rifle. b6 b7C

Brian Lipp was pronounced dead at the scene and transported to the Lucas County Coroner's Office. A post mortem examination of Lipp determined neither of the two rounds fired by SA [redacted] struck Lipp. b6 b7C

[redacted] b3

On 09/26/2011 [redacted] Civil Rights Section, Department of Justice, stated the matter had been reviewed, in consultation with the United States Attorney Office for the Northern District of Ohio, and determined the Agent-involved shooting did not, "warrant a federal criminal investigation of this matter. b6 b7C

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, b6 b7C

USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action, if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against the SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Title: (U) SHOOTING INCIDENT CLEVELAND DIVISION 09/03/2011
Re: 297-HQ-A1271292-D, 07/29/2013

There were no observations noted during the review of the shooting incident.

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SERIOUS ACCIDENT INQUIRY 09/13/2011 **Date:** 06/06/2013

**To:** INSPECTION (Route)

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The shooting Incident Review Group (SIRG) reviewed a serious accident that occurred on 09/13/2011, involving SA [redacted] b6 b7C of the Washington Field Office (WFO). While discussing the functionality of flash bang diversionary devices with another WFO SA, SA [redacted] was severely injured as he handled what he believed to be a used diversionary device. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as the result of his involvement in this flash-bang incident.

**Administrative Notes:** (U) Reference Report of Former Inspector [redacted] b6 b7C dated 09/16/2011.

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned serious accident.

**Details of the Serious Accident**

By way of background, on 02/12/2011, the WFO Special Weapons and Tactics (SWAT) team took part in an operation in which three flash bang diversionary devices were utilized. At the time of the operation the WFO SWAT team utilized both the NICO flash bang and the Combined

device, and SA [redacted] pulled the striker back on the NICO device body and inserted the spoon. SA [redacted] placed a paper clip in the safety pin well of the device, securing the spoon in place. SA [redacted] and SA [redacted] discussed the amount of "give" or slack in the NICO's spoon versus the spoon in the CTS device. SA [redacted] retrieved a CTS device body and spoon from the bag and pulled the striker back on the CTS device and inserted the spoon. SA [redacted] placed a paper clip in the safety pin well of the device, securing the spoon in place. SA [redacted] held the CTS device and SA [redacted] held the NICO device as they discussed the difference in the devices. b6 b7C

SA [redacted] and SA [redacted] discussed different techniques to safely deliver several devices simultaneously by a single operator. SA [redacted] retrieved the second CTS device from the bag and held it close to his body in an attempt to insert the device spoon. SA [redacted] noticed one of the prongs which secured the spoon, was damaged. He held the device in his left hand and pulled the hammer back with his right thumb, attempting to fasten the firing pin behind the remaining prong on the device. While SA [redacted] attempted to reinsert the spoon, the firing pin came forward and struck the striker plate. SA [redacted] had turned away from SA [redacted] then heard the detonation of the device. As he turned back he saw SA [redacted] standing up and looking at his hand. SA [redacted] had powder burns on his hand and face. He looked down, grabbed his side, and fell to the ground. SA [redacted] applied pressure to a wound on his side and SA [redacted] removed his shirt and used it to apply additional pressure. b6 b7C

SA [redacted] was seated in Squad CI-14 area when she heard the device detonate. After she determined an accident had occurred, SA [redacted] called 9-1-1. Her call was routed to the WFO Command and Tactical Operations Center (CTOC) and she was asked for her name and telephone number by the operator. WFO Occupational Health Nurse (OHN) [redacted] called SA [redacted] and asked her to describe what happened. b6 b7C

WFO CTOC Specialist [redacted] received the call b6 b7C

b6
b7C

from SA [redacted] and called the WFO Nurse's Station before she called 9-1-1.

After speaking with OHN [redacted] CTOC Specialist [redacted] called 9-1-1, provided the building address and requested an ambulance. Since CTOC Specialist [redacted] was unable to provide details to the 9-1-1 operator, she transferred the call to the WFO Nurse's Station. The WFO Nurse's Station did not answer the telephone, the call went to voicemail and CTOC Specialist [redacted] had already disconnected. The 9-1-1 operator never received the details of the accident. Two Emergency Medical Technicians, SAs [redacted] and [redacted] and two Paramedics, SAs [redacted] and [redacted] responded to the scene and provided treatment along with OHN [redacted] until an ambulance arrived.

b6
b7C

An ambulance from the Washington D.C. Fire Department (WDCFD) arrived with a gurney to transport SA [redacted] but did not have the necessary medical supplies to properly treat him. The ambulance was only a Basic Life Support Unit and the medics were not sufficiently trained to treat SA [redacted] injuries. The WDCFD personnel advised they were not provided specific information regarding the injury prior to their arrival and would have to wait for the arrival of additional WDCFD personnel. As a result, SA [redacted] and OHN [redacted] requested SA [redacted] be transported immediately to George Washington University Hospital. While en route to the hospital, OHN [redacted] and SAs [redacted] continued to provide emergency medical treatment to SA [redacted]

b6
b7C

[redacted]

b7E

WFO SWAT was provided a document titled, [redacted] by the SWAT Operations Unit (SOU), CIRG. This 29 page document served as a training aid for the mandatory annual certification on [redacted] device.

Bullet three, page nine of the manual stated, "Once deployed,

[redacted] b7E

[redacted] This paragraph was followed by bullet four which read, [redacted]

On 09/14/2011, Unit Chief (UC) [redacted] and Training Specialist (TS) [redacted] (SOU), were interviewed by the Serious Accident Investigation Team (SAIT). TS [redacted] advised [redacted] device had [redacted] and a partial detonation was not possible. TS [redacted] stated, without visual inspection of the device, a hang fire could have occurred during the February 2011 SWAT operation. A hang fire occurs when the striker does not strike the percussion primer and, therefore, the delay element and main charge of the device are never ignited. b6 b7C b7E

On 09/14/2011, SOU issued a bulletin to all SWAT Team Leaders and the Laboratory Division implementing new procedures which prohibit use of the device as an inert training aid. Deployed DD bodies must be disposed of. (SWAT Operator Plans and Power Point Training Presentations have been edited to reflect this change in policy.) If training DD's are required, the Field Office can purchase the [redacted] This is a re-loadable system. b7E

TS [redacted] advised the proper visual inspection of [redacted] device is not the hammer resting on the primer and the detachment of the spoon and pin from the body, but the discoloration of the bottom of the device. TS [redacted] further stated a hang fire may occur and create a "light" indentation on the primer, but does not strike the primer hard enough to ignite the element and main charge. b6 b7C b7E

On 11/28/2012, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief

Title: (U) SERIOUS ACCIDENT INQUIRY 09/13/2011
Re: 297-HQ-A1271970-D, 06/06/2013

Inspector Eric S. Birnbaum, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Trial Attorney, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Violent Criminal Threat Section, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit; Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] Robert J. Shields, Jr., and [redacted] OI, INSD; Assistant Inspector [redacted] OI, INSD; SSA [redacted] INSD; Unit Chief [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; and Management and Program Analyst [redacted] Inspection Management Unit, OI, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions (if any); (2) provide recommendations concerning training and/or safety issues; and (3) provide recommendations for administrative action if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against the Agent as a result of his involvement in this serious accident.

Title: (U) SERIOUS ACCIDENT INQUIRY 09/13/2011
Re: 297-HQ-A1271970-D, 06/06/2013

SIRG members unanimously adopted the following observations and recommendations of the SIRT:

**INSPECTOR'S OBSERVATIONS:**

**Issue #1:** [redacted] b7E
[redacted] **by the SWAT Operations Unit (SOU), Critical Incident Response Group provided conflicting guidance.**

**Analysis:** Bullet three, page nine of the manual stated, "Once deployed, the [redacted] b7E
[redacted] This paragraph was followed by bullet four which read, [redacted]

On 09/14/2011, SOU issued a bulletin to all SWAT Team Leaders and the Laboratory Division implementing new procedures for the device. Bullet one of the document stated, [redacted] b7E
[redacted]

**Instruction #1:** AD, CIRG ensure SOU set and document policy officially prohibiting the use of the [redacted] This b7E

policy will include a Standard Operating Procedure (SOP) detailing the steps to determine if [redacted] has been fully detonated. This procedure will include and standardize the following: b7E

1. Standards for operator level visual inspection of a device in order to determine if the device has been detonated.

2. SOP for the clearing, removal and safe rendering of a suspected hang fire or malfunctioning device by qualified personnel.

3. Mandate all SWAT teams train to the new standards within 60 days of the date of publication.

**Issue #2: WFO personnel were not able to call 9-1-1 directly. Emergency telephone calls were routed through the WFO Command and Tactical Operations Center (CTOC).**

**Analysis:** On 09/13/2011, at approximately 1:20 p.m., SA [redacted] was seated in the CI-14 squad area when she heard the device detonate. After she determined an accident had occurred, SA [redacted] called 9-1-1. Her call was routed to the CTOC and she was asked for her name and telephone number by the operator. WFO Occupational Health Nurse [redacted] called SA [redacted] and asked her to describe what happened. b6 b7C

WFO CTOC Specialist [redacted] received the call from SA [redacted] and called the WFO Nurse's Station before she called 9-1-1. b6 b7C

After speaking with Nurse [redacted] CTOC Specialist [redacted] called 9-1-1, provided the building address and requested an ambulance. Since CTOC Specialist [redacted] was unable to provide details to the 9-1-1 operator, she transferred the call to the WFO Nurse's Station. The WFO Nurse's Station did not answer the telephone and CTOC Specialist [redacted] had already disconnected from the call. The 9-1-1 operator never received the details of the accident. b6 b7C

Title: (U) SERIOUS ACCIDENT INQUIRY 09/13/2011
Re: 297-HQ-A1271970-D, 06/06/2013

Emergency Medical Services (EMS) arrived with a gurney to transport SA [redacted] but did not have the necessary medical supplies to properly treat him. The ambulance was only a Basic Life Support Unit and the medics were not sufficiently trained to treat SA [redacted] injuries. The EMS personnel advised they were not provided specific information regarding the injury prior to their arrival. Had they been provided detailed information, they would have sent a supervisor and a paramedic unit. b6 b7C

**Recommendation #1:** That ADIC, WFO allow direct 9-1-1 calls and not route emergency calls through the CTOC.

**Issue #3: Inspection of the DD by qualified personnel was not conducted after ERT collected the DDs on 02/12/2011.**

**Analysis:** [redacted] b7E

**Recommendation #1:** That ADIC, WFO should standardize and document procedures to clear and render safe all deployed devices. Visual inspection of a device by individual SWAT operators may not be sufficient to ensure the safety of all those who come in contact with the device after its deployment, as misfires may occur. All SWAT operators should be mandated to review the CIRG SOU lesson plan regarding the handling requirements of the [redacted] b7E

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 06/23/2013
**Lead Type:** Action
**Deadline:** 08/22/2013
**Lead Number:** 4

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271970-D Serial 70

**Details:** (U) That no administrative action be taken against SA [redacted] b6 b7C as a result of his involvement in this serious accident.

Re: 297-HQ-A1271970-D
Lead: 4, 06/23/2013

**Location**

**To:** DA-INSPECTION
**Recipient:** DA-INSPECTION
**Attn:** Acting Assistant Director Robert J. Shields, Jr.
**Status:** Covered
**Coverages:**
06/23/2013 by SHIELDS ROBERT J JR
Reference: 297-HQ-A1271970-D Serial 70
(U) Read and Cleared

♦♦

OFFICIAL RECORD



# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) Accidental Discharge, SA [redacted] **Date:** 02/28/2013 b6 b7C
[redacted] WFO

**To:** [redacted] b6 b7C
SHIELDS ROBERT J JR

**From:** INSPECTION
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted]
MARSHALL HOWARD S

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//FOUO) To document the results of an administrative shooting investigation concerning the accidental discharge of a Bureau handgun by Special Agent [redacted] which occurred in his residence, [redacted] on 10/17/2012 at approximately 10:15 pm. b6 b7C

**Administrative Notes:** (U//FOUO) A parallel Internal Investigations case was opened by IIU-II and SA [redacted] was notified of such by SSA [redacted] WFO. As a result, compelled rather than voluntary statements were obtained from FBI employees. These reports were included as part of the shooting investigation. The shooting investigation was conducted in coordination with SSA [redacted] IIU-II. b6 b7C

**Enclosure(s):** Enclosed are the following items:
1. (U//FOUO) A/SSA [redacted] finalized Signed Sworn Statement (SSS) b6 b7C
2. (U//FOUO) Interview notes, A/SSA [redacted]
3. (U//FOUO) A/SSA [redacted] SSS version 1
4. (U//FOUO) A/SSA [redacted] SSS version 2
5. (U//FOUO) FD-418
6. (U//FOUO) Alexandria Police Department (APD) incident reports
7. (U//FOUO) EC from SA [redacted] dated 11/05/12

Title: (U//FOUO) Accidental Discharge, SA [redacted] WFO
Re: 297-HQ-A1271970-D, 02/28/2013

b6
b7C

8. (U//FOUO) Write-up by A/SSA [redacted]
9. (U//FOUO) EC to SA [redacted] personnel file
10. (U//FOUO) Search warrant
11. (U//FOUO) Interview notes, ASAC [redacted]
12. (U//FOUO) ASAC [redacted] SSS version 1
13. (U//FOUO) ASAC [redacted] SSS version 2
14. (U//FOUO) ASAC [redacted] finalized SSS
15. (U//FOUO) SA [redacted] finalized SSS
16. (U//FOUO) Interview notes (2)
17. (U//FOUO) Questions for interview
18. (U//FOUO) FD-645, SA [redacted]
19. (U//FOUO) Non-disclosure agreement [redacted]
20. (U//FOUO) Interview notes (1)
21. (U//FOUO) Finalized APD incident report, case number 01-12-0144113

b6
b7C

**Details:**

(U//FOUO) This document was prepared by Assistant Inspector [redacted] after review of the following source documents:

b6
b7C

a) FD-418, Shooting Incident Report, dated 11/02/2012, from the Washington Field Office to the Training Division.
b) Incident Report, case number 01-12-144113, from the APD
c) EC, 1A-WF-C205092 Serial 1036, dated 11/05/2012, prepared by SA [redacted]
d) EC to SA [redacted] personnel file, 67-HQ-1590876, dated 11/16/2012, prepared by A/SSA [redacted]
e) A summary document prepared by A/SSA [redacted] (no date provided)
f) A copy of a search warrant and affidavit prepared by Detective [redacted] APD.
g) SSSs from SA [redacted] A/SSA [redacted] and ASAC [redacted]

b6
b7C

(U//FOUO) On 10/26/2012, [redacted] born [redacted] of [redacted] returned home after a [redacted] Shortly after his return, [redacted] noticed what he believed was a bullet hole in his living room wall. A bullet appeared to have traveled from beyond the common

b6
b7C

Title: (U//FOUO) Accidental Discharge, SA [redacted] WFO
Re: 297-HQ-A1271970-D, 02/28/2013

b6
b7C

wall between his apartment and the neighboring apartment, passing through the back of a closet, and through the closet door before becoming lodged in his front door. Officers from the APD responded and, upon examining the holes, concluded the bullet travelled from the adjacent apartment, [redacted] The APD began a canvass of the apartment building and identified a vehicle in the parking lot registered to [redacted] Additionally, the occupants of [redacted] told the APD they had heard a loud bang approximately a week ago but assumed it was a door slamming.

b6
b7C

(U//FOUO) At approximately 9 p.m., SA [redacted] arrived at the apartment complex. Officer [redacted] approached SA [redacted] and asked if he lived in [redacted] SA [redacted] told him he did. SA [redacted] told Officer [redacted] he was an FBI Agent and displayed his credentials. Officer [redacted] explained why they were there. SA [redacted] was asked if he had an accidental discharge in his apartment. He replied he had not. SA [redacted] told Officer [redacted] he lived alone, had left his apartment at approximately 5:30 a.m., and had not returned all day.

b6
b7C

(U//FOUO) SA [redacted] gave the APD his apartment key and officers conducted a search for any possible gunshot victims. None were found. Officers could see an apparent bullet hole on the common wall shared by [redacted]

b6
b7C

(U//FOUO) SA [redacted] was asked repeatedly whether he knew the origins of the bullet hole. He told the lead Detective, [redacted] he did not. It was suggested SA [redacted] contact his supervisor.

b6
b7C

(U//FOUO) At approximately 9:30 p.m., SA [redacted] contacted his supervisor, A/SSA [redacted] SA [redacted] told A/SSA [redacted] the APD was at his apartment, were investigating an apparent shooting, and there were bullet holes found in both SA [redacted] apartment and those of his neighbor. SA [redacted] told A/SSA [redacted] he did not know what had happened, telling A/SSA [redacted] the APD was looking into the possibility there had been a break-in. A/SSA [redacted] responded to SA [redacted] apartment at SA [redacted] request.

Title: (U//FOUO) Accidental Discharge, SA [redacted] WFO
Re: 297-HQ-A1271970-D, 02/28/2013

b6
b7C

(U//FOUO) After speaking with A/SSA [redacted] SA [redacted] was introduced to the ranking officer present, Lieutenant [redacted] Lieutenant [redacted] told SA [redacted] based upon the evidence, it appeared the bullet came from SA [redacted] apartment and asked if there had been an accidental discharge. SA [redacted] said he had no knowledge an accidental discharge. SA [redacted] was further questioned and asked if he had any additional weapons, if he had any visitors, and if anybody, other than himself, had access to his weapon. SA [redacted] said he had no visitors, other than maintenance personnel and a group of friends from a Bible study. SA [redacted] reiterated he did not know what had happened, or who else may have had access to his weapon.

b6
b7C

(U//FOUO) The APD secured a search warrant for SA [redacted] apartment, which was executed at approximately 10:15 p.m. In addition to the bullet recovered from [redacted] the APD also seized SA [redacted] Bureau issued firearm, a Glock Model 23, serial number [redacted] No other items were seized by the APD, although digital photographs were taken.

b6
b7C

(U//FOUO) At approximately 10:20 p.m. A/SSA [redacted] arrived and, after conferring with APD detectives and officers, spoke privately with SA [redacted] for approximately 40 to 50 minutes.

b6
b7C

(U//FOUO) During his conversation with SA [redacted] A/SSA [redacted] told SA [redacted] to be candid. SA [redacted] had some difficulty recollecting and focusing on specific details of the accidental discharge, which A/SSA [redacted] ascribed to the stress of the presence of the APD. When asked about possibly dry-firing his weapon, SA [redacted] replied he was feeling stressed after dry-firing his weapon the previous week and had a restless night due to a dream about a gunfight. In his SSS, A/SSA [redacted] recounted how SA [redacted] was adamant he did not know what happened, saying if he had done this, he would tell the truth.

b6
b7C

(U//FOUO) A/SSA [redacted] continued to encourage SA [redacted] to be candid. Between 11:20 p.m. and 11:30 p.m., SA [redacted] and A/SSA [redacted] returned to SA [redacted] apartment, where APD officers were waiting. The APD officers and detectives did not accept SA [redacted] explanation. They felt it was vague. According to A/SSA [redacted] APD officers warned SA [redacted] if he

b6
b7C

failed to be candid the police report would reflect his false account. A/SSA [redacted] conferred with SA [redacted] in private, urging him to be candid with the APD. SA [redacted] then fully explained he had an accidental discharge which occurred on 10/17/2012, while dry-firing his weapon. SA [redacted] provided the following account to the APD:

b6
b7C

(U//FOUO) On 10/17/2012, SA [redacted] had dry fired his weapon while listening to classical music and watching television. Prior to this SA [redacted] conducted a safety check. SA [redacted] dry fired successfully for several minutes before reloading his weapon and holstering. A short while later, SA [redacted] attempted to dry fire but did not conduct a full safety check. He removed the magazine but did not check the chamber. As a result, a round was discharged.

b6
b7C

(U//FOUO) SA [redacted] stated the shell casing fell into his tactical bag, which was sitting on the floor next to him. He subsequently put the casing into his garbage can and later disposed of it in the [redacted] SA [redacted] said he was scared after the accidental discharge [redacted]

b6
b7C

(U//FOUO) As the APD completed their interview with SA [redacted] ASAC [redacted] arrived. Prior to his arrival, he had several telephone conversations with A/SSA [redacted] in which he repeatedly directed A/SSA [redacted] to relay to SA [redacted] the importance of telling the truth. A/SSA [redacted] relayed these instructions to SA [redacted] After the APD left, ASAC [redacted] and A/SSA [redacted] spoke with SA [redacted] and explained the administrative process which would occur. ASAC [redacted] made a referral to the Employee Assistance Program.

b6
b7C

(U//FOUO) On 03/01/2013, A/SSA [redacted] provided a SSS to INSD. It reflected the following: A/SSA [redacted] repeatedly told SA [redacted] he should cooperate with the APD and be honest. During his telephone conversation, SA [redacted] told him he did not fire his weapon but would admit it if he did. SA [redacted] was adamant he had "nothing to do with this." During their first in person conversation, SA [redacted] told A/SSA [redacted] he did not know what happened, stating he was "an honest guy," and, if he had done this, he would tell the truth.

b6
b7C

Title: (U//FOUO) Accidental Discharge, SA [redacted] WFO
Re: 297-HQ-A1271970-D, 02/28/2013

b6
b7C

(U//FOUO) On 03/04/2013, ASAC [redacted] provided a SSS to INSD. It reflected the fact he did not have any conversations with SA [redacted] until after SA [redacted] had completed his interview with the APD, by which time SA [redacted] had admitted the accidental discharge.

b6
b7C

(U//FOUO) On 03/06/2013, SA [redacted] provided a SSS to INSD. In it he acknowledged the accidental discharge, discussed his embarrassment, and admitted his lack of candor (not under oath). Specifically, he admitted he was not candid when first asked by the APD if "something had happened which caused [his] gun to be discharged." He responded by saying there had been some friends over for Bible study the previous Tuesday (10/16/2012) and apartment maintenance had been checking each apartment's water meters. A detective (SA [redacted] does not recall who) spoke with him in private and attempted to get him to admit what had happened. SA [redacted] said he, "continued to deny any knowledge of the incident." SA [redacted] then contacted A/SSA [redacted] and told him, "I did not know how it happened." A/SSA [redacted] arrived and spoke with SA [redacted] SA [redacted] stated he could not bring himself to be "completely forthright due to being in shock of being questioned and interrogated by the police." After speaking with A/SSA [redacted] for about 30 minutes, they returned to SA [redacted] apartment and spoke with the APD. SA [redacted] stated he tried to tell the truth but was still ashamed and could not say exactly what happened. Lieutenant [redacted] grew frustrated and walked away. SA [redacted] and A/SSA [redacted] again spoke in private, at which time SA [redacted] "finally found the strength to admit what had happened." SA [redacted] and A/SSA [redacted] returned and SA [redacted] admitted the accidental discharge.

b6
b7C

(U//FOUO) On 03/19/2013, Assistant Inspector (AI) [redacted] contacted Sergeant [redacted] telephone [redacted] APD. Sergeant [redacted] told AI [redacted] Detective [redacted] determined no charges should be filed. Misdemeanor offenses, of which this was an example, were referred for prosecution at the discretion of the investigating officer. In this case, Detective [redacted] elected not to make a referral. Sergeant [redacted] also provided AI [redacted] with a copy of the complete Incident Report, case number 01-12-144113, which was placed in an FD-340.

Title: (U//FOUO) Accidental Discharge, SA [redacted] WFO
Re: 297-HQ-A1271970-D, 02/28/2013

b6
b7C

(U//FOUO) SA [redacted] weapon has remained in the custody of the APD.

b6
b7C

(U//FOUO) On 03/22/2013, AI [redacted] advised SA [redacted] Principal Firearms Instructor for the Washington Field Office (WFO), the weapon could be retrieved from the APD. SA [redacted] was aware the weapon [redacted]

b6
b7C
b7E

(U//FOUO) On 03/22/2013, SSA [redacted] IIU-II, was provided with a draft copy of this EC and he concurred with its contents.

b6
b7C

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT CRITICAL INCIDENT RESPONSE GROUP 11/02/2012 **Date:** 07/08/2013

**To:** DA-INTERNAL INVESTIGATIONS SECTION

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271971-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/02/2012, involving Special Agent (SA) [redacted] while he was assigned to the Hostage Rescue Team (HRT), New Operator Trainee (NOT), Generation 27. SA [redacted] was securing gear and weapons at the conclusion of training in the NOT cage area. As he was attempting to holster his Bureau-issued Glock, Model 27 pistol in an in-the-pants holster, SA [redacted] accidentally discharged one round striking SA [redacted] in the left shoulder. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training as a result of this shooting incident. b6 b7C

Additionally, based on past precedent, the Internal Investigations Section (IIS), Inspection Division, should levy any additional penalty deemed appropriate to SA [redacted] regarding his unauthorized use of a practice flash bang prior to the accidental discharge. b6 b7C

**Administrative Notes:** (U) Reference report of Inspector [redacted] [redacted] dated 11/09/2012. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments,

UNCLASSIFIED

and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/02/2012, the NOT team finished training at approximately 2:30 p.m. The team's day consisted of physical training in the morning, classroom training until 11:00 a.m., an early lunch, Primary Qualification Courses(PQC) with M4 and Glock pistols, and concluded with approximately two hours of Immediate Action Drills. At the conclusion of training, the NOTs were released and told to prepare their equipment for the next week's training before departing for the weekend.

[redacted] (Cages A and B) [redacted] b7E

With the exception of SA [redacted] and SA [redacted] each NOT was at his cage at approximately 2:50 p.m. While SA [redacted] was returning phone calls in the hallway near the break room, SA [redacted] announced to the NOTs in Cage A he was going to "bang" SA [redacted] when he entered Cage A. The other NOTs understood this to mean SA [redacted] was going to toss a practice flash bang device at SA [redacted] as a prank. As SA [redacted] entered Cage A with his head down, he noticed a practice flash bang device rolling at his feet and turned right facing his locker. SA [redacted] did not see who tossed the device at him; however, the device went off between SA [redacted] and SA [redacted] b6 b7C

After tossing the practice flashbang towards SA [redacted] SA [redacted] reached into his locker for his Glock 27 pistol. He held the weapon with the muzzle pointed upwards and conducted a "press check" to determine if the weapon was loaded. SA [redacted] then attempted to holster the weapon in an in-the-pants holster located on the right front of his pants. While lifting his shirt to clear the opening of b6 b7C

the holster, the weapon was pointed towards the entrance of Cage A when one round discharged. SA [redacted] did not remember pulling the trigger. Approximately three to five seconds elapsed between the flashbang detonation and the accidental discharge from SA [redacted] Glock 27 pistol. b6 b7C

The expended round struck SA [redacted] in the left arm stopping in his chest cavity. SA [redacted] did not see who shot him and described the impact as being hit in the arm with a "bean bag." SA [redacted] after feeling the impact, layed down in the entrance of Cage A and was immediately assisted by the other NOTs. SA [redacted] and SA [redacted] left the cage area to notify the medical staff, the front office, and their supervisor of the situation. The other NOTs applied first aid to SA [redacted] for a short period until SA [redacted] and SA [redacted] from the HRT medical program arrived and assumed medical treatment. SA [redacted] was transported by HRT helicpter to Mary Washington Hospital in Fredericksburg, Virginia. b6 b7C

A search of the area by the Evidence Response Team (ERT) and the Shooting Incident Review Team (SIRT) revealed loaded weapons were stored next to or near Simunition weapons. Several cages contained live practice flash bangs. SA [redacted] was aware he had his Glock 27 with live ammunition in his hand and not a Simunition weapon when the accidental discharged occurred. Interviews revealed the NOTs engaged in pranks involving Simunition and practice flash bangs on other occasions within the Medical Annex Building. HRT supervisory staff was unaware of this practice due to the location of the NOTs when out of the training environment and the activity either not being observed or reported. b6 b7C

After SA [redacted] was taken to the hospital, the NOTs were left unsupervised and began cleaning up the scene. SA [redacted] blood was cleaned up and his clothes were placed in a nearby trash can. The expended practice flash bang and its spoon were picked up by the NOTs and placed in an unsecure cabinet in the hallway. Twelve expended practice flash bangs and four spoons were located in the cabinet. b6 b7C

SSA told ASC he would secure the scene after the incident. SSA locked Cage A with a combination lock and left the HRT facility. SA was given the combination by SSA and allowed to enter Cage A to remove personal property without supervision. A log was not kept to document who entered the scene or who removed what item. Several NOTs, including SA entered Cage A without supervision. b6 b7C

Although HRT provided instruction on the use of practice flash bangs, no policy was in place on how to store them. The practice of detonating them outside of the training environment was not approved.

On 11/28/2012, SA firearm was inspected by the Defensive Systems Unit, Training Division, to determine if the weapon was working properly. The inspection of the weapon determined the weapon was dirty with carbon and dry of lubrication. However, the examination determined this did not have any impact on the accidental discharge. b6 b7C

On 03/10/2013, SA was reassigned to the Washington Field Office. b6 b7C

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) Squad CR-2, Washington Field Office; SSA Practical Applications Unit, Training Division (TD); SSA Investigative Law Unit, Office of the General Counsel; SSA Evidence Response Team, Laboratory Division; SSA Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA Firearms Training Unit, TD; and SSA Defensive Systems Unit, TD. The b6 b7C

following non-voting members were also in attendance: Inspectors [redacted] and [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD ; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

A lengthy discussion ensued regarding the unauthorized use of practice flash bangs by the NOTs before and after training events. Specifically, members discussed SA [redacted] use of a practice flash bang immediately prior to accidentally discharging his firearm, resulting in serious injury to SA [redacted] The members of the SIRG inquired whether the unauthorized use of practice flash bangs would be addressed by the FBI Inspection Division's Internal Investigations Section (IIS). A/AD Robert J. Shields, Jr. advised IIS would review this unauthorized use of government property. In addition, OGC Attorney [redacted] indicated the Department of Justice, Office of Inspector General, would also have the opportunity to review the results of INSD's shooting investigation.

b6
b7C

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. Additionally, based on past precedent, IIS, Inspection Division, should levy any additional penalty deemed appropriate to SA [redacted] regarding his unauthorized use of a practice flash bang prior to the accidental discharge. b6 b7C

SIRG members unanimously adopted the following observations instructions/recommendations of the SIRT:

**INSPECTOR'S OBSERVATIONS:**

**Observation 1:** Practice flash bangs and Simunitions were used for unauthorized purposes.

**Analysis 1:** The SIRT revealed the unauthorized use of practice flash bangs and Simunitions within the designated NOT equipment storage area. The NOTs, in pursuit of humor, detonated practice flash bangs and shot each other with Simunition weapons while within the equipment storage area of the Medical Annex Building. Interviews of the NOTs revealed they engaged previously in these activities as pranks and no one had been injured.

Prior to handling his Glock 27, SA [redacted] admitted to tossing a practice flash bang at SA [redacted] Approximately three to five seconds after the practice flash bang detonated, SA [redacted] unintentionally discharged his Glock 27 striking SA [redacted] b6 b7C

While the investigation did not reveal SA [redacted] handled both the flash bang device and weapon at the same time, the unauthorized activity aided in the distraction of SA [redacted] prior to his unintentional discharge of his firearm. b6 b7C

**Recommendation 1:** AD, CIRG should ensure HRT property is used for training and operational events only.

**Observation 2**: Simunitions were stored next to loaded weapons of the same make and caliber within NOTs equipment storage areas.

**Analysis 2**: During the processing of the scene by ERT, multiple Simunition rounds were noted on the floor of the NOTs equipment area. Simunition weapons were stored next to operational weapons of the same make. At least one of the Simunition weapons was loaded. Even though the Simunition weapons were painted orange, some were missing paint due to use. The duty weapons and Simunition weapons were stored next to each other in the cages or were hanging from the same hook.

**Recommendation 2**: AD, CIRG should ensure Simunitions (weapons and ammunition) are stored separately from operational weapons.

**Observation 3**: The NOTs were not properly supervised.

**Analysis 3**: The NOT supervisor was located in the HRT main building. The NOTs were housed away from supervisors and other HRT operators in [redacted] The NOTs were aware they were not supervised while in [redacted] Interviews of NOTs revealed practice flash bangs were detonated approximately 10 to 12 times in the cage area since the beginning of training. The detonation was loud enough for anyone in the Annex to hear. Interviews of EM and HRT personnel revealed they were unaware of this practice by the NOTs. b7E

**Recommendation 3**: AD, CIRG should ensure the NOTs are appropriately supervised.

**Observation 4**: The location of the shooting incident was not properly controlled after the accidental discharge of the weapon.

**Analysis 4**: The NOTs cleaned up blood and the practice flash bang device after the shooting without direction from the supervisory staff. Interviews revealed SSA [redacted] secured the cage where the shooting took place. SSA [redacted] secured the cage but then gave the NOTs the combination after he left the facility. Several NOTs, including SA [redacted] entered the cage area to retrieve personal items without b6 b7C

supervision. No entry log was maintained documenting entry of personnel or documenting what was removed from the area.

**Recommendation 4:** AD, CIRG should ensure access is controlled to incident sites.

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Instruction/Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

AD, CIRG is required to provide detailed responses addressing the Instructions/Recommendations in this EC, pages 6, 7, and 8 including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/Recommendation must be responded to in a one-page, stand alone response. The Observation and related Instruction/Recommendation is to be recited verbatim from the inspection EC, followed by the division's detailed response. If supporting documentation is available, it should be enclosed with each response.

Title: (U) SHOOTING INCIDENT CRITICAL INCIDENT RESPONSE GROUP 11/02/2012
Re: 297-HQ-A1271971-D, 07/08/2013

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please e-mail the Sentinel link to MPA [redacted]

b6
b7C

♦♦

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT BALTIMORE DIVISION 11/15/2012 **Date:** 07/25/2013

**To:** DA-INSPECTION FRONT OFFICE (AD)

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1270951-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/15/2012, involving Special Agent (SA) [redacted] of the Baltimore Division. During the execution of a search warrant, SA [redacted] fired five rounds from his Bureau-issued Colt M-4, .223 caliber rifle causing superficial injuries to one of the residents. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference report of former Inspector [redacted] dated 05/07/2013. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/15/2012, at approximately 6:05 a.m., the Baltimore Special Weapons and Tactic (SWAT) team executed two search warrants in support

of a WFO Safe Streets Task Force (SSTF) investigation. The case was predicated on information that [redacted] were operating significant drug networks throughout the D.C. Metro area. These individuals were indicted by a Federal Grand Jury in the District of Columbia and search warrants were obtained for nine locations utilized by members of the criminal organization. Two of the search warrants were for single family residences in [redacted] which would be executed by Baltimore SWAT, Tactical Operations Center (TOC) and Negotiation Operations Center (NOC) teams. b6 b7C

On 11/13/2012, at approximately 1:00 p.m., Baltimore SWAT Senior Team Leader (STL) [redacted] conducted an operations brief. The approved operations order called for Baltimore SWAT to divide into two eight-man entry teams with each team assigned to a residence. The Gold team was designated to enter and secure [redacted] and the Blue team was designated to enter and secure the [redacted] (herein referred to [redacted] Information indicated the primary subject at [redacted] had received prior military training and was armed with an AK-47 and several handguns. Due to the close proximity to [redacted] Baltimore SWAT believed there was a probability weapons may be located at [redacted] as well. b6 b7C

The front door and windows of [redacted] provided a clear view of the front door of [redacted] where the Blue Team would make entry. Baltimore Executive Management (EM) approved a plan for the Blue Team to make entry at [redacted] before the Gold Team entered [redacted] allowing Blue Team operators to avoid exposing themselves to any danger posed by [redacted] The use of [redacted] was authorized for use by both teams. The Blue Team planned to deploy [redacted] inside [redacted] if the knock and announce was not answered and a breach of the door was necessary. If the occupants of [redacted] opened the door when commanded, [redacted] would be deployed in the front yard of [redacted] signaling the Gold Team to enter [redacted] b6 b7C b7E

Title: (U) SHOOTING INCIDENT BALTIMORE DIVISION 11/15/2012
Re: 297-HQ-A1270951-D, 07/25/2013

On 11/15/2012, at approximately 5:00 a.m., Baltimore SWAT, along with the TOC and NOC personnel met at the designated staging area and conducted an operations and safety brief. Upon completion, all members moved to their assigned stations. TOC and NOC were located in the TOC vehicle, while the On-Scene Commander, ASAC [redacted] and SWAT Supervisor, SSA [redacted] positioned themselves in ASAC [redacted] vehicle. Both teams proceeded to the residences utilizing one vehicle arriving at approximately 6:00 a.m. Once there, both teams proceeded to their assignments. b6 b7C

At approximately 6:05 a.m., the Blue Team was positioned at the front door to [redacted] where STL [redacted] initiated the operation. SA [redacted] conducted a knock and announce by yelling, "FBI, search warrant. Come to the door!" SA [redacted] repeated this sequence, after which STL [redacted] counted aloud to 20. No indications of movement were observed in the house at the completion of STL [redacted] count. SA [redacted] was directed by STL [redacted] to forcibly breach the door. After SA [redacted] breached the door, SA [redacted] deployed a [redacted] inside the house. Almost immediately after the [redacted] was tossed, SA [redacted] prematurely entered the residence before the [redacted] detonated and stood in the living room, approximately five feet from the threshold. SA [redacted] observed a female, later identified as [redacted] crouched approximately 20 feet away in an archway inside an alcove which separated the living room from the bedrooms located in the rear of the residence. As SA [redacted] made eye contact with [redacted] he saw a flash of light, heard a loud bang, and felt a strong movement of air on his right side which he perceived to be from a shotgun blast fired at him by [redacted] b6 b7C b7E

SA [redacted] initially fired two shots toward [redacted] and both shots missed her. One embedded in the wall of an unoccupied bedroom in the southeast corner of the home. The other hit the corner of the living room wall, immediately adjacent to the arch. SA [redacted] adjusted his point of aim from right to left, as [redacted] ran back into her bedroom in the northeast corner of the residence. SA [redacted] perceived that [redacted] moved into a stairwell rising to the second floor. The b6 b7C

stairwell was between the living room where SA [redacted] was standing, and [redacted] bedroom, and actually descended into the basement. According to SA [redacted] he believed [redacted] would use the stairwell as a position of cover and fire at him and his fellow team members again. SA [redacted] fired three additional rounds at the wall separating the living room from the stairwell. The three rounds missed [redacted] and impacted the living room wall and passed through the stairwell, hitting the opposing wall. One of the rounds also impacted a closet door in the hall area, adjacent to [redacted] bedroom door. b6 b7C

SA [redacted] was the second Agent to enter the residence and overheard SA [redacted] shouting, "shots fired" and, "come out." SA [redacted] moved to cover a second stairwell on the north side of the house, which ascended to the second floor. Five individuals were cleared from the residence. b6 b7C

[redacted] sustained three superficial injuries. She was treated on the scene by Baltimore SWAT medic SA [redacted] and subsequently transported to Prince George's hospital where she was treated for minor abrasions and lacerations to her face and arm and released. b6 b7C

On 02/27/2013, [redacted] Chief, Special Prosecution Unit, Prince George's States Attorney' Office provided a letter declining to prosecute SA [redacted] for discharging his weapon during the execution of the search warrant on 11/15/2012. b6 b7C

On 04/10/2013 [redacted] Special Legal Counsel, Department of Justice, Civil Rights Division, advised the circumstances of the Agent-involved shooting did not warrant a federal criminal investigation. b6 b7C

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial b6 b7C

Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD ; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against the Agent as a result of his involvement in this serious accident.

SIRG members unanimously adopted the following observations and recommendations of the SIRT:

**INSPECTOR'S OBSERVATIONS**

**Observation #1:** Baltimore SWAT operators should receive training on the safe and effective deployment of diversionary devices.

**Analysis:** Special Weapons and Tactics Policy Implementation Guide (02/29/2012) [redacted] b7E

[redacted] Senior Team Leaders (STLs) or their designees must conduct annual training for each SWAT team member in the use of diversionary devices. The STL must document the annual training and certification in the office SWAT file, using the diversionary device SWAT checklist. The STL must also report to SOU via TRMS that each team's operators have been annually certified. Prior to any training event in which diversionary devices will be used, the team leader, or his/her designee, should cover the delivery sequence "dos and don'ts" for the diversionary device.

SIRT investigation determined SWAT operator SA [redacted] entered the room before [redacted] detonated causing him to take offensive actions due to his belief he was being fired upon. b6 b7C b7E

**Recommendation #1:** SAC, Baltimore ensure SWAT STL and members are trained on the use of [redacted] and develop protocols to prevent early entry before [redacted] b7E

**Recommendation #1a:** AD, CIRG ensure SWAT teams are conducting annual training on the use and deployment of [redacted] b7E

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS AND RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/Recommendation is satisfactorily resolved. IMU maintains an Inspection Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide all responses to the Inspector-in-Charge (IIC), who will determine if each Instruction/Recommendation has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, Baltimore is required to provide detailed responses addressing the Instructions/Recommendations in this EC, page 6 including corrective actions taken and/or intended actions with time frames for completion. Each Issue which results in an Instruction/Recommendation must be responded to in a one-page, stand alone response. The Issue and related Instruction/Recommendation is to be recited verbatim from the inspection EC, followed by the division's detailed response. If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please e-mail the Sentinel link to MPA [redacted] b6 b7C

Title: (U) SHOOTING INCIDENT BALTIMORE DIVISION 11/15/2012
Re: 297-HQ-A1270951-D, 07/25/2013

♦♦

OFFICIAL RECORD
Documents/participants have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT MIAMI DIVISION 12/17/2012 **Date:** 07/09/2013

**To:** INSPECTION (Route)

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271748-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/17/2012, involving Special Agent (SA) [redacted] of the Miami Division. During a confrontation with an intruder on his property, SA [redacted] accidentally discharged one round from his Bureau-issued Glock, Model 22 pistol. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as the result of his involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication of Supervisory Special Agent [redacted] dated 01/16/2013. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 12/17/2012, at approximately 4:00 a.m., SA [redacted] was leaving his residence to go to work. As he unlocked his vehicle, SA [redacted] noticed the normally closed gate to the back of b6 b7C

his residence was open. SA [redacted] removed his weapon from his ankle holster because he was not comfortable with the gate being open and felt that he should have his weapon out in case there was an intruder. SA [redacted] was standing between his residence and a standalone utility shed, which is located in the middle of the back yard on the right side. He looked at the rear of his residence to see if there were any persons or obvious signs of forced entry to any of the rear residence doors. When he did not see anything, he focused his attention on the shed area and observed an unknown subject standing just outside of the opened shed. SA [redacted] could tell that the subject was a male; however, due to the darkness he could not see whether the subject had any type of weapon in his hands. SA [redacted] yelled "Stop, put your hands up!" As the subject fled towards the rear of the residence, SA [redacted] pursued him to the far right corner of his property. SA [redacted] ran into the subject in the dark, congested corner of the yard. While SA [redacted] was holding his firearm in his right hand, he fell into the subject and struck him in the head with his weapon. SA [redacted] fell to the ground, put both hands out to break his fall, and upon landing he inadvertently pulled the trigger of his pistol.

b6
b7C

SA [redacted] chased the subject who had run towards the closest road north of his residence, entered a van, and rapidly drove off. SA [redacted] went back into his residence, called 911, and Miami Division Executive Management.

b6
b7C

The Miami Division Evidence Response Team (ERT) responded and took photos, searched all surrounding properties for damage, and performed a close search utilizing metal detectors for the bullet, but could not locate the expended round. Metro-Dade Police Department (MDPD) responded to SA [redacted] residence in order to take the burglary report. During MDPD's examination of the rear corner of the yard, the shell casing was discovered.

b6
b7C

No personal injuries or property damage were incurred as a result of SA [redacted] accidental discharge.

b6
b7C

On 05/23/2013, the SIRG met to discuss the above-captioned

shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD ; Nathan Williams, Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and

recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against the SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

No other recommendations or observations were made by SIRG members.

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT PHOENIX DIVISION 04/18/2013 **Date:** 10/10/2013

**CC:** DA-INTERNAL INVESTIGATIONS SECTION

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** MARSHALL HOWARD S
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271898-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/18/2013, involving Special Agent (SA) [redacted] of the Phoenix Division. While at the range confirming the serial number of his Bureau-issued Glock Model 23, .40 caliber pistol, SA [redacted] accidentally discharged one round into the cement. SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and attend documented remedial firearms training as a result of his involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication (EC) of Supervisory Special Agent (SSA) [redacted] dated 05/15/2013. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 04/18/2013, the Tucson Resident Agency conducted quarterly firearms qualification training at the Pima Regional Training Center in

Tucson.

According to SA [redacted] upon his arrival to the range, SA [redacted] the Assistant Primary Firearms Instructor (A/PFI), instructed participants to unload their service ammunition. As A/PFI [redacted] provided a round count of ammunition needed for the first practice shoot, SA [redacted] filled his magazines with the designated round count and reloaded his weapon while standing at the ammunition table. A/PFI [redacted] stated he needed to verify the weapon serial numbers of all shooters in the group. While facing in a safe direction, SA [redacted] locked the slide back on his weapon to read the serial number. He walked from the ammunition table to an area away from the participants. Forgetting he placed a loaded magazine into his weapon, SA [redacted] released the slide on his weapon and pressed the trigger causing one round to discharge. SA [redacted] immediately holstered his weapon and waited for the arrival of A/PFI [redacted]

b6
b7C

After determining no personal injuries were incurred as a result of SA [redacted] discharge, a decision was made to allow SA [redacted] to complete the firearms training with the group.

b6
b7C

On 08/14/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Jr., Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted], Squad CR-2, Washington Field Office; Supervisory Special Agent (SSA) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also

b6
b7C

Title: (U) SHOOTING INCIDENT PHOENIX DIVISION 04/18/2013
Re: 297-HQ-A1271898-D, 10/10/2013

in attendance: Assistant Director Nancy McNamara, INSD; Inspectors [redacted] OI, INSD; Team Leader [redacted] OI, INSD; SC Stuart P. Fronk, Internal Investigation Section, INSD; SSA [redacted] Training Unit, TD; SSA [redacted] Evidence Response Team, LD; Management and Program Analyst (MPA) [redacted] Inspection Analysis Unit, INSD; and MPAs [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that SA [redacted] should be censured, suspended from duty for a period of three days, and attend documented remedial firearms training as a result of his involvement in this shooting incident.

b6
b7C

♦♦

All redacted information exempt under (b)(7)(E) unless otherwise noted.

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) Shooting Incident Indianapolis Field Office 05/13/2013 **Date:** 03/26/2014

**From:** INSPECTION
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271510-D (U) SHOOTING INCIDENTS

**Synopsis:** (U//FOUO) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting on 02/21/2014.

**Administrative Notes:** (U//FOUO) A copy of the complete INSD Shooting Incident Report is electronically attached to this communication.

**Enclosure(s):** Enclosed are the following items:
1. (U//FOUO) SIRT Report

**Details:**

On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 05/13/2013, involving Indianapolis Field Office Special Agents [redacted] and [redacted] As members of the Indianapolis Safe Streets Task Force (SSTF), SA [redacted] and SA [redacted] were participating in a surveillance operation of bank robbery suspects. b6 b7C The suspects were observed robbing the State Bank of Lizton and exiting the bank with a handgun. The SSTF followed the suspects into a residential area. SA [redacted] and SA [redacted] encountered the suspects on Springcrest Street, where one of the suspects, identified as William McKnight, exited the vehicle brandishing a .45 caliber handgun.

Title: (U//FOUO) Shooting Incident Indianapolis Field Office 05/13/2013
Re: 297-HQ-A1271510-D, 03/26/2014

McKnight pointed the firearm at SA [redacted] and SA [redacted] and refused to comply with verbal commands to put down the weapon. Fearing for their lives, SA [redacted] and SA [redacted] fired 13 rounds at McKnight, striking him six times. McKnight died from his wounds on scene. b6 b7C

**SIRG Observations**

On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] and SA [redacted] was in compliance with the Department of Justice's Deadly Force Policy. b6 b7C

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] and SA [redacted] during the shooting incident.

3. **Provide recommendations concerning training and safety issues.** The SIRG made no recommendations or observations concerning training and safety issues by SA [redacted] and SA [redacted] during the shooting incident. b6 b7C

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] and SA [redacted] as a result of their involvement in the shooting incident. b6 b7C

Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad b6 b7C

Title: (U//FOUO) Shooting Incident Indianapolis Field Office 05/13/2013
Re: 297-HQ-A1271510-D, 03/26/2014

CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors [redacted] Howard S. Marshall, [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem, OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Procedures for Responding to the Observations**

There were no Instructions/Recommendations from the SIRG.

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Accidental Discharge Washington Field 05/22/2013 **Date:** 02/18/2014

**CC:** [redacted] b6 b7C

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 11/20/2013.

**Reference:** 297-HQ-A1271970-D Serial 73

**Administrative Notes:** (U) Reference FD-1085 submitted electronically by SSA [redacted] dated 06/07/2013. Reference accidental discharge report by SSA [redacted] dated 06/13/2013. b6 b7C

**Details:**

On 11/20/2013, the SIRG reviewed an accidental discharge that occurred on 05/22/2013, involving Special Agent (SA) [redacted] Washington Field Office (WFO). SA [redacted] was preparing for firearms training and was conducting holster and dry fire exercises. After finishing the dry fire exercise, she charged her weapon in the kitchen, a departure from b6 b7C

her normal routine of charging in the garage of her residence. On 05/22/2013, at approximately 11:10 a.m., as SA [redacted] had finished preparing her range equipment for the firearms training course, she decided to conduct one more practice draw and pulled the trigger which fired one round out her kitchen window. b6 b7C

**SIRG Observations**

On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined this incident was not a deadly force issue.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training and safety issues.** The SIRG made the following observation requesting additional training.

**Observation 1:** SA [redacted] suffered an accidental discharge while conducting dry fire exercises. b6 b7C

**Analysis 1:** As SA [redacted] finished preparing her range equipment for the firearms training course, she decided to conduct one more practice draw and pulled the trigger which fired one round out her kitchen window. b6 b7C

**Recommendation 1:** ADIC, WFO, will ensure SA [redacted] attends remedial firearms training. b6 b7C

4. **Provide recommendations for administrative action if deemed necessary.** This matter is being referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential

administrative action.

The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, WFO; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst MPA [redacted] Inspection Management Unit, INSD.

b6
b7C

**Procedures for Responding to the Observations**

ADIC, WFO, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

Title: (U) Accidental Discharge Washington Field 05/22/2013
Re: 297-HQ-A1271970-D, 02/18/2014

ADIC, WFO, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] [redacted]

b6
b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 02/20/2014
**Lead Type:** Action
**Deadline:** 04/19/2014
**Lead Number:** 9

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted]
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271970-D Serial 78

**Details:** (U) ADIC, WFO, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 b7C

Re: 297-HQ-A1271970-D
Lead: 9, 02/20/2014

**Location**

**To:** WF-ADIC
**Recipient:** WF-ADIC
**Attn:** ADIC Valerie Parlave
**Status:** Set

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Lead Report**

**Precedence:** Routine **Date:** 02/20/2014
**Lead Type:** Information
**Deadline:** 04/19/2014
**Lead Number:** 10

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted]
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271970-D (U) SHOOTING INCIDENTS

**Reference:** 297-HQ-A1271970-D Serial 78

**Details:** (U) SIRG members recommended this incident be referred to the Internal Investigations Section, Inspection Division for any further administrative action.

Re: 297-HQ-A1271970-D
Lead: 10, 02/20/2014

**Location**

**To:** DA-INTERNAL INVESTIGATIONS SECTION
**Recipient:** DA-INTERNAL INVESTIGATIONS SECTION
**Attn:** SC Stuart Fronk
**Status:** Set

♦♦

OFFICIAL RECORD
Document permanence: All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT CLEVELAND DIVISION 05/30/2013 **Date:** 09/25/2013

**CC:** DA-INTERNAL INVESTIGATIONS SECTION

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** MARSHALL HOWARD S
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271292-D (U) Shooting Incident

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/30/2013, involving Special Agent (SA) [redacted] of the Cleveland Division. As he reached for his Bureau-issued Glock Model 23 pistol as it fell towards the ground in his office space, SA [redacted] accidentally discharged one round, injuring his right lower leg. SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and attend documented remedial firearms training as a result of his involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication (EC) of SA [redacted] dated 06/27/2013. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 05/30/2013, at approximately 4:00 p.m., SA [redacted] was in his office located at the Cleveland Hopkins International Airport. While b6 b7C

on the phone with the Evidence Response Team, SA [redacted] decided to sit in the chair at his desk. As he sat down, his holster grabbed at his chair and he partially stood up to remove the holster and pistol from his pants so he could sit down. Unable to get the holster removed from his belt, SA [redacted] removed his gun from the holster to set it on his desk. He lost his grip on the gun and as it fell toward the ground, SA [redacted] reached for it causing a single round to discharge, travel through a desk, and enter his right lower leg. b6 b7C

SA [redacted] left his office to seek assistance at the Transportation Security Administration (TSA) office. Finding the TSA office empty, SA [redacted] returned to his office and contacted his supervisor to advise of the incident. SA [redacted] placed a tourniquet on his leg, called 911, and advised his wife of the incident. b6 b7C

Airport fire and police personnel responded and rendered first aid. Cleveland Division personnel also responded to the scene. SA [redacted] was transported to the MetroHealth Hospital where the round was extracted and he was released from the hospital that evening. b6 b7C

On 08/14/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Jr., Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; Supervisory Special Agent (SSA) [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Assistant Director Nancy McNamara, INSD; Inspectors b6 b7C

Title: (U) SHOOTING INCIDENT CLEVELAND DIVISION 05/30/2013
Re: 297-HQ-A1271292-D, 09/25/2013

[redacted] OI, INSD; Team Leader [redacted] OI, INSD; SC Stuart P. Fronk, Internal Investigation Section, INSD; SSA [redacted] Training Unit, TD; SSA [redacted] Evidence Response Team, LD; Management and Program Analyst (MPA), [redacted] Inspection Analysis Unit, INSD; and MPAs [redacted] Inspection Management Unit, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that SA [redacted] should be censured, suspended from duty for a period of three days, and attend documented remedial firearms training as a result of his involvement in this shooting incident. b6 b7C

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT DETROIT FIELD OFFICE 07/03/2013 **Date:** 02/18/2014

b6
b7C

**CC:**

**From:** INSPECTION
DA-TDY
**Contact:**

b6
b7C

**Approved By:**
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

b6
b7C

**Drafted By:**

b6
b7C

**Case ID #:** 297K-HQ-A2922639 (U) ACCIDENTAL DISCHARGE

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following SIRG meeting held on 11/20/2013.

**Reference:** 297K-HQ-A2922639 Serial 6 .

**Administrative Notes:** (U) Reference FD-1085 submitted electronically by SSA dated 07/16/2013. Reference accidental discharge report by SSA dated 07/31/2013.

b6
b7C

**Details:**

On 11/20/2013, the SIRG convened to review a shooting incident which occurred on 07/03/2013, involving Detroit Field Office Senior Supervisory Resident Agent (SSRA) At approximately 9:10 a.m., SSRA accidentally discharged his Glock Model 22 handgun during firearms training. SSRA had un-holstered his weapon to

b6
b7C

retrieve the serial number in order to enter this information on the shooting log. After SSRA [redacted] removed the weapon from his holster, he proceeded to clear his Glock handgun to ensure it was safe. During this process, SSRA [redacted] pulled the trigger on what he believed was a safe and empty weapon. b6 b7C

**SIRG Observations**

On 11/20/2013, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined this incident was not a deadly force issue.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SSRA [redacted] during this accidental discharge. b6 b7C

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made the following observations requesting additional training.

**Observation 1**: Detroit Field Office EM was not notified in a timely manner by the Firearms Instructor or SSRA [redacted] regarding the accidental discharge. b6 b7C

**Analysis 1**: SA [redacted] FD-302 report indicated he was the Firearms Instructor on 07/03/2013. While preparing to brief the Agents, who were at the range for training, SA [redacted] heard a gun shot. SSRA [redacted] then motioned SA [redacted] to his location and told him about the accidental discharge. After ensuring nobody was injured, SA [redacted] continued with the firearms training. At the end of training, SA [redacted] notified the Detroit Field Office's Principal Firearms Instructor (PFI), [redacted] about the accidental discharge. b6 b7C

During her investigation, Supervisory Special Agent (SSA) determined not only did SA fail to report this incident immediately to PFI but SSRA did not report the incident to Assistant Special Agent in Charge (ASAC) until firearms training had concluded. b6 b7C

**Recommendation 1**: SAC, Detroit Field Office, should ensure all Detroit personnel are appropriately trained regarding the importance of reporting any shooting-related incident to EM immediately after the shooting incident occurred.

**Observation 2**: Detroit Firearms Instructors did not secure the scene following the accidental discharge.

**Analysis 2**: After the accidental discharge occurred and after SA and SSRA determined there were no injuries, firearms training continued as scheduled. Detroit Evidence Response Team (ERT) arrived and took control of the scene at approximately 2:30 p.m. Between the time of the actual accidental discharge, approximately 9:10 a.m., and the time ERT arrived to process the scene at approximately 2:30 p.m., the shooting scene was not secured. b6 b7C

**Recommendation 2**: SAC, Detroit Field Office, should ensure all Detroit personnel are appropriately trained regarding the importance of securing a shooting scene immediately after the shooting incident has occurred.

**Observation 3**: SSRA practice of pulling the trigger of his weapon as part of the process to determine whether the weapon was empty and safe was in conflict with established procedures and unsafe. b6 b7C

**Analysis 3**: When SSRA arrived at the range for firearms training, he walked over to one of the cleaning tables and un-holstered his weapon in order to retrieve the serial number. While rendering the weapon safe, SSRA pointed the weapon in what he characterized as a safe direction toward the pavement at the "bottom of a wall" and pulled the trigger on what he believed was an empty weapon. SSRA b6 b7C

stated he did this in order to clear the weapon similar to the manner he cleared his weapon on the range or in the gun cleaning room. Following the accidental discharge, an Agent standing nearby observed SSRA [redacted] remove a magazine from his weapon, rack the slide, point the weapon down range, and pull the trigger again. The Agent heard a "click" following SSRA [redacted] second trigger pull. b6 b7C

Recommendation 3: SAC, Detroit Field Office, will ensure SSRA [redacted] attends remedial firearms training. b6 b7C

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended this matter be referred to the Internal Investigations Section (IIS), Inspection Division (INSD), for any further administrative action.

Deputy Assistant Director Mark Alan Morgan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), (INSD); [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ) [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and b6 b7C

Title: (U) SHOOTING INCIDENT DETROIT FIELD OFFICE 07/03/2013
Re: 297E-HQ-A2922639, 02/18/2014

[redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst [redacted] Inspection Management Unit, INSD. b6 b7C

**Procedures for Responding to the Observation**

SAC, Detroit Field Office, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

SAC, Detroit Field Office, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 b7C

◆◆

Government participants have digitally signed. All signatures have been verified by certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Accidental Discharge CJIS Division 08/05/2013 **Date:** 03/13/2014

**CC:** [redacted] b6 b7C

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted]
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297K-HQ-A3074077 (U) Accidental Discharge

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 11/20/2013.

**Reference:** 297K-HQ-A3074077 Serial 4

**Administrative Notes:** (U) Reference FD-1085 submitted electronically by SSA [redacted] dated 08/27/2013. Reference accidental discharge report by SSA [redacted] dated 09/22/2013. b6 b7C

**Details:**

(U//FOUO) On 11/20/2013, the SIRG reviewed an accidental discharge that occurred on 08/05/2013, involving FBI Police Officer (PO) [redacted] b6 b7C [redacted] Security Division. PO [redacted] was conducting his yearly qualification utilizing an AR-15 assigned to the FBI Police at the Criminal Justice Information Services Division. The qualification took

place at the firing range located at the Clarksburg Police Department, Clarksburg, West Virginia.

**SIRG Observations**

(U//FOUO) On 11/20/2013 the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. (U//FOUO) **Evaluate the application of deadly force.** The SIRG determined this incident was not a deadly force issue.

2. (U//FOUO) **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by PO [redacted] during this shooting incident. b6 b7C

3. (U//FOUO) **Provide recommendations concerning training and safety issues.** The SIRG made the following observation requesting additional training.

**Observation 1:** PO Mason, while conducting yearly firearms training with the AR-15, suffered an accidental discharge.

**Analysis 1:** Subsequent to the accidental discharge, at the completion of firearms training, PO [redacted] conducted a safety check and lead firearms instructor PO [redacted] verified a safe and empty weapon. PO [redacted] proceeded to disassemble and clean the firearm and placed it into the crate with the rest of the AR-15 rifles assigned to the FBI Police. b6 b7C

**Instruction 1:** AD, Security Division will ensure FBI Police personnel are aware weapons involved in accidental discharge matters must be collected and submitted to the Defensive Systems Unit (DSU), Training Division (TD), for a Weapon Serviceability Inspection.

**Recommendation 1:** AD, Security Division should ensure PO [redacted] b6 b7C

Title: (U) Accidental Discharge CJIS Division 08/05/2013
Re: 297K-HQ-A3074077, 03/13/2014

attends remedial firearms training.

4. (U//FOUO) **Provide recommendations for administrative action if deemed necessary.** This matter is being referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential administrative action.

(U//FOUO) The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Jayne L. Challman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] DSU, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst MPA [redacted] Inspection Management Unit, INSD.

b6
b7C

**Procedures for Responding to the Observations**

(U//FOUO) AD, Security Division, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will

Title: (U) Accidental Discharge CJIS Division 08/05/2013
Re: 297K-HQ-A3074077, 03/13/2014

review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//FOUO) AD, Security Division, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted]

b6
b7C

♦♦

Document parameters have digitally signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/28/2013 **Date:** 04/10/2014

**CC:** [redacted] b6 b7C

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297J-HQ-A3094975 (U) Delegated Shooting - New York

**Synopsis:** (U//FOUO) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Administrative Notes:** (U//FOUO) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 12/20/2013, prepared by Inspector [redacted] A copy of the complete INSD Shooting Incident Report is electronically attached to this communication. b6 b7C

**Enclosure(s):** Enclosed are the following items:
1. (U//FOUO) Shooting Incident Report, dated 12/20/2013

**Details:**

(U//FOUO) On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 08/28/2013, involving New York Field Office (NYFO) Special Agent (SA) [redacted] NYFO, Squad C-26, White b6 b7C

Title: (U//FOUO) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/28/2013
Re: 297J-HQ-A3094975, 04/10/2014

Plains Resident Agency (WPRA), and the Westchester County District Attorney's Office (WCDAO) were conducting a joint gang and narcotics investigation. On 08/28/2013, investigators from WCDAO and officers from the Mount Vernon Police Department planned on arresting a target of this joint investigation, [redacted], who was wanted on a local narcotics warrant. SA [redacted] and SA [redacted] drove to the arrest location, so they could participate in surveillance and conduct the post-arrest interview. While driving past an additional address associated to [redacted] SAs [redacted] and [redacted] observed Hilton standing in front of the house. After momentarily losing sight of [redacted] SAs [redacted] and [redacted] approached the house and walked down the adjacent driveway to the rear of home. While approaching a parked Ford SUV associated to [redacted] Agents heard the vehicle's engine start. SAs [redacted] and [redacted] gave the driver, who was identified as [redacted] verbal commands to turn off the car and get his hands up; however, [redacted] ignored the commands and put the Ford SUV in reverse. Because a WCDAO investigator took a standing position behind the Ford SUV, he was struck twice by the vehicle as it moved backwards. SA [redacted] feared for the investigator's life, so he aimed his pistol at [redacted] Because SA [redacted] was in his sight picture, SA [redacted] fired one round into the rear passenger tire of [redacted] vehicle. When the vehicle did not stop, SA [redacted] immediately fired a second round into the front passenger tire, which stopped the vehicle. [redacted] was then removed from the vehicle and arrested without further incident.

b6
b7C

**SIRG Observations**

(U//FOUO) On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 08/28/2013 was in compliance with the Department of Justice's Deadly Force Policy.

b6
b7C

Title: (U//FOUO) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/28/2013
Re: 297J-HQ-A3094975, 04/10/2014

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** Because policy dictates an agent should not fire solely to stop a vehicle, SIRG members had a discussion about the technique used by SA [redacted] Due to the potential cross fire situation if SA [redacted] shot towards the subject instead of the vehicle, SIRG members concurred with the Agent's decision to shoot at the vehicle tires in this situation. By disabling the vehicle, SA [redacted] eliminated the threat of [redacted] vehicle striking and seriously injuring the investigator, who was standing behind the vehicle at the time. Shooting at the tires was not to solely disable the vehicle. In addition, the SIRG made the following observations. b6 b7C

**Observation 1**: An arrest plan was not produced prior to an arrest operation.

**Analysis 1**: DIOG Section 19.2.3 provided policy regarding arrest plans:

*"The SAC is responsible for ensuring that arrests are carefully and thoroughly planned...Whenever possible, written arrest plans must be prepared prior to conducting law enforcement activities that may result in the arrest of a potentially dangerous subject. Arrest plans must address five topics: Situation, Mission, Execution, Administration and Equipment, and Control and Communications."*

In addition, DIOG Section 19.2.4 provided policy guidance regarding joint arrests:

*"An SSA may authorize a joint arrest with state and local authorities, United States Marshal's Service (USMS), or other federal law enforcement agencies. In circumstances of joint arrests, the SAC remains responsible to ensure that there is a well-considered arrest plan."*

SAs [redacted] and [redacted] participated in the b6 b7C

surveillance to locate and arrest [redacted] An arrest plan was not prepared nor did either Agent participate in an arrest briefing before they were involved in the surveillance and arrest of [redacted] b6 b7C

**Instruction 1**: ADIC, New York will ensure joint arrest plans in support of other law enforcement agencies are well-considered in accordance with DIOG Section 19.2.3 and DIOG Section 19.2.4.

**Observation 2**: Agents did not participate in an arrest operations briefing prior to participating in the arrest of a violent subject.

**Analysis 2**: DIOG Section 19.2.3 provided policy regarding arrest plans:

*"When briefing the arrest plan, the briefing Agent should stress to the participants of the operation that any arrest has the potential to become dangerous. Exigent circumstances may necessitate an oral briefing in lieu of a written plan, but the oral briefings must address the five topics required to be included in written plans. The planning and execution of arrests, raids, and searches should be assigned to experienced Agents. All arrest plans must be approved by ASACs or their designees."*

SAs [redacted] and [redacted] participated in the surveillance to locate and arrest [redacted] An arrest plan was not prepared nor did either Agent participate in an arrest briefing before they were involved in the surveillance and arrest of Hilton. b6 b7C

**Instruction 2**: ADIC, New York will ensure Agents participate in an operations briefing prior to participating in the arrest of a subject in accordance with DIOG Section 19.2.3.

**Observation 3**: SA [redacted] NYFO, did not have his handgun immediately accessible during the arrest of [redacted] b6 b7C

**Analysis 3**: The MIOG, Section 12-2.2 provided policy regarding a handgun being secured:

Title: (U//FOUO) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/28/2013
Re: 297J-HQ-A3094975, 04/10/2014

*"SAs must be armed at all times when on official duty. Handguns must be secured to the Agent's person in a holster, handbag or waist (fanny/butt) pack. Immediate access to the handgun and its security are paramount. SAs should consult with the PFI concerning the use of holsters other than their Bureau-issued holster."*

SA [redacted] had his Glock 27 handgun holstered on his ankle during the arrest of [redacted] An ankle holster did not afford the Agent immediate access to his handgun should a quick-reaction draw been necessary. b6 b7C

**Recommendation 3**: ADIC, New York should ensure all personnel wear their pistol in a holster readily accessible during planned activity which can be reasonably expected to culminate in an arrest or when entering a potentially hostile environment where a quick-reaction weapon draw might be necessary.

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made no training recommendations or observations requesting additional training for the Agent involved in this shooting incident.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

(U//FOUO) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division (CD); Supervisory Special Agent (SSA) [redacted] Squad CR-2, b6 b7C

Title: (U//FOUO) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/28/2013
Re: 297J-HQ-A3094975, 04/10/2014

Washington Field Office; SSA [redacted], Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem, OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts (MAPA) [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Procedures for Responding to the Observation**

(U//FOUO) ADIC, New York is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

(U//FOUO) ADIC, New York is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to

Title: (U//FOUO) SHOOTING INCIDENT NEW YORK FIELD OFFICE 08/28/2013
Re: 297J-HQ-A3094975, 04/10/2014

Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MAPA [redacted] [redacted]

b6
b7C

♦♦

OFFICIAL RECORD
Document permanently signed. All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) SHOOTING INCIDENT SAN JUAN FIELD OFFICE 08/28/2013 **Date:** 03/26/2014

**CC:** [redacted] b6 b7C

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297L-HQ-A3142161 (U) Animal Shooting

**Synopsis:** (U//FOUO) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Administrative Notes:** (U//FOUO) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 12/26/2013, prepared by San Juan Field Office Supervisory Special Agent (SSA) [redacted] and SSA [redacted] b6 b7C

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Incident Report, dated 12/26/2013

**Details:**

(U//FOUO) On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 08/28/2013, involving Newark Field Office (NK) Special Agent (SA) [redacted] The NK SWAT team traveled to b6 b7C

Title: (U//FOUO) SHOOTING INCIDENT SAN JUAN FIELD OFFICE 08/28/2013
Re: 297L-HQ-A3142161, 03/26/2014

Puerto Rico in support of a major takedown of a large-scale drug enterprise operating in San Juan. While entering an assigned arrest location, SA [redacted] was clearing the interior of the residence when he proceeded through a door from the kitchen to an exterior stairwell. As soon as SA [redacted] got to the bottom of the stairwell, a large pit bull breed dog began charging at him. Fearing for his safety and the safety of his fellow SWAT operators, SA [redacted] fired his weapon at the charging dog. After firing three rounds, the dog retreated into a crawl space underneath the house and later died. b6 b7C

**SIRG Observations**

(U//FOUO) On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 08/28/2013 was in compliance with the Department of Justice's Deadly Force Policy. b6 b7C

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made no training recommendations or observations requesting additional training for the Agent involved in this shooting incident.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

(U//FOUO) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD,

Title: (U//FOUO) SHOOTING INCIDENT SAN JUAN FIELD OFFICE 08/28/2013
Re: 297L-HQ-A3142161, 03/26/2014

chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem, OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) Accidental Discharge New York Field Office 09/13/2013 **Date:** 03/26/2014

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297K-HQ-A3156134 (U) Accidentally Discharge

**Synopsis:** (U//FOUO) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Reference:** 297K-HQ-A3156134 Serial 19

**Administrative Notes:** (U//FOUO) Reference accidental discharge report by SSA [redacted] dated 10/31/2013. b6 b7C

**Details:**

On 02/21/2014, the SIRG reviewed an accidental discharge that occurred on 09/09/2013, involving SA [redacted] New York Field Office. SA [redacted] was participating in 4th quarter FBI pistol qualification course (PQC) at the Suffolk County Police Range in Westhampton, NY. After firing the first phase of the PQC from the three yard line, SA [redacted] attempted to holster his firearm, when his firearm became hung up on his concealing garment. In an attempt to holster his weapon, SA [redacted] pushed harder while his finger was b6 b7C

along the slide of the weapon. This caused an accidental discharge of the weapon. One round was fired, hitting the concrete approximately three feet in front of SA [redacted] firing position. b6 b7C

**SIRG Observations**

On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined this incident was not a deadly force issue.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during the shooting incident. b6 b7C

3. **Provide recommendations concerning training and safety issues.** The SIRG made the following observations requesting additional training.

**Observation 1**: SA [redacted] experienced an accidental discharge while attempting to holster his weapon at firearms training. b6 b7C

**Analysis 1**: SA [redacted] attempted to holster his weapon after firing the first phase of the PQC. The weapon became hung up on his concealing garment, causing SA [redacted] to push down harder in an attempt to holster his weapon. This action caused an accidental discharge. b6 b7C

**Recommendation 1**: ADIC, NY, will ensure SA [redacted] attends remedial firearms training. b6 b7C

**Observation 2**: Firearms instructors did not secure or photograph the scene, or retain the weapon and holster immediately following the accidental discharge.

Title: (U//FOUO) Accidental Discharge New York Field Office 09/13/2013
Re: 297K-HQ-A3156134, 03/26/2014

**Analysis 2**: The PQC continued immediately following the accidental discharge. The incident was not reported to the PFI until later that afternoon. The FIs were only then instructed to take possession of SA [redacted] firearm. b6 b7C

**Recommendation 2**: ADIC, NY, will ensure Shooting Incident Review protocols are followed.

4. **Provide recommendations for administrative action if deemed necessary**. This matter is being referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential administrative action.

Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted], Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb,

b6 b7C

Title: (U//FOUO) Accidental Discharge New York Field Office 09/13/2013
Re: 297K-HQ-A3156134, 03/26/2014

CIRG; Assistant Director Michael Prout and DAD Blair Deem,OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD. b6 b7C

ADIC, NY, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement. ADIC, NY, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] [redacted] b6 b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

Title: (U) Accidental Discharge Denver Field Office

Date: 02/18/2014

From: INSPECTION
DA-TDY
Contact: SA [redacted] b6 b7C

Approved By: [redacted] b6 b7C
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

Drafted By: SA [redacted] b6 b7C

Case ID #: 297K-HQ-A3266118 (U) Accidental Discharge - Denver

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 1/16/2014.

**Reference:** 297K-HQ-A3266118 Serial 7

**Administrative Notes:** (U) Reference FD-1085 submitted electronically by SSA [redacted] dated 10/9/2013. Reference accidental discharge report by SSA [redacted] on 12/20/2013. b6 b7C

**Details:**

On 1/16/2014, the SIRG reviewed an accidental discharge that occurred on 9/26/2013, involving Special Agent (SA) [redacted] Denver Field Office. Prior to the incident, SA [redacted] was instructed to turn in his personally owned Glock 27 pistol to the Principal Firearms Instructor (PFI), to be sent for service at Quantico, Virginia. SA [redacted] arrived at the range in preparation for firearms training and to turn in his Glock 27. Prior to giving his weapon to the PFI, SA [redacted] removed the weapon from his gun safe located behind the rear passenger seat of his FBI vehicle. SA [redacted] attempted to clear the weapon, while b6 b7C

simultaneously pulling the slide and releasing the magazine. SA [redacted] inadvertently pulled the trigger and discharged one round. b6 b7C

**SIRG Observations**

On 1/16/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined this incident was not a deadly force issue.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made the following observations requesting additional training.

**Observation 1:** SA [redacted] suffered an accidental discharge while attempting to clear his weapon. b6 b7C

**Analysis 1:** As SA [redacted] attempted to clear his weapon, he simultaneously pulled the slide to the rear and released the magazine, then pulled the trigger which fired a round into the trunk of his FBI vehicle. b6 b7C

**Recommendation 1:** SAC, Denver will ensure SA [redacted] attends remedial firearms training. b6 b7C

**Observation 2:** SA [redacted] did not secure the scene of the accidental discharge. b6 b7C

**Analysis 2:** After the accidental discharge, SA [redacted] completed firearms training, then drove to his residence. Once home, SA [redacted] b6 b7C

discovered damage to his FBI vehicle made by the round. SA [redacted] then drove back to the range and contacted his supervisor. b6 b7C

**Recommendation 2:** SAC, Denver will ensure his personnel are familiar with the protocols of securing a shooting incident scene.

**Observation 3:** SA [redacted] failed to notify Denver Management of the accidental discharge in a timely manner. b6 b7C

**Analysis 3:** After the accidental discharge, SA [redacted] completed firearms training and failed to notify his Supervisor, or notify the PFI who was at the scene. SA [redacted] drove to his residence. Once home, SA [redacted] discovered damage to his FBI vehicle made by the round. SA [redacted] then drove back to the range and contacted his supervisor. b6 b7C

**Recommendation 3:** SAC, Denver will ensure his personnel report shooting incidents to Denver Management in a timely manner.

4. **Provide recommendations for administrative action if deemed necessary.** This matter is being referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential administrative action.

The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI) INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); Assistant Section Chief (ASC) [redacted] Criminal Investigative Division; ASC [redacted] Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Special Weapons (SWAT) Operations Unit, CIRG; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); and SSA [redacted] Defense Systems b6 b7C

Title: (U) Accidental Discharge Denver Field Office
Re: 297K-HQ-A3266118, 02/18/2014

Unit, TD. The following non-voting members were also in attendance: [redacted] Office of the Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief (UC) [redacted] Inspection Analysis Unit, INSD; UC [redacted] and Management Program Analysts (MPA) [redacted] and [redacted] Inspection Management Unit, INSD. b6 b7C

**Procedures for Responding to the Observations**

SAC, DN is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

SAC, DN, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b6 b7C

OFFICIAL RECORD
Document participates in a digitally signed, All signatures have been verified by a certified FBI information system

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT OKLAHOMA CITY DIVISION 01/10/2013 **Date:** 07/28/2013

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271801-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/10/2013, involving Special Agent (SA) [redacted] of the Oklahoma City Division. During the Special Weapons and Tactics (SWAT) firearms training, SA [redacted] fired one round from his Bureau-issued Rock River LAR15, M-4, .223 caliber carbine, striking SA [redacted] in the upper thigh. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. One Observation with an accompanying Instruction was adopted by INSD for the Oklahoma City Division. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communication of Supervisory Special Agents (SSAs) [redacted] and [redacted] dated 02/05/2013. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

Oklahoma City SWAT Team Leader SA [redacted] scheduled SWAT training for 01/10/2013. The training included instruction and training regarding the use of flash bang devices and conducting close b6 b7C

quarters battle (CQB). On 01/10/2013, SWAT Team members met in the training room in the Oklahoma City Division, where SA [redacted] provided a presentation on the use and deployment of flash bangs. At approximately 10:00 a.m., the team departed for the Edmond (Oklahoma) Police Department (EPD) firearms range. Participants were aware the training would include live flash bangs and live fire CQB exercises. b6 b7C

SA [redacted] conducted demonstrations of the proper handling and deployment of flash bangs in the open range area. Several of the operators with less experience were instructed and allowed to throw live flash bangs. EPD Sergeant [redacted] provided a briefing on use of the shoot house. The interior shoot house rooms were shown to team members, and instruction about which walls should not be shot was provided. It was also noted shots above a specified height should not be made due to the trajectory of the bullet and the height of the earth berm which acts as the backstop for rounds fired. b6 b7C

An examination of the EPD shoot house showed it to be a rectangular fully covered single story structure with a metal roof. The outside dimensions of the shoot house were 60 ft. by 36 ft. The structure had telephone type poles as primary supports. Interior walls were constructed using panels of approximately one quarter inch plywood. The exterior walls of the house were made of fiberboard and 2x4s. The height of the roof, at its peak was approximately 20 ft., with a gap at the top to allow outside light into the house. In the scenario involving this shooting, the house was configured with 16 rooms. Some interior walls of the shoot house had the ability to be moved, reconfiguring the interior layout of the facility. Some walls had doorway gaps in them for "room entry" abilities.

SA [redacted] was responsible for running the training exercises. SA [redacted] was in charge of the entry team and directing tactical responses to the situations constructed by SA [redacted] Both SA [redacted] and SA [redacted] noted exercises would be room entry and clearing. SA [redacted] would make the determination as to the type of entry to be conducted and direct team responses both outside and inside b6 b7C

the shoot house. SA [redacted] would set up and designate which rooms were not part of the exercise. The team would enter the shoot house without being supplied a blue print of the current layout or configuration of rooms within the house. There were instances where breaching was a component of the exercise as well as the use of flash bangs. b6 b7C

There were five to seven specific scenarios made in the house with each using all eleven operators. All briefings were conducted orally prior to entry. During the various exercises in the shoot house, there was a limited placement of targets within each scenario. Protocol for entries was described as standard operating procedures, including the weapon (shoulder weapon for these scenarios) having the safety on and the operator's finger off the trigger and outside the trigger guard. It also involved muzzle control. Once a target was identified, the weapon was brought on target, the safety disengaged, and shot(s) fired into the target. Once this was completed, the weapon was returned to safe and the finger placed outside the trigger guard.

During an earlier exercise, a question of not shooting a target was mentioned. SA [redacted] explained to the operators that all "Q" targets were to be considered threats which should be engaged. b6 b7C During the final exercise, team members at the front of the stack entered and secured room A. Members moved up to secured areas to stage for their next assignment on a clearing team. Room B was cleared and secured. SA [redacted] called for the clearing of rooms E and G. SA [redacted] deployed a flash bang in room E. SA [redacted] entered room E and immediately engaged a "Q" target with two shots. SA [redacted] turned to the right, cleared the corner and moved to that corner to complete securing the room. SA [redacted] entered and secured the left side of the room. SA [redacted] entered and filled the middle of the room. Slightly behind, but moving simultaneously to this entry, a group of three operators was moving to enter and secure room G. SA [redacted] entered the room and secured the left side. SA [redacted] entered and moved to the right to secure the corner and SA [redacted] entered to secure the middle of the room. Upon checking the right corner, SA [redacted]

observed a target stand with a target attached. The target was not a "Q" target but rather a character target depicting a man holding a handgun. SA [redacted] disengaged the safety from his weapon, fired one shot at the target, then re-engaged the safety, and moved to complete the securing of Room G. b6 b7C

SA [redacted] who remained in room E, stated that something hit him. A "Code RED" real world emergency was called out. SA [redacted] began examining SA [redacted] as SA [redacted] entered to determine what happened. While waiting for the arrival of a medic, SAs [redacted] and [redacted] immediately began applying first aid. SA [redacted] called 911 and requested a helicopter to transport SA [redacted] Edmond Police Department personnel responded to the shoot house as well as emergency personnel from the Edmond Fire Department. SA [redacted] was stabilized and transported to the Oklahoma University Trauma Center. b6 b7C

According to SA [redacted] he believed the target he saw upon entering the room was an imminent threat. He also advised he did not recall any specification or demonstration during the day advising of any specific target being used for the training exercises. SA [redacted] advised he was solely responsible for setting up each scenario as well as any target involved in the exercises. b6 b7C

After the shooting incident, SA [redacted] asked SA [redacted] what happened. SA [redacted] pointed to a target stand with a paper character target attached. SA [redacted] stated he had not previously seen the target or target stand and immediately realized he had overlooked the two items during his walk through of the shoot house prior to the CQB exercise. b6 b7C

On 05/23/2013, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Robert J. Shields, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Acting Chief Inspector Howard S. Marshall, Office of Inspections (OI), INSD; [redacted] [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights b6 b7C

Division, USDOJ; Section Chief (SC) SC Gregory D. Cox, Global Section, Counterintelligence Division; Special Agent (SA) [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); SSA [redacted] Firearms Training Unit, TD; and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] Defensive Systems Unit, TD; [redacted] Firearms Training Unit, TD; SSA [redacted] Operations and Training Unit, CIRG; SSA [redacted] Resource Planning Office, Director's Office; SSA [redacted] SWAT Operations Unit, CIRG; Safety and Occupational Health Manager [redacted] Occupational Safety and Environmental Programs Unit, Facilities and Logistics Services Division; Management and Program Analyst [redacted] Inspection Analysis Unit, INSD; and Management and Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions (if any); (2) provide recommendations concerning training and/or safety issues; and (3) provide recommendations for administrative action if deemed necessary.

This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this serious accident.

b6
b7C

INSD adopted the following Observation and Instruction:

Title: (U) SHOOTING INCIDENT OKLAHOMA CITY DIVISION 01/10/2013
Re: 297-HQ-A1271801-D, 07/28/2013

**Inspector's Observation:**

**Observation:** Deficiencies were noted in the adherence to training protocols for live-fire, close quarters combat, shoot house exercises.

**Analysis:** Interview of Oklahoma City SWAT TL [redacted] who was responsible for running the training exercise at the Edmond PD shoot house, indicated TL [redacted] set up the training scenarios, including the placement of targets in the respective rooms of the shoot house. Following the training accident, SA [redacted] stated he overlooked a character paper target when he conducted a walk-through of the shoot house rooms prior to the CQB exercise. The overlooked target was engaged by SA [redacted] during the exercise, leading to the gunshot wound to SA [redacted]

b6
b7C

**Instruction:** SAC, Oklahoma City will ensure adherence to live-fire shoot house training protocols.

**PROCEDURES FOR RESPONDING TO THE INSTRUCTIONS/RECOMMENDATIONS**

The Inspection Division (INSD), Inspection Management Unit (IMU) is responsible for ensuring that each Inspection Instruction/Recommendation is satisfactorily resolved. IMU maintains an Instructions/Recommendations database and provides the INSD Assistant Director (AD) a quarterly report reflecting all outstanding Instructions/Recommendations. The inspection process is not complete until all Instructions/Recommendations have been satisfactorily resolved.

IMU will provide field office responses to the Inspector-in-Charge (IIC), who will determine if the Instruction has been resolved or requires further action. Resolution will be based upon specific actions taken rather than a recitation of what actions the division has under consideration or plans to take in the future. If the IIC determines an Instruction/Recommendation has not been resolved, an EC

will be forwarded requesting further action or clarification. Upon resolution, all Instructions/Recommendations will be appropriately noted in the database.

SAC, Oklahoma City is required to provide a detailed response addressing the Instruction in this EC, page 6, including corrective actions taken and/or intended actions with time frames for completion. Each Observation which results in an Instruction/ Recommendation must be responded to in a one-page, stand alone response. The Observation and related Instruction is to be recited verbatim from the inspection EC, followed by the division's detailed response (it is not necessary to repeat the analysis section of the Observation in the response). If supporting documentation is available, it should be enclosed with each response.

All initial and follow-up responses must be sent to the IMU on plain bond paper as enclosures to a transmittal EC, directed to Unit Chief [redacted] Inspection Division, Inspection Management Unit, Room [redacted] In addition, after the EC is serialized with the attached responses, please e-mail the Sentinel link to MPA [redacted] b6 b7C

♦♦

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) SHOOTING INCIDENT RICHMOND DIVISION 02/14/2013 **Date:** 07/11/2013

**To:** DA-INSPECTION

**From:** INSPECTION
DA-INSPECTION MANAGEMENT UNIT
**Contact:** [redacted] b6 b7C

**Approved By:** SHIELDS ROBERT J JR
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271903-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/14/2013, involving Supervisory Special Agent (SSA) [redacted] of the Richmond Division. After seeing a vehicle strike a deer, SSA [redacted] fired one round from her Bureau-issued Glock Model 22, .40 caliber pistol, killing the severely injured animal. SIRG members unanimously recommended that no administrative action be taken against SSA [redacted] as a result of her involvement in this shooting incident. b6 b7C

**Administrative Notes:** (U) Reference Electronic Communications (ECs) of Special Agent (SA) [redacted] and SSA [redacted] dated 02/19/2013 and 03/04/2013, respectively. b6 b7C

**Details:**

This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 02/14/2013, at approximately 9:00 p.m., as SSA [redacted] was riding in a vehicle driven by another individual, she b6 b7C

observed a small truck strike a deer. The unknown male driver (later identified as [redacted] of the truck, as well as the driver of the vehicle in which SSA [redacted] was riding, stopped. SSA [redacted] exited her vehicle as [redacted] exited his truck. SSA [redacted] assisted [redacted] by briefly stopping oncoming traffic while he pulled the injured deer to the right side shoulder of the road. b6 b7C

After the deer was moved to the shoulder of the road, [redacted] called the police to report the incident. He advised SSA [redacted] that the police advised it was going to be a while before a marked unit would respond to the scene. SSA [redacted] observed the deer thrashing about on the side of the road and became concerned that the deer was going to move back into oncoming traffic or cause an accident as a result of the distraction to drivers caused by the deer's actions. b6 b7C

SSA [redacted] expressed her concern and advised [redacted] that she had a concealed weapon and would shoot the deer. After ensuring there was no oncoming traffic or bystanders who would be at risk, SSA [redacted] stood above the deer and fired one round into the back of the deer's head. b6 b7C

[redacted] advised SSA [redacted] he would wait for the police to arrive so he could report the damage to his vehicle. After responding to the scene, the police officer advised that a game warden would be contacted to retrieve the dead deer. b6 b7C

SSA [redacted] advised the Richmond Division Principal Firearms Instructor of the incident the next afternoon. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and

Title: (U) SHOOTING INCIDENT RICHMOND DIVISION 02/14/2013
Re: 297-HQ-A1271903-D, 07/11/2013

(4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously opined that no action should be taken against SSA [redacted] as a result of her involvement in this shooting incident. b6 b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: " SHOOTING INCIDENT KNOXVILLE FIELD (OFFICE [illegible]

Date: 11 [illegible]

CC: [redacted] b6 b7C

From: INSPECTION
DA-TD:
Contact: [redacted] b6 b7C

Approved By: [redacted] b6 b7C
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

Drafted By: [redacted] b6 b7C

Case ID #: 297-HQ-A1271697-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 11/20/2013.

**Administrative Notes:** (U) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report dated 10/21/2013 prepared by former Inspector [redacted] A copy of the complete INSD Shooting Incident Report is electronically attached to this communication. b6 b7C

**Enclosure(s):** Enclosed are the following items:
1. (U) INSD Shooting Incident Report, dated 10/21/2013.

**Details:**

On 11/20/2013, the SIRG convened to review a shooting incident which occurred on 03/06/2013, involving Knoxville Field Office Special Agent (SA) [redacted] On 03/04/2013, a criminal complaint and b6 b7C

federal arrest warrant were issued against [redacted] for Distribution of Child Pornography and Receipt of Child Pornography. A search warrant was also issued for Evans' residence, [redacted] in order to obtain evidence related to an ongoing child pornography investigation. On 03/06/2013, Agents and Local Law enforcement executed the search warrant on Evans' residence and found Evans in a back bedroom. Evans was holding and pointing a holstered handgun at his head. When Evans made a sudden movement with the handgun, exposing the trigger, SA [redacted] fired three .223 rounds from his Colt M4 rifle. Evans was struck three times and was determined to be deceased at the scene by responding paramedics.

b6
b7C

**Results of the SIRG**

On 11/20/2013, the SIRG reviewed the above synopsized incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 03/04/2013 was in compliance with the Department of Justice's deadly force policy.

b6
b7C

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident.

b6
b7C

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made no recommendations or observations requesting additional training for the agents involved in this shooting incident.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Re: [illegible] SHOOTING INCIDENT KNOXVILLE FIELD OFFICE [illegible]
[illegible]

Deputy Assistant Director Mark Mac Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) Wayne L. Chaillman, Criminal Investigative Division; SC Gregory D. Cox, Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Squad CR-1, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] and [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief [redacted] and Management Program Analyst [redacted] Inspection Management Unit, INSD.

b6
b7C

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

OFFICIAL RECORD

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Shooting Incident Report **Date:** 03/26/2014

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** MARSHALL HOWARD S
[redacted] b6 b7C
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297L-HQ-A3454153 (U) Animal Shooting

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG on 02/21/2014.

**Reference:** 297L-HQ-A3454153 Serial 9

**Administrative Notes:** (U) Reference Animal Shooting report by SA [redacted] dated 11/18/2013. b6 b7C

**Details:**

On 02/21/2014, the SIRG reviewed an animal shooting which occurred on 10/24/2013, involving SA [redacted] Milwaukee Field Office. SA [redacted] was driving in his Bureau vehicle from Wausau, Wisconsin to the Madison, Wisconsin RA. While traveling southbound on Interstate 39, SA [redacted] encountered an injured deer on the shoulder of the roadway. The deer appeared to have been struck by a vehicle and posed a risk to oncoming traffic. Believing the injured deer could cause an accident, SA [redacted] activated his emergency lights, pulled to the side of the road, approached the injured deer on foot, and fired four b6 b7C

UNCLASSIFIED

rounds after ensuring no other traffic was present. The initial four rounds did not kill the deer. SA [redacted] fired an additional round into the deer's neck killing the deer. b6 b7C

**SIRG Observations**

On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 10/24/2013 was in compliance with the Department of Justice's Deadly Force Policy. b6 b7C

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during the shooting incident. b6 b7C

3. **Provide recommendations concerning training and safety issues.** The SIRG made no recommendations or observations concerning training or safety issues.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad b6 b7C

Title: (U) Shooting Incident Report
Re: 297L-HQ-A3454153, 03/26/2014

CR-2, Washington Field Office; SSA [redacted], Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] Howard S. Marshall, [redacted] OI, INSD; Team Leaders [redacted] and [redacted], OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem,OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Procedures for Responding to the Observations**

There were no Inspection Instructions or Recommendations.

♦♦

OFFICIAL RECORD
Documents posted/printed have digital signatures. All signatures have been verified by a certified FBI information system.

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) Little Rock Agent-involved Shooting 11/18/2013 **Date:** 04/10/2014

b6
b7C

**CC:**

**From:** INSPECTION
DA-TDY
**Contact:**

b6
b7C

**Approved By:**

Mark Alan Morgan
Nancy McNamara

b6
b7C

**Drafted By:**

b6
b7C

**Case ID #:** 297L-HQ-A3648070 (U) Animal Shooting

**Synopsis:** (U//FOUO) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Enclosure(s):** Enclosed are the following items:
1. (U//FOUO) INSD Shooting Incident Report, dated 12/24/2013

**Details:**

(U//FOUO) On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 11/18/2013, involving Jackson Field Office (JN) Special Agent (SA)

b6
b7C

(U//FOUO) On 11/18/2013, SA JN SWAT, discharged seven rounds from his FBI-issued Colt AR-15 at a pit bull breed dog which was attacking SA JN SWAT, during an arrest operation in support of the Little Rock Field Office (LR). The JN SWAT team was

b6
b7C

participating in a multiple subject LR arrest operation and was assigned to affect the arrest of subjects [redacted] and [redacted] b6 b7C

(U//FOUO) Upon arrival at [redacted] the residence of [redacted] SA [redacted] and SA [redacted] moved to their assigned position near the corner of the residence. As SA [redacted] entered the yard he saw a pit bull breed dog aggressively advancing towards him. The dog suddenly stopped as it was attached to a restraint. SA [redacted] warned SA [redacted] of the dog's presence and they continued to move towards their assigned position. SA [redacted] while focused on covering Agents assigned to breach the door, heard SA [redacted] scream. SA [redacted] turned to see the dog biting SA [redacted] on the upper right rear thigh. SA [redacted] also observed the dog's restraint had become wrapped around SA [redacted] legs. Recognizing the danger to SA [redacted] SA [redacted] fired a total of seven rounds at the dog, eliminating the threat to SA [redacted] and SA [redacted] b6 b7C

**SIRG Observations**

(U//FOUO) On 02/14/2012, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 11/22/2013 was in compliance with the Department of Justice's Deadly Force Policy. b6 b7C

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training, procedural, and/or safety issues.** The SIRG made the following recommendation to Little Rock regarding its post-incident response to

the animal shooting:

**Observation 1**: The scene of the Agent-involved shooting was not secured and subsequently processed by ERT.

**Analysis 1:** The Inspection Division's Shooting Incident Guide delineates field office response to Agent-involved shooting incidents (AIS). Per the Shooting Incident Guide, Section VIII - E, Field Office Response, the SAC, in the event of an AIS, is responsible for identifying and dispatching an FBI On-Scene Commander (OSC) and the Chief Division Counsel (CDC) or Assistant Chief Division to the scene (A/CDC). CDCs are trained to advise Agents of the shooting incident review process and to assist in seeking emergency legal interim legal representation, as appropriate. The SAC should also deploy the Evidence Response Team (ERT) and any additional supporting personnel to the scene as appropriate. *"Minimally, ensure there is FBI ERT involvement at every shooting scene, to include a strong preference for the FBI to have the lead responsibility in shootings involving only FBI Agents."* Little Rock did not deploy ERT to process the scene of the animal shooting. There were no photographs, video, or sketches made of the scene at the time of the shooting.

**Recommendation 1**: SAC, Little Rock should ensure Agent-involved shooting scenes are processed by an FBI Evidence Response Team where possible.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

(U//FOUO) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special b6 b7C

Title: (U//FOUO) Little Rock Agent-involved Shooting 11/18/2013
Re: 297L-HQ-A3648070, 04/10/2014

Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief Steven Burdelski, Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem, OI, United States Marshal Service; [redacted] Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

b6
b7C

**Procedures for Responding to the Instruction**

SAC, Little Rock Division, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

Title: (U//FOUO) Little Rock Agent-involved Shooting 11/18/2013
Re: 297L-HQ-A3648070, 04/10/2014

SAC, Little Rock Division, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow- up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted]

b6
b7C

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U//FOUO) Dallas Agent-involved Shooting 11/22/2013 **Date:** 03/26/2014

**CC:** [redacted] b6 b7C

**From:** INSPECTION
DA-TDY
**Contact:** [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
Mark Alan Morgan
Nancy McNamara

**Drafted By:** [redacted] b6 b7C

**Case ID #:** 297L-HQ-A3696065 (U) Animal Shooting

**Synopsis:** (U//FOUO) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 02/21/2014.

**Administrative Notes:** (U//FOUO) This communication summarizes the Inspection Division's (INSD) Shooting Incident Report, dated 01/08/2014, prepared by Dallas Field Office Supervisory Special Agent (SSA) [redacted] b6 b7C

**Enclosure(s):** Enclosed are the following items:
1. (U//FOUO) Shooting Report dated 01/08/2014

**Details:**

(U//FOUO) On 02/21/2014, the SIRG convened to review a shooting incident which occurred on 11/22/2013, involving Dallas Field Office (DL) Special Agent (SA) [redacted] On 11/22/2013, at approximately 6:00 PM, SA [redacted] returned to his residence following work and walked b6 b7C

to retrieve his mail at the neighborhood community mailbox. While returning to his residence, an American Bulldog appeared at SA [redacted] side. The dog growled and attempted to bite SA [redacted] Despite efforts to separate himself, the dog appeared to be preparing to attack. SA [redacted] fired two rounds from his personally owned Glock 27 handgun, striking the dog twice. The dog was later euthanized by the owners. The owners stated the dog had escaped from its yard and later described the dog as territorial. b6 b7C

**SIRG Observations**

(U//FOUO) On 02/21/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG unanimously determined the application of deadly force by SA [redacted] on 11/22/2013 was in compliance with the Department of Justice's Deadly Force Policy. b6 b7C

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training and or/safety issues.** The SIRG made the following observations regarding post-shooting incident response protocols:

**Observation 1:** Dallas dispatched no investigative personnel to the scene of the November 22, 2013 animal shooting involving SA [redacted] b6 b7C

**Analysis 1:** The Inspection Division's Shooting Incident Guide delineates field office response to Agent-involved shooting incidents (AIS). Per the Shooting Incident Guide, Section VIII - E, Field Office Response, the SAC, in the event of an AIS, is responsible

for identifying and dispatching an FBI On-Scene Commander (OSC) and the Chief Division Counsel (CDC) or Assistant Chief Division to the scene (A/CDC). CDCs are trained to advise Agents of the shooting incident review process and to assist in seeking emergency legal interim legal representation, as appropriate. The SAC should also deploy the Evidence Response Team (ERT) and any additional supporting personnel to the scene as appropriate. *"Minimally, ensure there is FBI ERT involvement at every shooting scene, to include a strong preference for the FBI to have the lead responsibility in shootings involving only FBI Agents."*

Per the Shooting Incident Guide, Section VIII - D, Field Office Response, the OSC is responsible for identifying himself/herself as the senior FBI official on scene as well as requesting additional resources as needed. The OSC shall also preserve the incident scene in its entirety to the extent possible, and ensure discussions with the Agent Shooter are limited to his or her welfare, whether or not the scene is secure, and the status of all subjects.

While there is a distinction between the level of response logically sufficient for an off-duty, Agent-involved animal shooting, in which no injuries were incurred versus an operational Agent-involved shooting, there must be an appropriate level of response by the FBI to any Agent-involved shooting. At a minimum, a reasonable interpretation of the Shooting Incident Guide would have called for an SSA, or an SAC, Dallas designee, to respond to the scene of the incident, in order to ensure investigative requirements were addressed. Further, a Dallas field office representative, other than the Agent involved in the shooting, should be dispatched to ensure assistance and support is made available to the involved Agent.

**Instruction 1**: SAC, Dallas will ensure appropriate investigative personnel respond to the scene of all Agent involved shooting incidents.

**Observation 2**: Dallas did not collect the Glock 27

handgun, ammunition, and magazines used in the shooting incident until November 25, 2013.

**Analysis 2:** The Inspection Division's Shooting Incident Guide delineates field office response to AIS. Per the Shooting Incident Guide, Section VIII - E, Field Office Response, the SAC, in the event of an AIS, will *"Make provisions for the collection of weapons, magazines, and ammunition from involved Agents, and the issuance of replacement weapons and ammunition."*

SA [redacted] was involved in an Agent-involved shooting at approximately 6:00 PM on Friday, 11/22/2013. No Dallas Field Office personnel responded to the scene. The Glock 27 handgun, ammunition, and magazine were not collected by Dallas Field Office personnel until Monday, November 25, 2013. Appropriate response by Dallas Field Office personnel would have ensured timely collection of the weapon, ammunition, and magazine used in the shooting incident. b6 b7C

**Instruction 2:** SAC, Dallas will ensure provisions are in place for the prompt collection of weapons and ammunition by FBI personnel from Agents in all Agent involved shooting incidents.

4. **Provide recommendations for administrative action if deemed necessary.** The SIRG recommended no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

(U//FOUO) Deputy Assistant Director (DAD) Mark Alan Morgan, INSD, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Acting Section Chief [redacted] Criminal Investigative Division; Section Chief (SC) Roger Coe, Global Section, Counterintelligence Division; SSA [redacted] Squad CR-2, Washington Field Office; b6 b7C

b6
b7C

SSA [redacted] Practical Applications Unit (PAU), Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group (CIRG); and SSA [redacted] Defensive Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of Inspector General,USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] and [redacted] OI, INSD; SSA [redacted] ERT, LD; Unit Chief (UC) [redacted] PAU, TD; DAD Joshua Skule, Counterterrorism Division; SSA [redacted] Office of Public Affairs; SC Jay Tabb, CIRG; Assistant Director Michael Prout and DAD Blair Deem,OI, United States Marshal Service; Loyda Santiago, Special Assistant, OI, INSD; SC Tracy A. Paige, OI, INSD; UC [redacted] and Management Program Analysts [redacted] and [redacted] Inspection Management Unit, INSD.

**Procedures for Responding to the Instruction**

SAC, Dallas Division, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

SAC, Dallas Division, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow-up EC responses must be directed to

Title: (U//FOUO) Dallas Agent-involved Shooting 11/22/2013
Re: 297L-HQ-A3696065, 03/26/2014

Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once the EC is serialized, please e-mail the Sentinel link to MPA [redacted] [redacted]

b6
b7C

♦♦

OFFICIAL RECORD
Document portion marks have digitally signed. All signatures now being verified in a certified FBI information system.

# FEDERAL BUREAU OF INVESTIGATION

**Electronic Communication**

**Title:** (U) Accidental Discharge Los Angeles Field Office **Date:** 02/18/2014

**From:** INSPECTION
DA-TDY
**Contact:** SA [redacted] b6 b7C

**Approved By:** [redacted] b6 b7C
SHIELDS ROBERT J JR
Mark Alan Morgan
Nancy McNamara

**Drafted By:** SA [redacted] b6 b7C

**Case ID #:** 297-HQ-A1271741-D (U) SHOOTING INCIDENTS

**Synopsis:** (U) This communication was prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with respect to the captioned shooting following the SIRG meeting held on 1/16/2014.

**Reference:** 297-HQ-A1271741-D Serial 184

**Administrative Notes:** (U) Reference FD-1085 submitted electronically by SSA [redacted] dated 12/10/2013. Reference accidental discharge report by SSA [redacted] on 1/8/2014. b6 b7C

**Details:**

On 1/16/2014, the SIRG reviewed an accidental discharge that occurred on 12/9/2013, involving Special Agent [redacted] Los Angeles Field Office. In preparation for an operation the next day, SA [redacted] was conducting a safety check of his MP5 while at his residence. After SA [redacted] determined the weapon was safe and empty, he inserted a loaded magazine in the weapon and move the slide forward. The slide moved forward slowly and appeared to malfunction. SA [redacted] released the magazine, pulled the slide back, but failed to eject the round from the chamber. SA [redacted] racked the slide several time but did not eject the b6 b7C

round. SA [redacted] pointed the weapon at his mattress and pulled the trigger three times and did not hear a click. SA [redacted] pulled the trigger a fourth time and fired one round into his mattress. b6 b7C

**SIRG Observations**

On 1/16/2014, the SIRG reviewed the Agent-involved shooting incident with the intent to:

1. **Evaluate the application of deadly force.** The SIRG determined this incident was not a deadly force issue.

2. **Provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint.** The SIRG made no recommendations or observations concerning the operational techniques used by SA [redacted] during this shooting incident. b6 b7C

3. **Provide recommendations concerning training and/or safety issues.** The SIRG made the following observations requesting additional training.

**Observation 1:**

SA [redacted] suffered an accidental discharge while conducting a safety check on his MP5 weapon. b6 b7C

**Analysis 1:**

During a safety check, SA [redacted] failed to eject a round from his MP5 after several attempts. SA [redacted] tested the weapon three times by pulling the trigger with no results, yet on the fourth attempt, the weapon fired one round. b6 b7C

**Recommendation 1:** ADIC, Los Angeles will ensure SA [redacted] attends remedial firearms training. b6 b7C

**Observation 2:** ADIC, Los Angeles failed to notify Inspection Division

in a timely manner.

**Analysis 2:** After the accidental discharge, SA [redacted] notified his Supervisor, SSA [redacted] who responded to the scene. An immediate report was not made to the Inspection Division. b6 b7C

**Recommendation 2:** ADIC, Los Angeles will ensure his personnel report shooting incidents to the Inspection Division in a timely manner.

4. **Provide recommendations for administrative action if deemed necessary.** This matter is being referred to the Internal Investigations Section (IIS), Inspection Division (INSD) for potential administrative action.

The SIRG was chaired by non-voting member Deputy Assistant Director Mark Alan Morgan, INSD. The following voting members were in attendance: Chief Inspector Robert J. Shields, Office of Inspections (OI) INSD; [redacted] Trial Attorney, Criminal Division, United States Department of Justice (USDOJ); Assistant Section Chief (ASC) [redacted] Criminal Investigative Division; ASC [redacted] Global Section, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Squad CR-2, Washington Field Office; SSA [redacted] Practical Applications Unit, Training Division (TD); SSA [redacted] Special Weapons (SWAT) Operations Unit, CIRG; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Evidence Response Team (ERT), Laboratory Division (LD); and SSA [redacted] Defense Systems Unit, TD. The following non-voting members were also in attendance: [redacted] Office of the Inspector General, USDOJ; Inspectors [redacted] OI, INSD; Team Leaders [redacted] OI, INSD; SSA [redacted] ERT, LD; [redacted] Special Assistant, OI, INSD; Unit Chief (UC) [redacted] Inspection Analysis Unit, INSD; b6 b7C

Title: (U) Accidental Discharge Los Angeles Field Office
Re: 297-HQ-A1271741-D, 02/18/2014

UC [redacted] and Management Program Analysts (MPA) [redacted] b6
[redacted] and [redacted] Inspection Management Unit, b7C
INSD.

**Procedures for Responding to the Observations**

ADIC, LA, is responsible for ensuring each Inspection Instruction/Recommendation is satisfactorily resolved. The inspection process is not complete until the Instruction/Recommendation is addressed by the field office. The Inspector-in-Charge (IIC) will review the field office's response to determine if the Instruction/Recommendation has been resolved or requires further action. Resolution is based upon specific actions taken and not a recitation of the actions the division has under consideration or plans to implement.

ADIC, LA, is required to provide a written response, via EC, detailing the actions taken by the field office to resolve each Instruction/Recommendation. Follow up EC responses must be directed to Unit Chief [redacted] Inspection Management Unit (IMU), INSD. Once b6
the EC is serialized, please e-mail the Sentinel link to MPA [redacted] b7C
[redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 07/19/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271749-D

**Title:** SHOOTING INCIDENT
MILWAUKEE DIVISION
02/03/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/03/2011, involving Special Agent (SA) [redacted] of the Milwaukee Division. While conducting a vehicle stop, SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, striking the non-complaint subject in the right thumb. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector April D. Brooks, dated 07/18/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 02/03/2011, at 8:39 a.m., SA [redacted] telephonically requested the assistance of SA [redacted] with the surveillance and eventual arrest of [redacted], the subject of an arrest warrant for a state drug offense. SA [redacted] met with SA [redacted] and Milwaukee Police Department (MPD) Task Force Officer (TFO) [redacted] who

b6
b7C

b6
b7C

were all members of the High Intensity Drug Trafficking Area/Drug Task Force (HIDTA). The Agents and TFO planned to conduct a "traffic stop" to arrest Although no written Operations Plan existed, the participants decided TFO would initiate the stop of the subject's vehicle, and SA would "box in" the vehicle from the front to prevent the subject's escape.

At approximately 9:15 a.m., on 02/03/2011, SAs and along with TFO initiated a surveillance of at a residence in Wisconsin. At approximately 12:00 p.m., SA observed the subject exit his residence and enter a green minivan. As the three law enforcement vehicles followed the subject, TFO radioed the Agents that he observed lean over toward the right side floor board of his vehicle causing SA to believe he was hiding drugs or reaching for a weapon.

TFO activated his emergency lights and immediately pulled over to the right side of the street. TFO pulled within approximately eight feet behind minivan and SA vehicle was approximately eight feet behind SA pulled in front of the subject vehicle to prevent his escape, quickly exited, and walked toward TFO SA exited his vehicle and took a position near the rear left corner of his vehicle. As SA walked toward the front of the subject vehicle with his weapon drawn, he shouted, "Police, shut off the vehicle, hands, hands." TFO ordered to exit his vehicle several times; however, refused to comply. TFO advised he was under arrest. SA heard TFO shouting commands for to exit the vehicle, and the subject reply, "No I'm not going to get out," and saw rolling up his window.

b6
b7C

abruptly shifted his vehicle into reverse, shifted into drive, and aggressively proceeded forward toward SA As the subject vehicle approached closer, SA braced himself against the hood with his left hand as the front right bumper hit his right shin and slightly spun him. SA planted his feet and fired one round which penetrated the glass of the front passenger side window. fled the scene.

Law enforcement personnel briefly pursued however, lost sight of him in traffic. The pursuit was discontinued and the three law enforcement officers returned to secure the scene. SA and TFO notified their FBI and HIDTA supervisors of the shooting incident by cell phone.

Within hours, [redacted] was arrested by an FBI Agent and MPD officers assigned to the HIDTA Task Force. Investigators determined SA [redacted] discharged round struck [redacted] right thumb.

On 04/20/2011, [redacted] Milwaukee County District Attorney, opined SA [redacted] "responded to a lethal threat with an appropriate and justifiable use of force, and that the use of force was privileged as self defense and defense of others."

On 05/18/2011, [redacted] United States Department of Justice, Civil Rights Division, advised the facts do not warrant a federal investigation as a potential willful use of unreasonable deadly force.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

SIRG members unanimously adopted the following observations made by the Shooting Incident Review Team:

**OBSERVATION #1:**

b6
b7C
b7E

**SA [redacted] did not prepare a written operations plan for the surveillance and arrest of the subject.**

A written operations plan was not prepared for the surveillance and arrest of the subject, who had a conviction for carrying a concealed weapon [redacted] The plan was finalized and verbally briefed within an approximated 36 to 51 minute window from the time SA [redacted] contacted SA [redacted] on 02/03/2011, at 8:39 a.m., to request his participation in the operation, and the initiation of surveillance at the subject's residence between 9:15-9:30 a.m. There were no exigent circumstances which precluded appropriate preparation of an operation plan.

Corporate Policy Notice 0242N, Requirement for Written Operations Order - Field Operations, dated 07/15/2010, states, in part:

> 8. Policy Statement:
>
> 8.1 The necessity to have clear, concise, and complete operational plans, in the form of operations orders, is essential to successful arrest and search operations and any other activity in which the practical application of firearms might be reasonably anticipated. Operations orders are the vehicle through which the Case Agent's and/or On-Scene Commander's strategy is reduced to a tactical directive. Their most important function is to ensure success. By standardizing format, the chance for omission of essential data is eliminated thus providing subordinate elements with the complete picture for mission completion.

8.2 Written Operations Orders: Absent exigent circumstances, written operations orders will be prepared prior to conducting arrest and search operations and any other activity in which the practical application of firearms might be reasonably anticipated.

8.3 Exigent Circumstances: Exigent circumstances may necessitate an oral briefing in lieu of the written operations order.

13. Definitions:

13.1 Exigent circumstances: Generally, an emergency, a pressing necessity requiring immediate action.

9. Roles and Responsibilities:
9.1. Case Agent
9.1.1 Responsible for preparing the operations order
9.1.2 Responsible for briefing the operations order

9.2. Substantive Squad Supervisor
9.2.1 GS-14 Supervisory Special Agent responsible for reviewing the operations order

**Instruction #1:**

That SAC, Milwaukee ensure Milwaukee personnel comply with the above Corporate Policy Notice.

**OBSERVATION #2:**

b6
b7C
b7E

[redacted]

**Instruction #2:**

That SAC, Milwaukee ensure Agent personnel receive additional training in [redacted]

b6
b7C
b7E

OBSERVATION #3:

**SA [redacted] did not wear his issued ballistic vest during the operation as mandated by Bureau policy.**

After the initial stop of [redacted] vehicle by TFO [redacted] and SA [redacted] maneuvering to block [redacted] vehicle, SA [redacted] stopped approximately eight feet behind TFO [redacted] vehicle. SA [redacted] exited his vehicle, took a position near the rear left corner of his own vehicle and remained there until [redacted] fled the scene. SA [redacted] was not wearing his ballistic vest; the vest remained on the front seat of SA [redacted] vehicle. [redacted] had a conviction for carrying a concealed weapon and made movements while being stopped, which caused TFO [redacted] to believe he may have been reaching for a weapon. TFO [redacted] immediately announced [redacted] movement on the HIDTA radio to all participants.

[redacted] b7E

[redacted] The outer tactical carrier with FBI markings can be donned over clothing to facilitate identification as law enforcement during the transition from covert to overt activity.

The MIOG, Section 12-13.1 states, in part:

"Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

**Instruction #3:**

That SAC, Milwaukee ensure all division personnel comply with the above MIOG requirement.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Perkins, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/27/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
02/08/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/08/2011, involving Special Agent (SA) [redacted] of the Indianapolis Division. While conducting an interview, SA [redacted] fired two rounds from his Glock Model 23, .40 caliber pistol, killing a subject who refused to obey law enforcement commands and was turning toward SA [redacted] with a weapon in his hand. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector Michael J. Erbach, dated 02/25/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

FBI SAs and Task Force Officers (TFOs) from the Little Rock and Indianapolis Divisions were conducting an investigation involving the production and distribution of child pornography by an unknown subject. The three Indianapolis Division TFOs consisted of detectives from the Kokomo and Brownsburg, Indiana, Police Departments who were assigned to an Internet Crimes

Against Children (ICAC) Task Force sponsored by the United States Attorney in the Southern District of Indiana.

Investigation identified an Internet Protocol (IP) address used to distribute child pornography belonging to an individual named [redacted] Arkansas.

On 02/07/2011, SAs [redacted] and [redacted] of the Indianapolis Division, along with Detectives [redacted] and [redacted] arrived at the Jonesboro, Arkansas Resident Agency (JRA) for a briefing regarding a search warrant which was planned for the morning of 02/08/2011. Also present at the briefing were Little Rock Division SAs [redacted] Supervisory Senior Resident Agent (SSRA) [redacted] an officer from the Arkansas State Police, and an FBI photographer.

On the morning of 02/08/2011, the Indianapolis SAs and TFOs met with Little Rock personnel at the JRA and drove to a gas station where SSRA [redacted] again briefed the operations order including the FBI's Deadly Force Policy. At the conclusion of the briefing, all of the participants proceeded to [redacted] residence. Upon their arrival, it was determined that [redacted] was inside his residence with [redacted] SA [redacted] and Detective [redacted] interviewed [redacted] while SA [redacted] and Detective [redacted] Other members of the search team began searching the residence for evidence of child pornography and an I-Phone which was believed to have been used to access the internet connection at the residence. b6 b7C

Through interviews of the residents, information was developed indicating Brandon Fountain, who lived [redacted] may be the unknown subject involved in the production and distribution of child pornography. Based on this information, team members decided to attempt a knock and talk interview with Brandon Fountain.

At approximately 12:00 p.m., Detectives [redacted] and [redacted] observed Fountain enter his driveway. Approximately one hour later, law enforcement personnel observed Fountain exiting his residence and entering a vehicle. SA [redacted] and Detective [redacted] approached Fountain as he was leaving and introduced themselves. Fountain invited them inside his residence, closed the door, and invited them to sit at a kitchen table. As they sat down, Fountain was asked if he had any weapons in the house at which time he removed a pocket knife from his front pocket and placed it on the table. He also told them there was a ".45" in the top drawer of his dresser and a ".22" in the bedroom across from the bathroom. At that time Detective [redacted] entered the

residence and remained standing near the door. SA [redacted] and Detective [redacted] informed Fountain they wanted to talk about some strange internet activity in the neighborhood. During the interview, Fountain made statements consistent with the information the unknown subject had posted on the Internet.

At one point during the interview, Fountain attempted to move to his back bedroom to show law enforcement officers the location of his computer. TFO [redacted] asked Fountain to return to the kitchen table. At approximately 1:22 p.m., SA [redacted] stepped outside to contact AUSA [redacted] to inform him of the information obtained from Fountain. [redacted] advised SA [redacted] that he would begin working on a complaint and also authorized the arrest of Fountain and advised he was preparing a search warrant application for Fountain's residence. SA [redacted] entered Fountain's residence to watch Fountain while SA [redacted] and TFO [redacted] conferred outside.

SA [redacted] and TFO [redacted] re-entered the residence to resume the interview. TFO [redacted] verbally advised Fountain of his rights at which time Fountain waived his rights and signed the Advice of Rights Form. Fountain continued to be cooperative and compliant, and was permitted to get water from his refrigerator several times. SA [redacted] subsequently asked Fountain to bring the water to the table and to stop getting up. A short time later Fountain's telephone rang. He had a short conversation and advised the caller he was being interviewed by the "police."

b6
b7C

When TFO [redacted] informed Fountain a search warrant was being obtained for his residence, Fountain confessed to taking photographs of three children with whom he had contact while his girlfriend was babysitting. As Fountain stated he would consent to a search, TFO [redacted] produced a Consent to Search Form, and began explaining it to him. Fountain stated he needed to use the restroom and SA [redacted] agreed to accompany him. As Fountain moved to the restroom, he suddenly ran down the hall and entered the back bedroom with SA [redacted] and TFO [redacted] in pursuit. Fountain slammed the bedroom door behind him with SA [redacted] pursuing and giving verbal commands for him to stop. SA [redacted] opened and entered the bedroom door as Fountain was removing a handgun from a night stand drawer. After repeating verbal commands for Fountain to put his hands up, and while Fountain was turning toward him with the firearm in his hands, SA [redacted] fired two rounds striking Fountain in the rear center torso. Fountain immediately fell to the floor.

TFO [redacted] entered the bedroom just prior to the shooting and upon hearing the commotion from the outside, FBI SAs

[redacted] and [redacted] as well as Arkansas State Police SA [redacted] entered the residence arriving in the bedroom immediately after the shooting. Law enforcement personnel continued to give verbal commands for Fountain to stop moving to which he verbally responded and complied. TFO [redacted] disarmed the subject and SA [redacted] handcuffed him. TFO [redacted] removed a .45 caliber Patriot, semiautomatic handgun and two loaded magazines from the subject.

Emergency medical assistance was requested. The EMTs treated the subject at the scene and advised SA [redacted] the subject was not going to survive. Fountain was transported to the South Mississippi County (SMC) Regional Medical Center in Osceola and airlifted to the SMC Regional Medical Center in Memphis, Tennessee, where he was pronounced dead.

On 06/21/2011, [redacted] District Prosecuting Attorney, Second Judicial District of Arkansas, advised his office reviewed the case and concluded SA [redacted] was justified in using deadly force and that no further review of this matter was necessary.

On 06/30/2011, [redacted] US Department of Justice, Civil Rights Division, advised the matter did not warrant a federal criminal investigation into whether there was a violation of the criminal civil rights statutes.

b6
b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs)

[redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

SIRG members unanimously adopted the following observations, instruction, and recommendations made by the Shooting Incident Review Team:

**OBSERVATION #1:**

FBI personnel were not wearing body armor when the shooting occurred. Although personnel wore body armor at the original search location, all personnel removed their body armor when the site was deemed secure. The investigation proceeded to a second location where the shooting occurred. FBI Policy regarding the wearing of body armor, MIOG, Part 2, 12-13.1(1) states: "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

**Instruction #1:** That SAC, Indianapolis and SAC, Little Rock ensure personnel are directed to wear body armor throughout the course of search/arrest operations.

**OBSERVATION #2:**

The three TFOs participating in the operations were members of the ICAC Task Force in the Indianapolis Division's Area of Responsibility. They were incorporated in the operations order for the execution of the search warrant under the supervision of an FBI SSRA. Unknown to both the Indianapolis and

Little Rock Divisions, the ICAC TFOs were not deputized, and therefore did not have Federal Law Enforcement Officer status. A Memorandum of Understanding (MOU) was not in place between the Indianapolis Division and the ICAC Task Force.

**Recommendation #2a:** That SAC, Indianapolis ensure an MOU is established between the Indianapolis Division and the ICAC Task Force documenting roles and responsibilities when conducting joint investigations.

**Recommendation #2b:** That SAC, Indianapolis ensure Indianapolis ICAC Task Force personnel participating in FBI operations are deputized as Federal Law Enforcement Officers prior to their participation in FBI and federal tactical operations.

These observations will be brought to the attention of the SACs of the Little Rock and Indianapolis Divisions with accompanying Instruction/Recommendations.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
06/11/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/11/2011, involving Special Agent (SA) [redacted] of the Chicago Division. After removing his Bureau-issued Glock Model 23, .40 caliber pistol from its holster, SA [redacted] slipped and accidentally discharged one round, injuring his toe. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 07/26/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/11/2011, after concluding a breakfast meeting with another Agent of the Chicago Division and a Confidential Human Source, SA [redacted] drove to the Chicago office. After leaving his personal property at his desk, SA [redacted] proceeded to the men's restroom and removed his pistol from the holster on his right hip to place it on the back of the commode. After removing the gun from the holster, SA [redacted] slipped causing one round to discharge from the weapon. The expended round grazed SA [redacted] big toe and entered the restroom floor.

SA [redacted] immediately contacted Chicago Division management to advise of the incident. SA [redacted] drove himself to Rush University Medical Center, identified himself to the staff, and explained the circumstances of his injury. SA [redacted] toe was sutured by medical personnel and he was released the same day.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Chicago Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271978-D

**Title:** SHOOTING INCIDENT
CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION
07/07/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/07/2011, involving Police Officer [redacted] Officer [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, killing a severely injured deer. SIRG members recommended that no administrative action be taken against Officer [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Police Officer [redacted] dated 07/19/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 07/07/2011, police officers assigned to the CJIS West Gate received a report from an employee that she struck a deer on a road leading to the CJIS facility. One of the officers radioed Officer [redacted] who was assigned to site patrol, advised him of the situation, and requested that he attempt to locate the wounded deer. After locating the animal, Officer [redacted] determined the injuries were so severe the deer would have to be eliminated. Ensuring no vehicles were approaching, Officer [redacted]

fired one round into the deer's shoulder, killing the injured animal. Officer [redacted] contacted his supervisor and advised him of the situation.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted], PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by Police Officer [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against Officer [redacted] as a result of his involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against Police Officer [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted]:llh

b6
b7C

**Case ID #:** 297-HQ-A1271748-D

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
08/18/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/18/2011, involving Special Agent (SA) [redacted] of the Miami Division. While preparing for an arrest, SA [redacted] accidentally discharged one round from his Bureau-issued Remington 12 gauge shotgun. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 09/12/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 08/18/2011, at approximately 4:00 a.m., SA [redacted] met Miami Division SA [redacted] and Task Force Officer (TFO) [redacted] at a parking garage used by West Palm Beach Resident Agency (WPBRA) personnel. The SAs and TFO [redacted] were preparing for a joint arrest operation and were gearing up and preparing their weapons for the arrest before proceeding to the Customs and Border Protection office in West Palm Beach.

SA [redacted] pulled his shotgun from the trunk of his vehicle, visually cleared the weapon, installed a sling, and loaded the shotgun with four slugs. SA [redacted] racked the shotgun, loaded a fifth slug, and was going to place the gun inside its case. As SA [redacted] moved the shotgun to the case, one round accidentally discharged.

Although he was unsure of how the accidental discharge occurred, SA [redacted] speculated he was trying to determine if the safety was on when his finger must have went inside the trigger guard, accidentally depressing the trigger.

SA [redacted] and TFO [redacted] heard a loud bang and saw SA [redacted] holding the shotgun. After determining SA [redacted] was not injured, SA [redacted] took the weapon and unloaded the remaining rounds. As they began to look for the expended round, SA [redacted] passed out and collapsed. After SA [redacted] provided assistance to SA [redacted] and determined emergency medical services were not needed, he notified division management of the incident. The expended round was subsequently located in the ceiling of the parking garage.

b6
b7C

No personal injuries nor property damage were incurred as a result of SA [redacted] accidental discharge.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted]

Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted], INSD; Team Leader [redacted], OI, INSD; SSA [redacted], PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted], Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Miami Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L KLB
Nelson Cory B CBN

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
08/20/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/20/2011, involving Special Agent (SA) [redacted] of the New York Field Office. While in an off-duty status, SA [redacted] fired one round from her Bureau-issued Glock Model 22, .40 caliber pistol, killing an injured deer. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 08/29/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/20/2011, at approximately 4:45 p.m., SA [redacted] was operating her personally-owned vehicle in Princeton, New Jersey. SA [redacted] saw a deer lying on the side of the road, stopped her vehicle, and walked toward the animal with her gun drawn. Seeing the severely injured deer bleeding and unable to get up, SA [redacted] discharged one round, killing the deer. She immediately contacted the New York Field Office regarding the

incident and a local police cruiser arrived on the scene. Officers advised SA [redacted] the road department would remove the animal from the area.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted], Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
08/29/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/29/2011, involving Special Agent (SA) [redacted] of the Chicago Division. While disassembling his Glock Model 22, pistol for cleaning, SA [redacted] pulled the trigger, resulting in the accidental discharge of one round. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 09/08/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/29/2011, SA [redacted] squad had a range day at the Chicago Division's firing range. Following the last training cycle, the group did not clear their weapons on the line. According to SA [redacted] he policed the range with other individuals, and cleaned an MP5 in the cleaning room. A short time later, SA [redacted] proceeded to the charging barrel to safely disassemble his pistol for cleaning. As he pulled the trigger, one round discharged into the charging barrel.

No personal injuries were incurred as a result of SA [redacted] accidental discharge. He immediately notified Chicago Division management of the incident.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Chicago Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L KLB
Nelson Cory B CBN

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271748-D

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
09/07/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/07/2011, involving Special Agent (SA) [redacted] of the Miami Division. While conducting dry firing exercises inside his residence, SA [redacted] accidentally discharged one round from his Bureau-issued Glock Model 22, .40 caliber pistol. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 09/21/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On the night of 09/07/2011, SA [redacted] was conducting dry firing exercises inside his residence. Due to receiving low qualifying scores on his official firearms qualifications and based on the recommendation of Miami Division Firearms Instructors, SA [redacted] was dry firing to improve his trigger control and hand grip.

In preparation of conducting the dry firing exercise, SA [redacted] unloaded the pistol and ejected the round in the chamber, ensuring the weapon was safe and empty. He dry fired the pistol for approximately five to ten minutes before inserting the magazine into the weapon and releasing the slide forward to place a round in the chamber. As he was preparing to place the gun inside a fanny pack, SA [redacted] decided to feel the difference in the weight of a fully loaded pistol versus an empty one. As he aimed the loaded weapon at the bathroom wall, while concentrating on his grip pressure, one round discharged entering the bathroom wall and exiting to the outside of the residence. Ensuring no personal injuries nor additional property damage were sustained as a result of the discharge, SA [redacted] telephonically contacted his immediate supervisor and reported the incident.

According to SA [redacted] both of his hands were firmly on the weapon at the time of the discharge; however, he could not recall if his finger was on the trigger when the incident occurred. b6 b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted]

[redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Miami Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 07/18/2012

**To:** Inspection **Attn:** AD Keith L. Bennett
CIRG **Attn:** AD Robert A. Blecksmith

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
10/11/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/11/2011, involving Special Agents (SAs) [redacted] and [redacted] of the Norfolk Division. During the execution of an arrest warrant in the Little Rock Division area of responsibility, both Agents returned fire at a subject who fired eight rounds toward law enforcement personnel from inside his residence. SIRG members unanimously recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Inspector Robert J. Shields, Jr., dated 10/18/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 10/11/2011, the Little Rock Division, Arkansas State Police (ASP), 33 FBI Special Weapons and Tactics (SWAT) teams, as well as the ASP SWAT team, conducted "Operation Delta Blues." The purpose of the operation was to serve arrest warrants on 70

subjects who were indicted on federal public corruption, narcotics, and weapon charges.

Multiple briefings were held on 10/06/2011, 10/07/2011, and 10/09/2011, with SWAT Senior Team Leaders (STLs), Assistant Team Leaders (ATLs), and Executive Management of the Little Rock and Louisville Divisions. The briefings included discussion of the targets, time lines, basic SWAT operations, and an overview of the operation.

On 10/10/2011, each SWAT STL was given 20 minutes to present an operations plan to Deputy On-Scene Commander (DOSC) [redacted] and Supervisory Special Agent (SSA) [redacted] Special Operations Unit, Critical Incident Response Group (CIRG), for final approval.

For the phase one Norfolk SWAT target, a "knock and announce" was planned, although a "no knock warrant" was approved. If the subjects [redacted] and [redacted] were noncompliant, a ram would be used to breach the door, followed by a flash bang, and the Norfolk SWAT team entry. Upon approval, STL [redacted] briefed the plan to Norfolk SWAT team, Evidence Response Team (ERT), Arkansas State Police, and Drug Enforcement Agency personnel assigned to the phase one Hillcrest Street location. Case Agent [redacted] was present at the briefing and provided background information. Based on information provided by SA [redacted] if [redacted] Black Mercedes was not at the [redacted] address, it was assumed [redacted] and her two children were not at the residence. During the briefing personnel assignments, vehicle deployment/staging locations, individual safety/tactical equipment requirements, and the FBI Deadly Force Policy were reviewed. During the briefing, the ERT vehicles were advised to stay out of sight of the target house until the scene was cleared by the STL and they were requested via radio. Rehearsals of the entire operation were performed using an outline of the target house painted in the grass.

b6
b7C

On 10/11/2011, at approximately 1:00 a.m., the Norfolk SWAT team reported to a specified location at the Memphis International Airport, where required SWAT equipment was inspected and loaded into two vehicles. Communication checks were performed, including a check with the Memphis Division ERT assigned to execute a search at the arrest location. All SWAT and ERT personnel reported to the staging area outside of Marianna, Arkansas. At approximately 4:00 a.m., the execute command was received and the vehicles proceeded to their target locations.

The four-vehicle team approached the target house located on Hillcrest Street, with two ERT vehicles holding a position on Pearl Street. All SWAT personnel exited the vehicles and assumed their assigned positions. Two rear cover team operators reported lights on in the basement. The seven remaining entry team members were stacked along the walkway in front of the house.

The breaching team of Operators [redacted] and [redacted] approached the front door and positioned themselves to the right of the door. Operator [redacted] with a ballistic shield, moved to a position on the front lawn approximately ten feet in front of the front door with Operator [redacted] directly behind him. Operator [redacted] knocked loudly on the door with his baton and announced, "FBI warrant, come to the door" three times. As planned, two other participants activated their vehicle emergency lights to indicate a police presence at the house. Receiving no response from inside, STL [redacted] gave the breach command followed by the breaching of the door with one swing of a single-person ram while Operator [redacted] applied pressure to the lower right side of the door with his left foot.

Simultaneous to the door being breached, eight gunshots were rapidly fired from inside the residence toward the SWAT team. Operator [redacted] returned fire with three shots from his M4. In accordance with the operational plan, a flash bang was thrown into the house through the open front door. STL [redacted] gave the recall order to the team directing members to obtain a position of cover. Multiple SWAT Operators were shouting "shots fired" over the radio. As Operator [redacted] was backing down the front lawn with the light from his M4 directed at the window immediately to the left of the front door, he saw an arm with a weapon in the hand slide the curtains from left to right. [redacted] fired two shots from his M4 at the arm.

b6
b7C

As STL [redacted] gave the command to "cover and hold" to the team, Operator [redacted] called out on the radio he was shot. STL [redacted] moved to [redacted] location and provided immediate medical treatment until the arrival of medical personnel. Paramedics assumed care of [redacted] who was subsequently transported by helicopter to the Elvis Presley Memorial Trauma Center in Memphis, Tennessee.

Team members called the subjects out of the house. [redacted] exited first and was taken into custody. She advised law enforcement personnel there were children inside. Approximately three minutes later, [redacted] exited the residence and was arrested.

As participants were clearing the first floor of the residence, Operator [redacted] heard children's voices and instructed the children to approach. Law enforcement personnel maintained custody of the two young children.

On 10/11/2011, [redacted] US Department of Justice, Civil Rights Division, advised no investigation was warranted as no one other than SA [redacted] was injured during the incident.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This

discussion resulted in the recommendation that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

SIRG members unanimously adopted the following observations, instruction, and recommendations made by the Shooting Incident Review Team:

**OBSERVATION #1:**

b6
b7C
b7E

[redacted]

**OBSERVATION #2:**

The FBI-trained breaching procedure of applying positive pressure or tension on a door to facilitate ramming was not documented in a training manual.

**Recommendation #2a:** That AD, CIRG ensure the SOU re-evaluates the use of positive pressure when ramming is used to breach a door to determine if the risk of exposing a body part outweighs the improved success of the breach when tension is applied.

**Recommendation #2b:** That AD, CIRG ensure the SOU documents the use of positive pressure when ramming is used to breach a door if the continued use of this practice is determined.

These observations will be brought to the attention of the AD of the CIRG with accompanying Instruction/Recommendations.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Perkins, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271741-D

**Title:** SHOOTING INCIDENT
LOS ANGELES FIELD OFFICE
10/21/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/21/2011, involving Special Agent (SA) [redacted] of the Los Angeles Field Office. While performing a function check of her Bureau-issued Glock Model 23, .40 caliber pistol, SA [redacted] accidentally discharged one round inside her residence. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference report of Special Agent in Charge Daphne Hearn, dated 10/25/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

At approximately 8:00 p.m., on 10/21/2011, SA [redacted] was cleaning her handgun inside her residence after being at the shooting range earlier that evening. As she completed cleaning the weapon, SA [redacted] realized she did not lubricate it. She disassembled the weapon, applied the lubrication, and reassembled it. After reassembling the weapon, SA [redacted] did a safety check prior to conducting a function check. After completing the safety check, SA [redacted] inserted a magazine into the weapon, pointed it in a safe direction, and performed a function check. During the function check, SA [redacted] pulled the trigger, discharging one round through the dining room rug and into the hardwood floor of her residence.

SA [redacted] notified Los Angeles management of the incident and a team responded to conduct an investigation of the incident.

No personal injuries and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted], Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Assistant Director in Charge of the Los Angeles Field Office to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted], Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L KLB
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
11/10/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/10/2011, involving Special Agent (SA) [redacted] of the Little Rock Division. While dry firing his Bureau-issued Glock Model 22, .40 caliber pistol inside office space, SA [redacted] accidentally discharged one round into the floor. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 11/15/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 11/10/2011, in preparation for a squad maintenance shoot scheduled later in the day, SA [redacted] began dry firing his weapon inside the office space at the Fayetteville Resident Agency. SA [redacted] completed his dry firing exercise, reloaded the pistol, and placed it in its holster. Looking for tips on becoming a better shooter, SA [redacted] searched the internet. After reading information regarding stance and trigger press, and forgetting he had loaded his gun after his previous dry firing session, SA [redacted] drew his weapon, pressed the trigger, and accidentally discharged one round into the floor.

SA [redacted] immediately reported the incident to his supervisor. No personal injuries and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted], Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Little Rock Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271912-D

**Title:** SHOOTING INCIDENT
SAN ANTONIO DIVISION
11/17/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/17/2011, involving Special Agent (SA) [redacted] of the San Antonio Division. SA [redacted] fired two rounds from his Bureau-issued Glock Model 22, .40 caliber pistol, killing an injured deer. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Special Agent (SA) [redacted] dated 11/21/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/17/2011, at approximately 6:00 p.m., SA [redacted] was traveling on a road in Boerne, Texas, when he observed two vehicles attempting to slow traffic. One individual approached SA [redacted] vehicle window and explained that a deer had been hit by a car and was laying in the middle of the road. The man also advised local law enforcement authorities were notified; however, he was uncertain if they were going to respond to the scene. After seeing the severely injured deer attempting to stand, SA

[redacted] concluded the deer needed to be immediately removed from the area. Ensuring the safety of the two individuals on the scene, SA [redacted] fired two rounds into the back of the deer's head, killing the injured animal. SA [redacted] removed the deer from the road and departed the scene.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
01/26/2012

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/26/2012, involving Special Agent (SA) [redacted] of the New York Field Office. While attempting to holster his Bureau-approved, personally-owned Glock, Model 27 pistol, SA [redacted] accidentally discharged a single round into a tile wall of a restroom. The expended round subsequently struck the bathroom floor. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communications of Special Agent (SA) [redacted] and Supervisory Special Agent [redacted] dated 01/27/2012 and 03/29/2012 respectively.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 01/26/2012, at approximately 11:40 a.m., as SA [redacted] was preparing to use a bathroom at the Columbia Grammar and Preparatory School, he unholstered his weapon and placed it on top of a trash can. After utilizing the facility, SA [redacted] who was wearing a left handed Galco, leather, in the pants holster, retrieved his weapon. As he attempted to holster the weapon while standing in a crouched position, one round accidentally discharged striking a tiled wall.

SA [redacted] was the only person in the bathroom. The Director of the school was standing outside the bathroom door and was aware of the discharge. No personal injuries and minimal property damage were incurred as a result of this shooting incident.

SA [redacted] informed his immediate supervisor who dispatched two SAs to the scene to conduct the investigation. According to SA [redacted] his finger was placed outside of the trigger along the slide when the weapon discharged.

SA [redacted] weapon, magazine, and holster were forwarded to the Defensive Systems Unit Gunsmiths for examination. The weapon was inspected and test fired and was found to meet all factory specifications as designed.

b6
b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs)

[redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Information)**

INSPECTION

AT WASHINGTON, DC

For information only. This matter was not referred to Internal Investigations Section due to the retirement of SA [redacted] effective 04/30/2012.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 07/19/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271749-D

**Title:** SHOOTING INCIDENT
MILWAUKEE DIVISION
02/03/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/03/2011, involving Special Agent (SA) [redacted] of the Milwaukee Division. While conducting a vehicle stop, SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, striking the non-complaint subject in the right thumb. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector April D. Brooks, dated 07/18/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 02/03/2011, at 8:39 a.m., SA [redacted] telephonically requested the assistance of SA [redacted] with the surveillance and eventual arrest of [redacted], the subject of an arrest warrant for a state drug offense. SA [redacted] met with SA [redacted] and Milwaukee Police Department (MPD) Task Force Officer (TFO) [redacted] who

b6
b7C

b6
b7C

were all members of the High Intensity Drug Trafficking Area/Drug Task Force (HIDTA). The Agents and TFO planned to conduct a "traffic stop" to arrest Although no written Operations Plan existed, the participants decided TFO would initiate the stop of the subject's vehicle, and SA would "box in" the vehicle from the front to prevent the subject's escape.

At approximately 9:15 a.m., on 02/03/2011, SAs and along with TFO initiated a surveillance of at a residence in Wisconsin. At approximately 12:00 p.m., SA observed the subject exit his residence and enter a green minivan. As the three law enforcement vehicles followed the subject, TFO radioed the Agents that he observed lean over toward the right side floor board of his vehicle causing SA to believe he was hiding drugs or reaching for a weapon.

TFO activated his emergency lights and immediately pulled over to the right side of the street. TFO pulled within approximately eight feet behind minivan and SA vehicle was approximately eight feet behind SA pulled in front of the subject vehicle to prevent his escape, quickly exited, and walked toward TFO SA exited his vehicle and took a position near the rear left corner of his vehicle. As SA walked toward the front of the subject vehicle with his weapon drawn, he shouted, "Police, shut off the vehicle, hands, hands." TFO ordered to exit his vehicle several times; however, refused to comply. TFO advised he was under arrest. SA heard TFO shouting commands for to exit the vehicle, and the subject reply, "No I'm not going to get out," and saw rolling up his window.

b6
b7C

abruptly shifted his vehicle into reverse, shifted into drive, and aggressively proceeded forward toward SA As the subject vehicle approached closer, SA braced himself against the hood with his left hand as the front right bumper hit his right shin and slightly spun him. SA planted his feet and fired one round which penetrated the glass of the front passenger side window. fled the scene.

Law enforcement personnel briefly pursued however, lost sight of him in traffic. The pursuit was discontinued and the three law enforcement officers returned to secure the scene. SA and TFO notified their FBI and HIDTA supervisors of the shooting incident by cell phone.

Within hours, [redacted] was arrested by an FBI Agent and MPD officers assigned to the HIDTA Task Force. Investigators determined SA [redacted] discharged round struck [redacted] right thumb.

On 04/20/2011, [redacted] Milwaukee County District Attorney, opined SA [redacted] "responded to a lethal threat with an appropriate and justifiable use of force, and that the use of force was privileged as self defense and defense of others."

On 05/18/2011, [redacted] United States Department of Justice, Civil Rights Division, advised the facts do not warrant a federal investigation as a potential willful use of unreasonable deadly force.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

SIRG members unanimously adopted the following observations made by the Shooting Incident Review Team:

**OBSERVATION #1:**

b6
b7C
b7E

**SA [redacted] did not prepare a written operations plan for the surveillance and arrest of the subject.**

A written operations plan was not prepared for the surveillance and arrest of the subject, who had a conviction for carrying a concealed weapon [redacted] The plan was finalized and verbally briefed within an approximated 36 to 51 minute window from the time SA [redacted] contacted SA [redacted] on 02/03/2011, at 8:39 a.m., to request his participation in the operation, and the initiation of surveillance at the subject's residence between 9:15-9:30 a.m. There were no exigent circumstances which precluded appropriate preparation of an operation plan.

Corporate Policy Notice 0242N, Requirement for Written Operations Order - Field Operations, dated 07/15/2010, states, in part:

> 8. Policy Statement:
>
> 8.1 The necessity to have clear, concise, and complete operational plans, in the form of operations orders, is essential to successful arrest and search operations and any other activity in which the practical application of firearms might be reasonably anticipated. Operations orders are the vehicle through which the Case Agent's and/or On-Scene Commander's strategy is reduced to a tactical directive. Their most important function is to ensure success. By standardizing format, the chance for omission of essential data is eliminated thus providing subordinate elements with the complete picture for mission completion.

8.2 Written Operations Orders: Absent exigent circumstances, written operations orders will be prepared prior to conducting arrest and search operations and any other activity in which the practical application of firearms might be reasonably anticipated.

8.3 Exigent Circumstances: Exigent circumstances may necessitate an oral briefing in lieu of the written operations order.

13. Definitions:

13.1 Exigent circumstances: Generally, an emergency, a pressing necessity requiring immediate action.

9. Roles and Responsibilities:
9.1. Case Agent
9.1.1 Responsible for preparing the operations order
9.1.2 Responsible for briefing the operations order

9.2. Substantive Squad Supervisor
9.2.1 GS-14 Supervisory Special Agent responsible for reviewing the operations order

**Instruction #1:**

That SAC, Milwaukee ensure Milwaukee personnel comply with the above Corporate Policy Notice.

**OBSERVATION #2:**

b6
b7C
b7E

[redacted]

**Instruction #2:**

That SAC, Milwaukee ensure Agent personnel receive additional training in [redacted]

b6
b7C
b7E

OBSERVATION #3:

**SA [redacted] did not wear his issued ballistic vest during the operation as mandated by Bureau policy.**

After the initial stop of [redacted] vehicle by TFO [redacted] and SA [redacted] maneuvering to block [redacted] vehicle, SA [redacted] stopped approximately eight feet behind TFO [redacted] vehicle. SA [redacted] exited his vehicle, took a position near the rear left corner of his own vehicle and remained there until [redacted] fled the scene. SA [redacted] was not wearing his ballistic vest; the vest remained on the front seat of SA [redacted] vehicle. [redacted] had a conviction for carrying a concealed weapon and made movements while being stopped, which caused TFO [redacted] to believe he may have been reaching for a weapon. TFO [redacted] immediately announced [redacted] movement on the HIDTA radio to all participants.

[redacted] b7E

[redacted] The outer tactical carrier with FBI markings can be donned over clothing to facilitate identification as law enforcement during the transition from covert to overt activity.

The MIOG, Section 12-13.1 states, in part:

"Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

**Instruction #3:**

That SAC, Milwaukee ensure all division personnel comply with the above MIOG requirement.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Perkins, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/27/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
02/08/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/08/2011, involving Special Agent (SA) [redacted] of the Indianapolis Division. While conducting an interview, SA [redacted] fired two rounds from his Glock Model 23, .40 caliber pistol, killing a subject who refused to obey law enforcement commands and was turning toward SA [redacted] with a weapon in his hand. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector Michael J. Erbach, dated 02/25/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

FBI SAs and Task Force Officers (TFOs) from the Little Rock and Indianapolis Divisions were conducting an investigation involving the production and distribution of child pornography by an unknown subject. The three Indianapolis Division TFOs consisted of detectives from the Kokomo and Brownsburg, Indiana, Police Departments who were assigned to an Internet Crimes

Against Children (ICAC) Task Force sponsored by the United States Attorney in the Southern District of Indiana.

Investigation identified an Internet Protocol (IP) address used to distribute child pornography belonging to an individual named [redacted] Arkansas.

On 02/07/2011, SAs [redacted] and [redacted] of the Indianapolis Division, along with Detectives [redacted] and [redacted] arrived at the Jonesboro, Arkansas Resident Agency (JRA) for a briefing regarding a search warrant which was planned for the morning of 02/08/2011. Also present at the briefing were Little Rock Division SAs [redacted] Supervisory Senior Resident Agent (SSRA) [redacted] an officer from the Arkansas State Police, and an FBI photographer.

On the morning of 02/08/2011, the Indianapolis SAs and TFOs met with Little Rock personnel at the JRA and drove to a gas station where SSRA [redacted] again briefed the operations order including the FBI's Deadly Force Policy. At the conclusion of the briefing, all of the participants proceeded to [redacted] residence. Upon their arrival, it was determined that [redacted] was inside his residence with [redacted] SA [redacted] and Detective [redacted] interviewed [redacted] while SA [redacted] and Detective [redacted] Other members of the search team began searching the residence for evidence of child pornography and an I-Phone which was believed to have been used to access the internet connection at the residence. b6 b7C

Through interviews of the residents, information was developed indicating Brandon Fountain, who lived [redacted] may be the unknown subject involved in the production and distribution of child pornography. Based on this information, team members decided to attempt a knock and talk interview with Brandon Fountain.

At approximately 12:00 p.m., Detectives [redacted] and [redacted] observed Fountain enter his driveway. Approximately one hour later, law enforcement personnel observed Fountain exiting his residence and entering a vehicle. SA [redacted] and Detective [redacted] approached Fountain as he was leaving and introduced themselves. Fountain invited them inside his residence, closed the door, and invited them to sit at a kitchen table. As they sat down, Fountain was asked if he had any weapons in the house at which time he removed a pocket knife from his front pocket and placed it on the table. He also told them there was a ".45" in the top drawer of his dresser and a ".22" in the bedroom across from the bathroom. At that time Detective [redacted] entered the

residence and remained standing near the door. SA [redacted] and Detective [redacted] informed Fountain they wanted to talk about some strange internet activity in the neighborhood. During the interview, Fountain made statements consistent with the information the unknown subject had posted on the Internet.

At one point during the interview, Fountain attempted to move to his back bedroom to show law enforcement officers the location of his computer. TFO [redacted] asked Fountain to return to the kitchen table. At approximately 1:22 p.m., SA [redacted] stepped outside to contact AUSA [redacted] to inform him of the information obtained from Fountain. [redacted] advised SA [redacted] that he would begin working on a complaint and also authorized the arrest of Fountain and advised he was preparing a search warrant application for Fountain's residence. SA [redacted] entered Fountain's residence to watch Fountain while SA [redacted] and TFO [redacted] conferred outside.

SA [redacted] and TFO [redacted] re-entered the residence to resume the interview. TFO [redacted] verbally advised Fountain of his rights at which time Fountain waived his rights and signed the Advice of Rights Form. Fountain continued to be cooperative and compliant, and was permitted to get water from his refrigerator several times. SA [redacted] subsequently asked Fountain to bring the water to the table and to stop getting up. A short time later Fountain's telephone rang. He had a short conversation and advised the caller he was being interviewed by the "police."

b6
b7C

When TFO [redacted] informed Fountain a search warrant was being obtained for his residence, Fountain confessed to taking photographs of three children with whom he had contact while his girlfriend was babysitting. As Fountain stated he would consent to a search, TFO [redacted] produced a Consent to Search Form, and began explaining it to him. Fountain stated he needed to use the restroom and SA [redacted] agreed to accompany him. As Fountain moved to the restroom, he suddenly ran down the hall and entered the back bedroom with SA [redacted] and TFO [redacted] in pursuit. Fountain slammed the bedroom door behind him with SA [redacted] pursuing and giving verbal commands for him to stop. SA [redacted] opened and entered the bedroom door as Fountain was removing a handgun from a night stand drawer. After repeating verbal commands for Fountain to put his hands up, and while Fountain was turning toward him with the firearm in his hands, SA [redacted] fired two rounds striking Fountain in the rear center torso. Fountain immediately fell to the floor.

TFO [redacted] entered the bedroom just prior to the shooting and upon hearing the commotion from the outside, FBI SAs

[redacted] and [redacted] as well as Arkansas State Police SA [redacted] entered the residence arriving in the bedroom immediately after the shooting. Law enforcement personnel continued to give verbal commands for Fountain to stop moving to which he verbally responded and complied. TFO [redacted] disarmed the subject and SA [redacted] handcuffed him. TFO [redacted] removed a .45 caliber Patriot, semiautomatic handgun and two loaded magazines from the subject.

Emergency medical assistance was requested. The EMTs treated the subject at the scene and advised SA [redacted] the subject was not going to survive. Fountain was transported to the South Mississippi County (SMC) Regional Medical Center in Osceola and airlifted to the SMC Regional Medical Center in Memphis, Tennessee, where he was pronounced dead.

On 06/21/2011, [redacted] District Prosecuting Attorney, Second Judicial District of Arkansas, advised his office reviewed the case and concluded SA [redacted] was justified in using deadly force and that no further review of this matter was necessary.

On 06/30/2011, [redacted] US Department of Justice, Civil Rights Division, advised the matter did not warrant a federal criminal investigation into whether there was a violation of the criminal civil rights statutes.

b6
b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs)

[redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

SIRG members unanimously adopted the following observations, instruction, and recommendations made by the Shooting Incident Review Team:

**OBSERVATION #1:**

FBI personnel were not wearing body armor when the shooting occurred. Although personnel wore body armor at the original search location, all personnel removed their body armor when the site was deemed secure. The investigation proceeded to a second location where the shooting occurred. FBI Policy regarding the wearing of body armor, MIOG, Part 2, 12-13.1(1) states: "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonably be expected to culminate in a confrontation with armed and dangerous subject(s)."

**Instruction #1:** That SAC, Indianapolis and SAC, Little Rock ensure personnel are directed to wear body armor throughout the course of search/arrest operations.

**OBSERVATION #2:**

The three TFOs participating in the operations were members of the ICAC Task Force in the Indianapolis Division's Area of Responsibility. They were incorporated in the operations order for the execution of the search warrant under the supervision of an FBI SSRA. Unknown to both the Indianapolis and

Little Rock Divisions, the ICAC TFOs were not deputized, and therefore did not have Federal Law Enforcement Officer status. A Memorandum of Understanding (MOU) was not in place between the Indianapolis Division and the ICAC Task Force.

**Recommendation #2a:** That SAC, Indianapolis ensure an MOU is established between the Indianapolis Division and the ICAC Task Force documenting roles and responsibilities when conducting joint investigations.

**Recommendation #2b:** That SAC, Indianapolis ensure Indianapolis ICAC Task Force personnel participating in FBI operations are deputized as Federal Law Enforcement Officers prior to their participation in FBI and federal tactical operations.

These observations will be brought to the attention of the SACs of the Little Rock and Indianapolis Divisions with accompanying Instruction/Recommendations.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
06/11/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/11/2011, involving Special Agent (SA) [redacted] of the Chicago Division. After removing his Bureau-issued Glock Model 23, .40 caliber pistol from its holster, SA [redacted] slipped and accidentally discharged one round, injuring his toe. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 07/26/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/11/2011, after concluding a breakfast meeting with another Agent of the Chicago Division and a Confidential Human Source, SA [redacted] drove to the Chicago office. After leaving his personal property at his desk, SA [redacted] proceeded to the men's restroom and removed his pistol from the holster on his right hip to place it on the back of the commode. After removing the gun from the holster, SA [redacted] slipped causing one round to discharge from the weapon. The expended round grazed SA [redacted] big toe and entered the restroom floor.

SA [redacted] immediately contacted Chicago Division management to advise of the incident. SA [redacted] drove himself to Rush University Medical Center, identified himself to the staff, and explained the circumstances of his injury. SA [redacted] toe was sutured by medical personnel and he was released the same day.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Chicago Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271978-D

**Title:** SHOOTING INCIDENT
CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION
07/07/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/07/2011, involving Police Officer [redacted] Officer [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, killing a severely injured deer. SIRG members recommended that no administrative action be taken against Officer [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Police Officer [redacted] dated 07/19/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 07/07/2011, police officers assigned to the CJIS West Gate received a report from an employee that she struck a deer on a road leading to the CJIS facility. One of the officers radioed Officer [redacted] who was assigned to site patrol, advised him of the situation, and requested that he attempt to locate the wounded deer. After locating the animal, Officer [redacted] determined the injuries were so severe the deer would have to be eliminated. Ensuring no vehicles were approaching, Officer [redacted]

fired one round into the deer's shoulder, killing the injured animal. Officer [redacted] contacted his supervisor and advised him of the situation.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted], PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by Police Officer [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against Officer [redacted] as a result of his involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against Police Officer [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted]:llh

b6
b7C

**Case ID #:** 297-HQ-A1271748-D

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
08/18/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/18/2011, involving Special Agent (SA) [redacted] of the Miami Division. While preparing for an arrest, SA [redacted] accidentally discharged one round from his Bureau-issued Remington 12 gauge shotgun. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 09/12/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 08/18/2011, at approximately 4:00 a.m., SA [redacted] met Miami Division SA [redacted] and Task Force Officer (TFO) [redacted] at a parking garage used by West Palm Beach Resident Agency (WPBRA) personnel. The SAs and TFO [redacted] were preparing for a joint arrest operation and were gearing up and preparing their weapons for the arrest before proceeding to the Customs and Border Protection office in West Palm Beach.

SA [redacted] pulled his shotgun from the trunk of his vehicle, visually cleared the weapon, installed a sling, and loaded the shotgun with four slugs. SA [redacted] racked the shotgun, loaded a fifth slug, and was going to place the gun inside its case. As SA [redacted] moved the shotgun to the case, one round accidentally discharged.

Although he was unsure of how the accidental discharge occurred, SA [redacted] speculated he was trying to determine if the safety was on when his finger must have went inside the trigger guard, accidentally depressing the trigger.

SA [redacted] and TFO [redacted] heard a loud bang and saw SA [redacted] holding the shotgun. After determining SA [redacted] was not injured, SA [redacted] took the weapon and unloaded the remaining rounds. As they began to look for the expended round, SA [redacted] passed out and collapsed. After SA [redacted] provided assistance to SA [redacted] and determined emergency medical services were not needed, he notified division management of the incident. The expended round was subsequently located in the ceiling of the parking garage.

b6
b7C

No personal injuries nor property damage were incurred as a result of SA [redacted] accidental discharge.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted]

Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted], INSD; Team Leader [redacted], OI, INSD; SSA [redacted], PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted], Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Miami Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L KLB
Nelson Cory B CBN

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
08/20/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/20/2011, involving Special Agent (SA) [redacted] of the New York Field Office. While in an off-duty status, SA [redacted] fired one round from her Bureau-issued Glock Model 22, .40 caliber pistol, killing an injured deer. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 08/29/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/20/2011, at approximately 4:45 p.m., SA [redacted] was operating her personally-owned vehicle in Princeton, New Jersey. SA [redacted] saw a deer lying on the side of the road, stopped her vehicle, and walked toward the animal with her gun drawn. Seeing the severely injured deer bleeding and unable to get up, SA [redacted] discharged one round, killing the deer. She immediately contacted the New York Field Office regarding the

incident and a local police cruiser arrived on the scene. Officers advised SA [redacted] the road department would remove the animal from the area.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted], Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
08/29/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/29/2011, involving Special Agent (SA) [redacted] of the Chicago Division. While disassembling his Glock Model 22, pistol for cleaning, SA [redacted] pulled the trigger, resulting in the accidental discharge of one round. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 09/08/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/29/2011, SA [redacted] squad had a range day at the Chicago Division's firing range. Following the last training cycle, the group did not clear their weapons on the line. According to SA [redacted] he policed the range with other individuals, and cleaned an MP5 in the cleaning room. A short time later, SA [redacted] proceeded to the charging barrel to safely disassemble his pistol for cleaning. As he pulled the trigger, one round discharged into the charging barrel.

No personal injuries were incurred as a result of SA [redacted] accidental discharge. He immediately notified Chicago Division management of the incident.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Chicago Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L KLB
Nelson Cory B CBN

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271748-D

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
09/07/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/07/2011, involving Special Agent (SA) [redacted] of the Miami Division. While conducting dry firing exercises inside his residence, SA [redacted] accidentally discharged one round from his Bureau-issued Glock Model 22, .40 caliber pistol. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 09/21/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On the night of 09/07/2011, SA [redacted] was conducting dry firing exercises inside his residence. Due to receiving low qualifying scores on his official firearms qualifications and based on the recommendation of Miami Division Firearms Instructors, SA [redacted] was dry firing to improve his trigger control and hand grip.

In preparation of conducting the dry firing exercise, SA [redacted] unloaded the pistol and ejected the round in the chamber, ensuring the weapon was safe and empty. He dry fired the pistol for approximately five to ten minutes before inserting the magazine into the weapon and releasing the slide forward to place a round in the chamber. As he was preparing to place the gun inside a fanny pack, SA [redacted] decided to feel the difference in the weight of a fully loaded pistol versus an empty one. As he aimed the loaded weapon at the bathroom wall, while concentrating on his grip pressure, one round discharged entering the bathroom wall and exiting to the outside of the residence. Ensuring no personal injuries nor additional property damage were sustained as a result of the discharge, SA [redacted] telephonically contacted his immediate supervisor and reported the incident.

According to SA [redacted] both of his hands were firmly on the weapon at the time of the discharge; however, he could not recall if his finger was on the trigger when the incident occurred. b6 b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted]

[redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Miami Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 07/18/2012

**To:** Inspection **Attn:** AD Keith L. Bennett
CIRG **Attn:** AD Robert A. Blecksmith

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
10/11/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/11/2011, involving Special Agents (SAs) [redacted] and [redacted] of the Norfolk Division. During the execution of an arrest warrant in the Little Rock Division area of responsibility, both Agents returned fire at a subject who fired eight rounds toward law enforcement personnel from inside his residence. SIRG members unanimously recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Inspector Robert J. Shields, Jr., dated 10/18/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 10/11/2011, the Little Rock Division, Arkansas State Police (ASP), 33 FBI Special Weapons and Tactics (SWAT) teams, as well as the ASP SWAT team, conducted "Operation Delta Blues." The purpose of the operation was to serve arrest warrants on 70

subjects who were indicted on federal public corruption, narcotics, and weapon charges.

Multiple briefings were held on 10/06/2011, 10/07/2011, and 10/09/2011, with SWAT Senior Team Leaders (STLs), Assistant Team Leaders (ATLs), and Executive Management of the Little Rock and Louisville Divisions. The briefings included discussion of the targets, time lines, basic SWAT operations, and an overview of the operation.

On 10/10/2011, each SWAT STL was given 20 minutes to present an operations plan to Deputy On-Scene Commander (DOSC) [redacted] and Supervisory Special Agent (SSA) [redacted] Special Operations Unit, Critical Incident Response Group (CIRG), for final approval.

For the phase one Norfolk SWAT target, a "knock and announce" was planned, although a "no knock warrant" was approved. If the subjects [redacted] and [redacted] were noncompliant, a ram would be used to breach the door, followed by a flash bang, and the Norfolk SWAT team entry. Upon approval, STL [redacted] briefed the plan to Norfolk SWAT team, Evidence Response Team (ERT), Arkansas State Police, and Drug Enforcement Agency personnel assigned to the phase one Hillcrest Street location. Case Agent [redacted] was present at the briefing and provided background information. Based on information provided by SA [redacted] if [redacted] Black Mercedes was not at the [redacted] address, it was assumed [redacted] and her two children were not at the residence. During the briefing personnel assignments, vehicle deployment/staging locations, individual safety/tactical equipment requirements, and the FBI Deadly Force Policy were reviewed. During the briefing, the ERT vehicles were advised to stay out of sight of the target house until the scene was cleared by the STL and they were requested via radio. Rehearsals of the entire operation were performed using an outline of the target house painted in the grass.

b6
b7C

On 10/11/2011, at approximately 1:00 a.m., the Norfolk SWAT team reported to a specified location at the Memphis International Airport, where required SWAT equipment was inspected and loaded into two vehicles. Communication checks were performed, including a check with the Memphis Division ERT assigned to execute a search at the arrest location. All SWAT and ERT personnel reported to the staging area outside of Marianna, Arkansas. At approximately 4:00 a.m., the execute command was received and the vehicles proceeded to their target locations.

The four-vehicle team approached the target house located on Hillcrest Street, with two ERT vehicles holding a position on Pearl Street. All SWAT personnel exited the vehicles and assumed their assigned positions. Two rear cover team operators reported lights on in the basement. The seven remaining entry team members were stacked along the walkway in front of the house.

The breaching team of Operators [redacted] and [redacted] approached the front door and positioned themselves to the right of the door. Operator [redacted] with a ballistic shield, moved to a position on the front lawn approximately ten feet in front of the front door with Operator [redacted] directly behind him. Operator [redacted] knocked loudly on the door with his baton and announced, "FBI warrant, come to the door" three times. As planned, two other participants activated their vehicle emergency lights to indicate a police presence at the house. Receiving no response from inside, STL [redacted] gave the breach command followed by the breaching of the door with one swing of a single-person ram while Operator [redacted] applied pressure to the lower right side of the door with his left foot.

Simultaneous to the door being breached, eight gunshots were rapidly fired from inside the residence toward the SWAT team. Operator [redacted] returned fire with three shots from his M4. In accordance with the operational plan, a flash bang was thrown into the house through the open front door. STL [redacted] gave the recall order to the team directing members to obtain a position of cover. Multiple SWAT Operators were shouting "shots fired" over the radio. As Operator [redacted] was backing down the front lawn with the light from his M4 directed at the window immediately to the left of the front door, he saw an arm with a weapon in the hand slide the curtains from left to right. [redacted] fired two shots from his M4 at the arm.

b6
b7C

As STL [redacted] gave the command to "cover and hold" to the team, Operator [redacted] called out on the radio he was shot. STL [redacted] moved to [redacted] location and provided immediate medical treatment until the arrival of medical personnel. Paramedics assumed care of [redacted] who was subsequently transported by helicopter to the Elvis Presley Memorial Trauma Center in Memphis, Tennessee.

Team members called the subjects out of the house. [redacted] exited first and was taken into custody. She advised law enforcement personnel there were children inside. Approximately three minutes later, [redacted] exited the residence and was arrested.

As participants were clearing the first floor of the residence, Operator [redacted] heard children's voices and instructed the children to approach. Law enforcement personnel maintained custody of the two young children.

On 10/11/2011, [redacted] US Department of Justice, Civil Rights Division, advised no investigation was warranted as no one other than SA [redacted] was injured during the incident.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This

discussion resulted in the recommendation that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

SIRG members unanimously adopted the following observations, instruction, and recommendations made by the Shooting Incident Review Team:

**OBSERVATION #1:**

b6
b7C
b7E

[redacted]

**OBSERVATION #2:**

The FBI-trained breaching procedure of applying positive pressure or tension on a door to facilitate ramming was not documented in a training manual.

**Recommendation #2a:** That AD, CIRG ensure the SOU re-evaluates the use of positive pressure when ramming is used to breach a door to determine if the risk of exposing a body part outweighs the improved success of the breach when tension is applied.

**Recommendation #2b:** That AD, CIRG ensure the SOU documents the use of positive pressure when ramming is used to breach a door if the continued use of this practice is determined.

These observations will be brought to the attention of the AD of the CIRG with accompanying Instruction/Recommendations.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, D.C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Perkins, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271741-D

**Title:** SHOOTING INCIDENT
LOS ANGELES FIELD OFFICE
10/21/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/21/2011, involving Special Agent (SA) [redacted] of the Los Angeles Field Office. While performing a function check of her Bureau-issued Glock Model 23, .40 caliber pistol, SA [redacted] accidentally discharged one round inside her residence. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference report of Special Agent in Charge Daphne Hearn, dated 10/25/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

At approximately 8:00 p.m., on 10/21/2011, SA [redacted] was cleaning her handgun inside her residence after being at the shooting range earlier that evening. As she completed cleaning the weapon, SA [redacted] realized she did not lubricate it. She disassembled the weapon, applied the lubrication, and reassembled it. After reassembling the weapon, SA [redacted] did a safety check prior to conducting a function check. After completing the safety check, SA [redacted] inserted a magazine into the weapon, pointed it in a safe direction, and performed a function check. During the function check, SA [redacted] pulled the trigger, discharging one round through the dining room rug and into the hardwood floor of her residence.

SA [redacted] notified Los Angeles management of the incident and a team responded to conduct an investigation of the incident.

No personal injuries and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted], Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Assistant Director in Charge of the Los Angeles Field Office to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted], Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L KLB
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
11/10/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/10/2011, involving Special Agent (SA) [redacted] of the Little Rock Division. While dry firing his Bureau-issued Glock Model 22, .40 caliber pistol inside office space, SA [redacted] accidentally discharged one round into the floor. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 11/15/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 11/10/2011, in preparation for a squad maintenance shoot scheduled later in the day, SA [redacted] began dry firing his weapon inside the office space at the Fayetteville Resident Agency. SA [redacted] completed his dry firing exercise, reloaded the pistol, and placed it in its holster. Looking for tips on becoming a better shooter, SA [redacted] searched the internet. After reading information regarding stance and trigger press, and forgetting he had loaded his gun after his previous dry firing session, SA [redacted] drew his weapon, pressed the trigger, and accidentally discharged one round into the floor.

SA [redacted] immediately reported the incident to his supervisor. No personal injuries and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted], Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Little Rock Division to ensure SA [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/20/2012

**To:** Inspection **Attn:** AD Keith L. Bennett

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271912-D

**Title:** SHOOTING INCIDENT
SAN ANTONIO DIVISION
11/17/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/17/2011, involving Special Agent (SA) [redacted] of the San Antonio Division. SA [redacted] fired two rounds from his Bureau-issued Glock Model 22, .40 caliber pistol, killing an injured deer. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Special Agent (SA) [redacted] dated 11/21/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/17/2011, at approximately 6:00 p.m., SA [redacted] was traveling on a road in Boerne, Texas, when he observed two vehicles attempting to slow traffic. One individual approached SA [redacted] vehicle window and explained that a deer had been hit by a car and was laying in the middle of the road. The man also advised local law enforcement authorities were notified; however, he was uncertain if they were going to respond to the scene. After seeing the severely injured deer attempting to stand, SA

[redacted] concluded the deer needed to be immediately removed from the area. Ensuring the safety of the two individuals on the scene, SA [redacted] fired two rounds into the back of the deer's head, killing the injured animal. SA [redacted] removed the deer from the road and departed the scene.

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted], OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/21/2012

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Keith L. Bennett
Internal Investigations
SC [redacted]

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Bennett Keith L
Nelson Cory B

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
01/26/2012

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/26/2012, involving Special Agent (SA) [redacted] of the New York Field Office. While attempting to holster his Bureau-approved, personally-owned Glock, Model 27 pistol, SA [redacted] accidentally discharged a single round into a tile wall of a restroom. The expended round subsequently struck the bathroom floor. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communications of Special Agent (SA) [redacted] and Supervisory Special Agent [redacted] dated 01/27/2012 and 03/29/2012 respectively.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 01/26/2012, at approximately 11:40 a.m., as SA [redacted] was preparing to use a bathroom at the Columbia Grammar and Preparatory School, he unholstered his weapon and placed it on top of a trash can. After utilizing the facility, SA [redacted] who was wearing a left handed Galco, leather, in the pants holster, retrieved his weapon. As he attempted to holster the weapon while standing in a crouched position, one round accidentally discharged striking a tiled wall.

SA [redacted] was the only person in the bathroom. The Director of the school was standing outside the bathroom door and was aware of the discharge. No personal injuries and minimal property damage were incurred as a result of this shooting incident.

SA [redacted] informed his immediate supervisor who dispatched two SAs to the scene to conduct the investigation. According to SA [redacted] his finger was placed outside of the trigger along the slide when the weapon discharged.

SA [redacted] weapon, magazine, and holster were forwarded to the Defensive Systems Unit Gunsmiths for examination. The weapon was inspected and test fired and was found to meet all factory specifications as designed.

b6
b7C

On 05/22/2012, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Cory B. Nelson, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit (PAU), Training Division (TD); UC [redacted] Firearms Training Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit, Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Robert J. Shields, Jr., and Deirdre L. Fike, Office of Inspections (OI), INSD; Special Assistant [redacted] INSD; Team Leader [redacted] OI, INSD; SSA [redacted] PAU, TD; Management and Program Analysts (MPAs)

[redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Information)**

INSPECTION

AT WASHINGTON, DC

For information only. This matter was not referred to Internal Investigations Section due to the retirement of SA [redacted] effective 04/30/2012.

b6
b7C

1 - Mr. Joyce, Room [redacted]
1 - Mr. Harrington, Room [redacted]
1 - Mr. Weissmann, Room [redacted]
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] Quantico
1 - [redacted] WFO
1 - [redacted] Room [redacted]
(Attention: [redacted]
1 - [redacted] CIRG
1 - [redacted] Room [redacted]
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/12/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspection
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted]:lib

**Case ID #:** 297-HQ-A1371978-D

**Title:** SHOOTING INCIDENT
CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION
01/04/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/04/2011, involving Police Officers (POs) [redacted] and [redacted] of the CJIS Division. PO [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, killing an injured coyote. PO [redacted] fired six rounds from his Bureau-issued Colt, AR-15 rifle killing one dog and injuring a second. SIRG members recommended that no administrative action be taken against POs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 01/10/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 01/04/2011, at approximately 9:45 a.m., the FBI Police Unit received a complaint of a pack of dogs attacking and killing a coyote near the "Central Plant." Two officers initially responded, located the severely injured coyote, and observed a pack of dogs on a hillside a short distance away.

UNCLASSIFIED

Additional officers arrived and a discussion ensued regarding appropriate action to resolve the situation. One officer advised he had visited the daycare facility earlier in the morning and was informed of employees' concerns regarding a pack of dogs in the area.

The officers returned to the location of the injured coyote and determined the animal's injuries were so severe, it would have to be eliminated. The coyote was moved to a safe location and shot and killed by Officer [redacted]. The animal was transported to a laboratory for rabies testing.

b6
b7C

Immediately after the coyote was killed, the pack of dogs began quickly moving toward the daycare facility. Officer [redacted] shot and killed one dog and injured a second. The remaining dogs fled the area.

No personal injuries or property damage were incurred as a result of this shooting incident.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CI-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by POs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against the officers as a result of their involvement in this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against POs [redacted] and [redacted] as a result of their involvement in this shooting incident. b6 b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Carroll, Room 7427
1 - [redacted] USDOJ
1 - [redacted] USDOJ b6 b7C
1 - [redacted] Room 3046
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9993
1 - [redacted] WFO
1 - [redacted] Room 6327
1 - [redacted] Room 3043
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/01/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1327669-D

**Title:** SHOOTING INCIDENT
COUNTERTERRORISM DIVISION
05/05/2011

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/05/2011, involving Supervisory Special Agent (SSA) [redacted] of the Counterterrorism Division. SSA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, killing an aggressive dog. SIRG members recommended that no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of SSA [redacted] dated 05/27/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/05/2011, at approximately 5:50 p.m., SSA [redacted] his two young children, and the family dog were walking in their neighborhood. As they were walking SSA [redacted] observed an unattended dog across the street proceeding towards them. As a precaution, SSA [redacted] placed one son behind him and pointed the other son, located in the stroller, away from the approaching dog. The unattended dog lunged toward SSA [redacted] dog resulting in a struggle between the dogs. The aggressive dog knocked over

the stroller holding SSA [redacted] young son. As SSA [redacted] picked the stroller up, he saw the dog coming back towards him and his children. Concerned for the safety of his children and himself SSA [redacted] fired one round, killing the dog.

SSA [redacted] immediately called 911 and advised he had shot a dog. The Prince George's County Sheriff's Office responded to the scene within minutes. Based upon interviews with SSA [redacted] and two witnesses to the incident, the officers determined SSA [redacted] actions were justified.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimou y agr ed that the us of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recc endation that > admir strative action k taken ac nst SSA [redacted] as a result of his involvemer in this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Joyce, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room 3246
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted], Room 3043
♦♦

b6 b7C

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/01/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271786-D

**Title:** SHOOTING INCIDENT
NEW HAVEN DIVISION
02/11/2011

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/11/2011, involving Special Agent (SA) [redacted] of the New Haven Division. While preparing for Special Weapons and Tactics (SWAT) training, SA [redacted] fired four rounds from his Bureau-issued Glock 22, .40 caliber pistol, killing an injured fawn. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Communication of Supervisory Senior Resident Agent (SSRA) [redacted] dated 02/24/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On the morning of 02/11/2011, members of the New Haven Division SWAT team arrived at an outdoor training facility in Middletown, Connecticut to conduct SWAT training. The range was surrounded by a chain link fence topped with razor wire. Upon arrival, SWAT team members unlocked the auto entrance into the range and saw a female deer with three fawns inside of the range compound.

The animals were located in the middle of the firearms range and had to be removed before training could begin. As personnel approached, the deer panicked and ran away crashing into the fence. One of the fawns was lying on its side, bleeding and unable to get up. As they approached the injured fawn, the Agents realized the animal was suffering and could not survive the accident. At that time, SA [redacted] advised he would euthanize the animal.

b6
b7C

Ensuring that all SWAT operators were behind him, SA [redacted] discharged four rounds, killing the severely injured fawn.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Former Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Joyce, Room 7142
1 - Mr. Harrington, Room 7142
1 - Mr. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room 3246 b6 b7C
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted], Quantico
(Attention: [redacted]
1 - [redacted], Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted] Room 3043
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/24/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald E

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271971-D

**Title:** SHOOTING INCIDENT
CRITICAL INCIDENT RESPONSE GROUP (CIRG)
03/19/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/19/2010, involving Supervisory Special Agent (SSA) [redacted] of the CIRG. While cleaning his Bureau-issued Glock Model 23, 40 caliber revolver, SSA [redacted] accidentally discharged one round into a safety wall. SIRG members recommended that SSA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of SSA [redacted] dated 03/30/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

On 03/19/2010, at approximately 2:30 p.m., SSA [redacted] accidentally discharged his weapon in the gun cleaning room at the FBI Academy.

Upon completion of scheduled firearms training and range clean-up, SSA [redacted] was issued new service ammunition. With the intent of cleaning his weapon at a later time, SSA [redacted] loaded his magazines. As his co-workers were proceeding to the gun cleaning room, SSA [redacted] decided he would join them and clean his weapon. b6 b7C

SSA [redacted] entered the cleaning room, approached the safety wall, and began the disassembly process for the weapon. When he drew the slide of the weapon to the rear to inspect the breech of the barrel, he noted there were no rounds in the chamber. Forgetting to inspect the magazine well, he did not see over the ejection port that he had a loaded magazine in the weapon. SSA [redacted] dropped the slide on what he thought was an empty chamber and pulled the trigger. As he pulled the trigger, the chambered round discharged into the safety wall. b6 b7C

No personal injury was incurred as a result of SSA [redacted] accidental discharge.

SSA [redacted] weapon was inspected by the Academy armorers for any malfunction, and it was determined to be in proper working order.

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Donald E. Oswald, Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] b6 b7C

[redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously recommended that SSA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**LEAD(s):**

**Set Lead 1: (Action)**

b6
b7C

INSPECTION

AT WASHINGTON, DC

That SSA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

1 - Mr. Murphy, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/01/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271292-D

**Title:** SHOOTING INCIDENT
CLEVELAND DIVISION
08/30/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/30/2010, involving Special Agent (SA) [redacted] of the Chicago Division. While on vacation in the Cleveland Division territory, SA [redacted] and a friend were victims of an armed robbery. SA [redacted] fired four rounds from his personally-owned, Bureau-approved Glock 27 pistol, injuring one of the subjects. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Charge April D. Brooks, dated 02/03/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 08/30/2010, SA [redacted] of the Chicago Division was visiting [redacted] a childhood friend residing in [redacted] Ohio. Following dinner at a local restaurant, SA [redacted] and [redacted] walked through a neighborhood park toward [redacted] residence. Before exiting the park, they were approached from behind by two young males, one armed with a

pistol, who robbed both victims of their personal property, including SA [redacted] credentials and badge.

The unarmed subject, later identified as [redacted] forcibly removed SA [redacted] property from his pockets. SA [redacted] attempted to turn in order to see the subject's face; however, the armed subject, later identified as [redacted] observed his action, pointed his weapon directly at SA [redacted] face and said, "Put your fucking hands up or I'll blow your brains out." [redacted] did not search the waistband area of SA [redacted] and was unaware he was wearing a weapon. [redacted] began running away from the victims toward stairs leading up a steep embankment and out of the park. [redacted], began backing away from SA [redacted] and [redacted] while continuing to point his weapon at them. SA [redacted] quickly drew his weapon and yelled, "Police, get down." [redacted] was noncompliant and continued pointing his weapon at the victims. Believing both he and his friend were in imminent danger of death or serious injury, SA [redacted] fired three rounds at [redacted] who immediately turned and started running toward the stairs leading out of the park. SA [redacted] chased [redacted] up the stairs which led up the embankment to an adjacent roadway. Yelling several times for the subject to stop with negative results, SA [redacted] observed [redacted] turn towards him while raising his hand containing his weapon. SA [redacted] fired one additional round at [redacted].

b6
b7C

Both subjects continued to run between residences and into back yards causing SA [redacted] to lose sight of them. SA [redacted] stopped his pursuit of the subjects and contacted police. Before he talked to anyone at 911, SA [redacted] saw a marked unit from the Cleveland Heights Police Department (CHPD), stopped the patrol car, identified himself as a law enforcement officer, and provided details of the incident. Responding police officers subsequently located [redacted] and his accomplice who were each charged with two counts of robbery in juvenile court. A third person was arrested; however, it was determined he did not participate in the armed robbery and all charges were dismissed.

b6
b7C

Medical reports indicated [redacted] sustained gunshot wounds to his right thigh and right rear shoulder. On 09/06/2010, [redacted] was released from the hospital and placed in juvenile detention pending his criminal proceedings.

It was subsequently determined [redacted] was armed with a Crossman pellet pistol during the robbery. The victims' property was recovered by law enforcement personnel.

The City of Cleveland Heights, Ohio Law Department, was advised the CHPD conducted an investigation and determined the

shooting was justified. Based on the CHPD finding, the matter was not presented to the Prosecutor's Office for review.

On 11/29/2010, the US Department of Justice, Civil Rights Division, advised the facts of the case did not warrant a federal investigation.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted], SAS, IAU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room 3246
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: Mr. Washington)
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted], Room 3043
♦♦

b6
b7C

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/20/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271466-D

**Title:** SHOOTING INCIDENT
DENVER DIVISION
11/24/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/24/2010, involving Special Agent (SA) [redacted] of the Denver Division. SA [redacted] accidentally discharged one round from his Bureau-issued Glock Model 23, .40 caliber pistol injuring his left leg. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSSA) [redacted] dated 11/29/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

## Details of the Shooting Incident

On 11/24/2011, at approximately 7:30 p.m., SA [redacted] was watching television inside his residence. According to SA [redacted] he stood up, retrieved his service weapon, and attempted to place it in the right rear pocket of his jeans. As he was placing the gun in the pocket, one round accidentally discharged striking his leg. SA [redacted] advised his finger was not on the trigger and believed the handle of his knife caught the gun's trigger causing the discharge. b6 b7C

SA [redacted] advised his wife of the incident and she called 911. Medical personnel, as well as members of the local Sheriff's Office responded to the scene and transported SA [redacted] by ambulance to the St. Mary's Corwin Hospital. SA [redacted] was discharged from the hospital on 11/27/2010, and expected to make a full recovery.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennfier Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Inspector Deirdre L. Fike, and Inspector Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. However, this EC is being submitted for information due to the retirement of SA [redacted] on 01/31/2011.

b6
b7C

**LEAD(s):**

**Set Lead 1: (Information)**

INSPECTION

AT WASHINGTON, DC

For information only. This matter was not referred to Internal Investigations Section due to the retirement of SA [redacted] effective 01/31/2011.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room 3246
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted] Room 3043
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/16/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271508-D

**Title:** SHOOTING INCIDENT
HONOLULU DIVISION
05/09/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/09/2010, involving Special Agent (SA) [redacted] of the Honolulu Division. While touring various scenic areas in the Honolulu area, SA [redacted] shot and wounded a subject who raised his weapon toward him. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Charge April D. Brooks, dated 05/24/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 05/09/2010, SA [redacted] and [redacted] were touring various scenic areas in Honolulu. As they drove up Tantalus Drive, they came upon a group of people with cars parked in a lookout area. Several people were waving at them excitedly and SA [redacted] rolled down her window to ask what was happening. An individual told them a man was at the next lookout waving a gun at bystanders. SA [redacted] exited his car to speak with the individuals about the situation. After

determining someone had called 911, SA [redacted] requested a description of the man possessing the gun. As one individual stated the man was in a white truck, SA [redacted] turned and saw a white truck traveling down the hill towards his location. As the white truck approached, SA [redacted] took cover behind the engine block of a remaining car with a man and woman inside.

SA [redacted] observed a man exit the truck with what he believed to be a large handgun. The subject was yelling at the people and holding the handgun in plain view as he walked to the front of his vehicle. SA [redacted] pulled his weapon from its holster and yelled "FBI. Drop your weapon," or words to that effect. The subject, later identified as [redacted], began to raise his weapon at SA [redacted]. Believing his life was in imminent danger, SA [redacted] fired five rounds from his personally owned, Bureau-approved, Glock 27 pistol. [redacted] slumped to the ground and SA [redacted] again ordered him to drop his weapon and lie down on the ground with his arms extended. As the subject obeyed all law enforcement commands, SA [redacted] conducted a tactical reload and asked a witness to assist him in handcuffing [redacted]. SA [redacted] approached and removed [redacted] weapon from the area. [redacted] which SA [redacted] SA [redacted] asked [redacted] why he had been waving a gun around, and he responded in words to the effect of "I am trying to commit suicide."

b6
b7C

SA [redacted] conducted a high risk search of [redacted] and found a key chain attached to a belt keeper and a "leatherman" knife/tool in a pouch and removed both.

HPD officers arrived and secured the scene. [redacted] was transported by ambulance to the Queen's Medical Center in critical condition and was later released to the psychiatric ward.

b6
b7C

On 10/01/2010, HPD Chief of Police Louis M. Kealoha advised the HPD did not conduct a criminal investigation into the actions of SA [redacted]. Additionally, the case was not referred to the Department of the Prosecuting Attorney because SA [redacted] was not considered a suspect.

On 05/09/2010, [redacted] Special Legal Counsel, Civil Rights Division, Department of Justice, advised the shooting did not fall under the Color of Law violation because the agent was off-duty at the time of the incident.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Hall, Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Subsequent to an overview of the incident provided by Inspector [redacted] SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room 3246
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: Mr. Luciano)
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted] Room 3043
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/27/2010

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Amy Jo Lyons
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald E.

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271699-D

b6
b7C

**Title:** SHOOTING INCIDENT
LAS VEGAS DIVISION
09/17/2010

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/17/2010, involving Special Agent (SA) [redacted] of the Las Vegas Division. Two days after attending a Special Weapons and Tactics (SWAT) training session, SA [redacted] was preparing to clean his SWAT-issued Springfield 1911A1 pistol. While in the process of removing the weapon from its holster, SA [redacted] accidentally discharged one round through a metal gun cleaning table. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 10/06/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

On 09/15/2010, SA [redacted] attended SWAT training, qualifying with his SWAT-issued Springfield 1911A1 pistol. At the conclusion of the training, SA [redacted] departed the training area without cleaning or replacing service ammunition into the weapon. His pistol remained uncleaned, loaded with training ammunition, and stored inside a gun vault inside his Bureau vehicle.

On 09/17/2010, at approximately 7:30 a.m., SA [redacted] reported to the Las Vegas Division and retrieved his M-4 rifle and Springfield pistol from his vehicle. After visually verifying the rifle was clear and the bolt locked back, SA [redacted] picked up the holstered pistol which had a magazine inserted. He did not clear the pistol at that time, and carried both weapons to the gun cleaning area. SA [redacted] placed his rifle on one cleaning bench and his pistol on a second bench. Realizing he left his rifle cleaning equipment inside his vehicle, SA [redacted] left both weapons on the gun cleaning benches to retrieve his cleaning equipment.

b6
b7C

Upon his return to the cleaning area, SA [redacted] partially disassembled his M-4 rifle then moved to the second bench and retrieved his holstered pistol, while talking to SA [redacted]. He picked up his pistol from the bench with his right hand, pointed it in a safe direction, and began to remove it from the holster. According to SA [redacted] "I had the grip of the weapon in my right hand and I was holding the holster in my left hand, in an upside down 'U'. I broke the thumb break of the holster, depressed the magazine catch to remove the magazine, and then pressed down on the safety. I released the safety in order to lock the slide back, expel any unused ammunition, and then perform a visual clear of the barrel. As I continued to remove the weapon from the holster a round was discharged; I had never fully removed the weapon from the holster."

After the discharge, SA [redacted] put the weapon down and checked to ensure SA [redacted] was okay. No personal injury and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

b6
b7C

On 12/07/2010, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector Donald E. Oswald, Office of Inspections (OI), Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted]

Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Practical Applications Unit, TD; and SSA [redacted] CR-2, Washington Field Office. Inspectors Eric S. Birnbaum and Kenneth L. Moore attended to present the Kansas City and Detroit shootings to board members. The following non-voting members were also in attendance: Inspector April D. Brooks, OI, INSD; SSA [redacted] ERTU, LD; SSA [redacted] Legal Instruction Unit, OGC; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; UC [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU; [redacted] Special Advisor, INSD; [redacted] SAS, IMU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

It was noted that SA [redacted] pistol was examined by the Training Division's Weapons Management Facility and determined to function properly.

SIRG members unanimously recommended that SA [redacted] *be censured, suspended from duty for a period of three* days, and receive documented remedial firearms training in regard to this shooting incident.

To: Director's Office From: Inspection
Re: 297-HQ-A1271699-D, 12/27/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Special Agent in Charge of the Las Vegas Division to ensure SA [redacted] receives remedial firearms training regarding proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
(Attention: [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted] Room 3043
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/20/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271508-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
12/20/2010

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/20/2010, involving Special Agent (SA) [redacted] of the New York Field Office. SA [redacted] fired three rounds from her Bureau-issued Glock Model 22, .40 caliber pistol at two aggressive and unleashed approaching dogs. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident. b6 b7C

**Administrative:** Reference Electronic Communication of Supervisory Special Agents (SSAs) [redacted] and [redacted] dated 02/07/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 12/20/2010, at approximately 8:45 p.m., SA [redacted] and her mother were loading SA [redacted] vehicle with recently purchased items. During the process, SA [redacted] observed a male with two large, unleashed dogs in the parking lot. SA [redacted] opened her knapsack and flipped the thumb brake from the holster of her weapon. At that time, the dogs charged toward SA [redacted] and her mother. Fearing for their safety, SA [redacted] drew her weapon and

fired three rounds at the dogs. Both dogs retreated and returned to their owner.

No personal injuries or property damage were incurred as a result of this shooting incident.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted], Defensive Systems Unit, Training Division (TD); Acting UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - [redacted], Room 3246
(Attention: [redacted]
1 - [redacted], Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted] Room 3043
♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/07/2010

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Amy Jo Lyons
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald R

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
05/04/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/04/2010, involving Special Agent (SA) [redacted] of the New York Field Office. As SA [redacted] was conducting a second safety check of his weapon prior to departing a friend's residence, he accidentally discharged one round from his Bureau-issued Glock Model 22, .40 caliber pistol. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 06/30/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

On 05/04/2010, SA [redacted] accidentally discharged one round from his Bureau-issued weapon into a drawer of a cabinet located at a friend's residence.

According to SA [redacted] he arrived in [redacted] Massachusetts at approximately 4:15 p.m., to attend the funeral of a friend. After inquiring about the planned events of the evening, he asked [redacted] the occupant of the residence, if he had a safe place to store his weapon. [redacted] advised he stored a friend's police-issued weapon on occasion, and felt comfortable storing SA [redacted] weapon in his home because no children were present and he had the only key to the residence.

b6
b7C

SA [redacted] prepared his weapon for storage, placed it in a winter style bomber cap, and placed it in a small cabinet in the kitchen.

At approximately 4:30 p.m., before departing the residence, SA [redacted] rechecked the weapon after everyone except Leighton exited the residence. He removed the weapon from the cabinet and proceeded to remove it from the holster at a downward angle. SA [redacted] felt pressure on the trigger and saw a flash from the muzzle. He put the weapon down, surveyed the area, cleared the weapon, and conducted a function check. SA [redacted] stated the weapon operated correctly. It appeared as though SA [redacted] did not remove the magazine after clearing the chamber prior to storing the weapon.

SA [redacted] surveyed the area and located a hole through a desk and the wall. He immediately contacted his supervisor to report the incident.

No personal injury and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

b6
b7C

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Donald E. Oswald, Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted], Special Weapons and Tactics

Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

The only observation pertained to SA [redacted] weapon not being submitted to the Weapons Management Facility (WMF) for examination. In order to ensure the FBI exercises due diligence in all accidental discharges, all weapons involved in accidental discharges should be returned expeditiously to the WMF for inspection and documentation. This examination will ensure all mechanical aspects of the weapon are within factory tolerances and no, as yet undetected mechanical malfunction exists that may have contributed to the accidental discharge. This matter will be discussed with the Assistant Director in Charge (ADIC) of the New York Field Office.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRC has instructed the ADIC of the New York Field Office to ensure SA [redacted] receives remedial firearms training regarding proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted], Laboratory
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/13/2010

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Amy Jo Lyons
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald E

**Drafted By:** [redacted]:llh

**Case ID #:** 297-HQ-A1271899-D

**Title:** SHOOTING INCIDENT
PITTSBURGH DIVISION
09/16/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/16/2010, involving Special Agent (SA) [redacted] of the Pittsburgh Division. While preparing her Bureau-issued Glock Model 22, .40 caliber semi-automatic pistol for cleaning, SA [redacted] accidentally discharged one round into a "clearing trap". SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 10/04/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

On 09/16/2010, SA [redacted] accidentally discharged her weapon in the gun cleaning room at the range.

Upon completion of firearms training and range clean-up, SA [redacted] dropped the magazine from her weapon and proceeded to the gun cleaning room. She entered the gun cleaning room, placed the barrel of the weapon into the canister used for clearing weapons prior to cleaning, and pulled the trigger in order to disassemble the weapon for cleaning. As she pulled the trigger, a round discharged into the canister.

No personal injury or property damage was incurred as a result of SA [redacted] accidental discharge.

SA [redacted] weapon was inspected by the Academy armorers for any malfunction, and it was determined to be in proper working order. b6 b7C

On 12/07/2010, the *SIRG* met to discuss the above-captioned shooting incident. Chief Inspector Donald E. Oswald, Office of Inspections (OI), Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; *UC* [redacted] *Special Weapons and Tactics Operations* Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Practical Applications Unit, TD; and SSA [redacted] CR-2, Washington Field Office. Inspectors Eric S. Birnbaum and Kenneth L. Moore attended to present the Kansas City and Detroit shootings to board members. The following non-voting members were also in attendance: Inspector April D. Brooks, OI, INSD; SSA [redacted] ERTU, LD; SSA [redacted] Legal Instruction Unit, OGC; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; UC [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU; [redacted] Special Advisor, INSD; [redacted] SAS, IMU, INSD; and [redacted] SAS, IMU, INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

SIRG members made one observation regarding this incident which pertained to a safety check of SA [redacted] weapon not being conducted. In an EC dated 12/15/2009, the Training Division provided the following guidance to all offices regarding the administration of the Firearms Training Program: b6 b7C

> At the conclusion of firearms training shooters will conduct a safety check. **Prior to holstering or removing weapons from the firing line, a final safety check of all weapons must be conducted by a Firearms Instructor.**
>
> Shooters must also conduct a safety check immediately prior to disassembly for cleaning.

Although not specified in the documentation submitted regarding the accidental discharge, it was noted by SIRG members that proper safety checks were not conducted upon completion of firearms training by SA [redacted] nor the Firearms Instructor.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the SAC of the Pittsburgh Division to ensure SA [redacted] receives remedial firearms training regarding proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
(Attention: [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted], Laboratory
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/22/2010

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Amy Jo Lyons
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald B

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271912-D

**Title:** SHOOTING INCIDENT
SAN ANTONIO DIVISION
03/11/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/11/2010, involving Special Agent (SA) [redacted] of the San Antonio Division. While preparing her Bureau-issued Glock Model 17, nine millimeter pistol for cleaning, SA [redacted] accidentally discharged one round. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of Assistant Special Agent in Charge (ASAC) [redacted] dated 03/15/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

On 03/11/2010, SA [redacted] completed mandatory firearms qualification. Preparing to clean her weapon, SA [redacted] removed the gun from its holster to begin the disassembly process. Knowing the magazine had been removed, SA [redacted] pulled the trigger, accidentally discharging one round which traveled through the bottom portion of a wooden table and struck the concrete.

According to SA [redacted], because there was no magazine in the weapon, it did not occur to her that she had not performed a safety check and did not realize a live round was in the weapon's chamber.

No personal injury and minimal property damage were incurred as a result of SA [redacted] accidental discharge.

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Donald E. Oswald, Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

SIRG members made two observations regarding this incident. The first observation pertained to a safety check of SA [redacted] weapon not being conducted. In an EC dated 12/15/2009, the Training Division provided the following guidance to all offices regarding the administration of the Firearms Training Program:

> At the conclusion of firearms training shooters will conduct a safety check. **Prior to holstering or removing weapons from the firing line, a final safety check of all weapons must be conducted by a Firearms Instructor.**
>
> Shooters must also conduct a safety check immediately prior to disassembly for cleaning.

b6
b7C

It was noted by SIRG members that proper safety checks were not conducted upon completion of firearms training by SA [redacted] nor the Firearms Instructor.

The second observation pertained to SA [redacted] weapon not being submitted to the Weapons Management Facility (WMF) for examination. In order to ensure the FBI exercises due diligence in all accidental discharges, all weapons involved in accidental discharges should be returned expeditiously to the WMF for inspection and documentation. This examination will ensure all mechanical aspects of the weapon are within factory tolerances and no, as yet undetected mechanical malfunction exists that may have contributed to the accidental discharge. These observations will be discussed with the Special Agent in Charge of the San Antonio Division.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the SAC of the San Antonio Division to ensure SA [redacted] receives remedial firearms training regarding proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted], Laboratory
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/16/2011

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** Acting AD Kenneth L. Moore
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1400812-D

**Title:** SHOOTING INCIDENT
SECURITY DIVISION
10/31/2010

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/31/2010, involving FBI Police Officer (PO) [redacted] of the Security Division. After attending quarterly firearms qualifications at the FBIHQ indoor range, PO [redacted] accidentally discharged one round from his Bureau-issued Glock Model 22, .40 caliber pistol. SIRG members recommended that PO [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 01/07/2011.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

## Details of the Shooting Incident

On 10/31/2010, at approximately 10:15 p.m., PO [redacted] attended his quarterly firearms qualifications at the FBIHQ indoor range. Although PO [redacted] pistol misfired three times during his qualification, he qualified on his first attempt.

As PO [redacted] departed the range to go to his post, he walked by the gun cleaning room. Seeing the room was dark and empty, he decided to put oil on the rails and slide of the weapon. He removed the magazine and turned to the wall to break down the pistol. As he pulled the trigger in order to release the slide, one round discharged through the cleaning table with a fragment lodging in the wall behind the table.

No personal injuries were incurred as a result of PO [redacted] accidental discharge. b6 b7C

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted], Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. Brooks, Joseph S. Campbell, Deirdre L. Fike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that PO [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That PO [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the Assistant Director of the Security Division to ensure PO [redacted] receives remedial firearms training regarding the proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted] USDOC
1 - [redacted] USDOJ
1 - [redacted] Room 3246
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] FO
1 - [redacted] Room 6387
1 - [redacted], Room 3043
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/22/2010

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Amy Jo Lyons
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald E

**Drafted By:** [redacted] :llh

**Case ID #:** 297-HQ-A1271984-D

**Title:** SHOOTING INCIDENT
TRAINING DIVISION
03/20/2010

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/20/2010, involving Special Agent (SA) [redacted] of the Albany Division. While attending the Firearms Instructor School at the FBI Academy, SA [redacted] accidentally discharged his weapon while practicing "dry firing" in his hotel room. SIRG members recommended that SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 03/24/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 03/20/2010, at approximately 11:00 a.m., SA [redacted] accidentally discharged his personally-owned, Bureau-approved Glock Model 21, pistol inside his hotel room.

On the morning of 03/20/2010, SA [redacted] unloaded his pistol, conducted a safety check, and practiced "dry firing". Upon completion of his "dry firing", SA [redacted] reloaded the weapon and took a shower. A short time later SA [redacted] decided to "dry fire" again and as he pressed the trigger, one round discharged striking a mirror. SA [redacted] realized the weapon contained a magazine and he failed to conduct a safety check before "dry firing" the second time.

No personal injuries were incurred as a result of SA [redacted] accidental discharge, and property damage was minimal.

SA [redacted] weapon was inspected by Defensive Systems Unit Gunsmith [redacted], and determined to be in proper working order.

b6
b7C

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Donald E. Oswald, Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted], Laboratory
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted], Room 3043

♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/31/2011

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271480-D 47

**Title:** SHOOTING INCIDENT
DETROIT DIVISION
10/28/2009

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/28/2009, involving Detroit Special Weapons and Tactics (SWAT) Special Agent (SA) [redacted] Critical Incident Response Group (CIRG), Hostage Rescue Team (HRT) Supervisory Special Agent (SSA) [redacted] and HRT SAs [redacted] and [redacted] During the execution of federal arrest warrants, the four Agents returned fire killing a subject who fired three rounds in their direction and resulted in the death of an HRT K-9. SIRG members unanimously concluded that the use of deadly force by the Agents was justified and no administrative action should be taken against any Agent involved in this shooting incident.

**Administrative:** Reference report of Inspector Kenneth L. Moore, dated 12/17/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 10/28/2009, during the execution of federal arrest warrants at a planned undercover meeting, Luqman Ameen Abdullah, also know as Christopher Thomas, was shot and killed by members

of the Detroit Division SWAT team and the CIRG, HRT. Four Agents returned fire after the subject fired three rounds from his Glock nine millimeter weapon in the direction of the Agents which resulted in the death of an HRT K-9.

Abdullah was the leader of a nationwide radical fundamentalist Sunni group whose primary mission was to establish an "Ummah," a separate Islamic state inside the United States governed by Shariah Law. Investigation revealed Abdullah and his followers, many of whom were convicted felons, trained regularly in the use of firearms, martial arts, and sword fighting. Additionally, investigation determined Abdullah advocated violence against the government and law enforcement.

In October 2008, the Detroit Division initiated an Undercover Operation (UCO) targeting Abdullah who, along with his associates, were knowingly involved in receiving and selling stolen property from interstate shipments.

On 10/21/2009, a briefing regarding the impending arrests of Abdullah and his associates was held at an [redacted] The briefing was held to review the operations order, tactical assignments, and conduct rehearsals of possible arrest scenarios [redacted] Additionally, Acting Associate Division Counsel SA [redacted], Assistant Special Agent in Charge (ASAC) [redacted] provided Special Agent in Charge (SAC) Andrew G. Arena with a summary and progress of the plan. SAC Arena requested that ASAC [redacted] determine if any alternative methods of conducting the arrests or locations for conducting the arrests provided a safer scenario. ASAC [redacted] directed SSA [redacted] and the Detroit SWAT Team to explore other options for the arrests for consideration by SAC Arena.

b6
b7C
b7E

On 10/22/2009, ASAC [redacted] SSA [redacted] SA [redacted] and SWAT Senior Team Leader (STL) [redacted] met with SAC Arena to discuss [redacted]

**UNCLASSIFIED**

[redacted]

On 10/23/2009, Detroit management and two HRT SSAs met at the Detroit Field Office [redacted] the HRT SSAs believed the plan was tactically sound and reasonable. Believing additional [redacted] ASAC [redacted] and HRT SSA [redacted] advised SAC Arena of the HRT's assessment and obtained SAC Arena's approval [redacted] SAC Arena also made an official request for HRT assistance.

On 10/26/2009, STL [redacted] briefed the updated operational plan to the SWAT Team and HRT members which included [redacted] At the conclusion of the briefing, SWAT and HRT participants [redacted] SA [redacted] SA [redacted]

b6
b7C
b7E

On 10/27/2009, an all participant briefing was held to review the operations order, assignments, contingency plans, and the FBI's Deadly Force Policy. Following the briefing, an executive briefing regarding the arrest plan was provided to senior members of the Dearborn Police Department (DPD), Detroit PD, and the Wayne County Sheriff's Office.

On the evening of 10/27/2009, ASAC [redacted] received an email message from case Agent [redacted] regarding new information obtained from [redacted]

b6
b7C
b7D

On 10/28/2009, at approximately 8:00 a.m., Detroit SWAT and HRT teams assembled at the designated staging area. STL conducted a mission brief and received brief backs [redacted] b6 b7C b7E Prior to the departure of assembled personnel, SAC Arena addressed the group reminding them to have trigger and mission discipline and remain focused on their assignments.

At approximately 9:30 a.m., the tactical teams were transported covertly to [redacted] At the completion of the briefing, SWAT and HRT operators proceeded to their assigned positions in the warehouse awaiting the arrival of the subjects.

At approximately 11:45 a.m., Abdullah and four companions arrived at the warehouse [redacted] b7D b7E

STL [redacted] assumed control of the scene and began counting down from five. When the count reached one, HRT SA [redacted] detonated diversionary devices and STL [redacted] instructed the arrest team to "execute." The tactical teams quickly exited their rooms and moved to cover positions. The b6 b7C

diversionary devices startled and disoriented the subjects who attempted to find hiding places and/or exit the warehouse through a locked door. All of the subjects were forced to return to the immediate loading dock area of the warehouse.

At the command, "shields up," three shield teams advanced forward while the K-9 team moved forward toward the north wall, in the direction of the subjects. As the arrest team moved forward, loud and repetitive commands of "FBI, get down," were given. As the K-9 team reached the end of the counter near the trailer bay doors, the remainder of the arrest team cleared the danger areas and formed a half circle. According to the participants, repeated loud and clear verbal commands were given to the subjects, identifying the arrest team as FBI and instructing the subjects to assume a prone position with their hands visible. As the commands were given, three of the five subjects assumed prone positions in front of the trailer containing the televisions. A fourth subject laid prone behind a pallet partially loaded with televisions; however, Abdullah continued to disobey law enforcement commands. He moved into the trailer containing the televisions, peering out as arrest team members approached. As law enforcement personnel continued shouting commands, Abdullah moved into a prone position hiding his hands beneath his body. Law enforcement personnel instructed Abdullah to expose his hands and was told if he continued to disobey commands, a dog would be released. Abdullah maintained his position with his hands tucked underneath his body. HRT SA [redacted] was told to move up with HRT K-9 "Freddy." SSA [redacted] and SA [redacted] moved forward with SA [redacted] to serve as his cover team.

After Abdullah failed to comply with additional commands, SA [redacted] released "Freddy" towards Abdullah. "Freddy" bit the subject in the upper portion of his left arm and the palm of his left hand. SA [redacted] observed what appeared to be a Glock pistol in Abdullah's right hand and yelled "gun, gun." Abdullah fired three rounds, striking the K-9 at least twice. Fearing for their lives as well as the safety of other team members, four arrest team members returned fire striking Abdullah with each round. b6 b7C

SAs [redacted] and [redacted] moved into the trailer to secure Abdullah. Rolling him onto his chest and handcuffing him, SA [redacted] recovered the subject's weapon and SA [redacted] cleared the weapon. At that time, SA [redacted] a SWAT Operator/Tactical EMT, conducted an initial assessment and advised Abdullah was deceased. The remaining four subjects were handcuffed and turned over to the prisoner handling team.

Shortly after the shooting incident, STL [redacted] advised the Command Post/Tactical Operations Center and the arrest team members at the scene that Adbullah and "Freddy" had been shot, five subjects were in custody and a MEDIVAC was needed for the K-9. "Freddy" was transported via HRT helicopter to the Veterinarian Emergency Service for treatment; however, he died as a result of his injuries.

STL [redacted] controlled the scene and arranged for members of the HVA to respond to the warehouse to assess the subject. HVA responded at approximately 12:17 p.m.; however, they were initially prohibited from entering the scene for approximately ten minutes by the DPD who had units controlling the perimeter. DPD units were not familiar with the HVA's role and were unaware they had been contracted by the FBI to provide emergency medical services. SA [redacted] subsequently noticed the HVA was waiting to gain access to the scene and arranged for HVA Paramedics to enter the warehouse. Paramedics determined the subject was deceased and assessed there was no need to attempt resuscitation.

On 10/30/2009, Wayne County Prosecuting Attorney [redacted] was briefed on the incident. [redacted] recused her office based on the long-term federal nature of the investigation, classified portions of the investigation, and her belief that her office would not have complete access to possible federal grand jury or Title III information. Prosecuting Attorney [redacted] requested the Office of the Attorney General for the State of Michigan conduct an investigation.

On 11/04/2009, Inspector Moore and DPD command staff met with the Bureau Chief of the Michigan Attorney General's Office and provided a briefing of the incident to him and staff members. A second meeting was scheduled for 11/09/2009, to allow a representative of the Attorney General's Office to review signed sworn statements and other evidence.

On 10/13/2010, the Civil Rights Division, United States Department of Justice, concluded no federally prosecutable civil rights violation associated with the evidence existed.

On 12/07/2010, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector Donald E. Oswald, Office of Inspections (OI), Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit

b6
b7C

b6
b7C

b6
b7C

Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted] Practical Applications Unit, TD; and SSA [redacted] CR-2, Washington Field Office. Inspectors Eric S. Birnbaum and Kenneth L. Moore attended to present the Kansas City and Detroit shootings to board members. The following non-voting members were also in attendance: Inspector April D. Brooks, OI, INSD; SSA [redacted] ERTU, LD; SSA [redacted] Legal Instruction Unit, OGC; UC [redacted], Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; UC [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU; [redacted] Special Advisor, INSD; [redacted] SAS, IMU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Inspector Kenneth L. Moore, who conducted the shooting investigation, provided SIRG attendees an in-depth review of the incident, including video taken during the operation.

SIRG members unanimously concurred that the use of deadly force by the Agents was justified and in conformance with the FBI's Deadly Force Policy. This resulted in the recommendation that no administrative action should be taken against SSA [redacted] SA [redacted] SA [redacted] and SA [redacted] as a result of their involvement in this shooting incident.

b6
b7C

SIRG members unanimously adopted the following observation/ instruction identified by the Shooting Incident Review Team (SIRT):

**OBSERVATION #1:** SA [redacted] CIRG, HRT, did not wear his issued ballistic vest during the operation as mandated by Bureau policy.

The Manual of Investigative Operations and Guidelines (MIOG) states "Wearing of body armor by SA personnel is mandatory during planned arrests, execution of search warrants and surveillances which can reasonable be expected to culminate in a confrontation with armed and dangerous subject(s)."

**INSTRUCTION**: That Assistant Director (AD), CIRG, ensure all HRT Operators comply with the MIOG requirement if sniper operator's role changes in a mission.

This matter will be discussed with the AD, CIRG, to ensure future compliance.

Additional areas of discussion centered around [redacted] as well as the utilization of less than lethal force methods during the apprehension of subjects.

[redacted] b7E

A second DOJ representative noted the operator had no cover and questioned why an available ballistic shield was not used during the operation. Members advised that once deadly force is applicable, a shield protects the person holding the shield but does not protect all persons involved. The second comment made by the attendee pertained to less than lethal options that could have been used instead of deadly force. Members emphasized the fact that use of a canine was a less lethal option and the distance was too large for the user of tasers.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SSA [redacted] SA [redacted] SA [redacted] and SA [redacted] as a result of their use of deadly force in this shooting incident.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
(Attention: [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted], Laboratory
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/02/2011

**To:** Inspection **Attn:** Acting AD Kenneth L. Moore

**From:** Inspection
Office of Inspections
**Contact:** [redacted], Extension [redacted]

**Approved By:** Moore Kenneth L

**Drafted By:** [redacted] lih

**Case ID #:** 297-HQ-A1271480-D

**Title:** SHOOTING INCIDENT
DETROIT DIVISION
12/22/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/22/2009, involving Special Agent (SA) [redacted] of the Detroit Division. During the apprehension of a subject who escaped custody while in the Flint, Michigan Resident Agency (FRA), SA [redacted] fired five rounds from his Bureau-issued Colt, model M4A1 rifle, killing the subject. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**Administrative:** Reference report of Inspector Joseph S. Campbell, dated 12/22/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

In December 2009, a member of the Genesee County Safe Streets Task Force (GCSSTF) briefed FRA Supervisory Senior Resident Agent (SSRA) [redacted] on the status of a [redacted] investigation. According to Task Force Officer (TFO) [redacted] enough probable cause existed to arrest Kenneth Mose-Alce Muse III for the state criminal charge of [redacted] b6 b7A b7C

UNCLASSIFIED

On 12/21/2009, TFOs [redacted], and [redacted] verbally discussed an arrest plan to apprehend Muse. After running various database checks, the TFOs began surveillance of Muse's last known address in Flint. TFO [redacted] also contacted Parole Agent (PA) [redacted] of the Flint Parole Office. In order to arrest Muse in a relatively secure and safe location, TFO [redacted] requested that PA [redacted] telephonically contact Muse to schedule a ruse parole meeting for the morning of 12/22/2009, at the Flint Parole Office. TFO [redacted] subsequently briefed SSRA [redacted] about the arrest plan. b6 b7C

On 12/21/2009, TFO [redacted] obtained a search warrant for Muse's last known residence and drafted a state criminal arrest affidavit to obtain an arrest warrant for Muse which was to be issued the following morning. On 12/22/2009, while waiting for the judge, TFO [redacted] coordinated Muse's planned appearance at the parole office with TFOs [redacted] and [redacted]. TFO [redacted] instructed them to arrest Muse on probable cause if he arrived at the parole office prior to the issuance of the arrest warrant. b6 b7C

A short time later, PA [redacted] telephoned TFO [redacted] and informed him Muse had arrived 15 minutes early and was accompanied by his mother and girlfriend. TFOs [redacted] and [redacted] observed Muse's arrival, entered the parole office, arrested him, and transported him to the FRA while TFO [redacted] obtained the arrest warrant.

Upon arrival at the FRA, Muse was escorted and placed in the polygraph/processing room by TFO [redacted]. The subject was placed in a chair with one wrist handcuffed to a wall mounted restraint bar and his opposite wrist unsecured. TFO [redacted] remained in the room with Muse and awaited TFO [redacted] arrival. b6 b7C

At approximately 11:00 a.m., TFO [redacted] arrived at the FRA with the authorized arrest warrant for Muse and SSRA [redacted] departed for an unrelated meeting. TFOs [redacted] and [redacted] escorted Muse from the polygraph/processing room to a small interview/conference room for interrogation. Muse stated he did not want to go back to prison and although [redacted] b7A

Muse's mother and girlfriend arrived at the FRA to obtain information on Muse. A short time later, Muse's long-time associate, [redacted] arrived. TFO [redacted] met with the subject's mother and girlfriend and escorted them to the room where Muse had been interrogated. In the presence of TFOs [redacted] and [redacted] they were permitted to speak to Muse. Following a brief conversation, the subject's girlfriend was escorted back to the b6 b7C

lobby. TFO [redacted] escorted Muse from the interview room back to the polygraph/processing room, placed him in a chair, and secured and handcuffed one of his wrists to the wall mounted restraint bar. TFO [redacted], the last official responsible for securing Muse, exited the room leaving him unattended.

At that point, TFOs [redacted] and [redacted] interviewed [redacted] who stated she was familiar with [redacted] and advised she [redacted] declared she knew nothing [redacted] when he arrived at her residence [redacted] TFO [redacted] finished his line of questioning and exited the room leaving [redacted] and TFO [redacted] in the interview room. b6 b7A b7C

Although handcuffed and restrained by one wrist to the wall mounted restraint bar, Muse was able to slip his wrist from the handcuff and free himself. Muse exited the security door leading to the RA lobby, met his girlfriend, and they proceeded to the RA parking lot.

At approximately 12:40 p.m., TFO [redacted] looked inside the room where Muse had been restrained and saw he was gone. TFO [redacted] immediately checked the adjoining areas and telephonically contacted TFO [redacted] to advise of Muse's escape. After determining the Chevrolet Avalanche belonging to Muse's mother was not in the parking lot, TFO [redacted] radioed police dispatch and placed a lookout for the vehicle. b6 b7C

SA [redacted] entered the FRA breakroom and requested that SSRA [redacted] meet him in the hallway to discuss the situation. After learning of Muse's escape, SSRA [redacted] advised Principal Relief Supervisor [redacted] and SA [redacted] of the situation. SSRA [redacted] also advised he had to leave the RA for a scheduled appointment in the Detroit office. TFO [redacted] also advised SSRA [redacted] of Muse's escape and was told to, "find Muse and inform of his capture!" SSRA [redacted] indicated he would, "take care of the FBI side." At that time, SSRA [redacted] did not notify the ASAC or SAC of the escape. b6 b7C

TFOs [redacted] and [redacted] and SA [redacted] prepared for the prior planned search warrant at Muse's last known residence. It was anticipated Muse may have stopped at the residence following his escape. A verbal operations plan was developed for the potential search and apprehension of Muse at his residence.

Upon their arrival, TFOs [redacted] and [redacted] knocked and announced the presence of law enforcement. Inside the residence were [redacted] an unidentified female, and the female's infant. TFOs and Agents secured the perimeter of the residence and conducted a search. Three firearms were found and confiscated; however, Muse was not located.

At approximately 2:00 p.m., SA [redacted] and TFOs [redacted] and [redacted] observed the black colored Chevrolet Avalanche being driven in the vicinity of Winona Street. SA [redacted] called SA [redacted] requesting his assistance and attempts were made to locate a marked police vehicle to find and stop the subject vehicle. Before the marked police vehicle arrived, the Avalanche pulled into a driveway and stopped. The three occupants of the vehicle were called out into the street. After interviews of the occupants were completed, two were taken to another location while the third, who claimed to have knowledge of Muse's location, stayed with TFO [redacted]

TFO [redacted] informed TFO [redacted] the confidential source recently observed Muse at the Vincent Court Apartments in Flint. Although no specific apartment was identified, a general description of the building was relayed. SAs [redacted] and [redacted] as well as TFO [redacted] departed the FRA enroute to the apartments. Additionally, SAs [redacted] and [redacted] along with TFO [redacted] proceeded to the apartment complex.

Efforts were coordinated to surround the perimeter of the apartments with additional uniformed law enforcement personnel. SAs [redacted] and [redacted], as well as TFOs [redacted] and [redacted] initially set up surveillance outside the gate of the apartments. The complex consisted of three separate building structures, each containing multiple townhouse style floor plans.

Based on the initial description of the apartment provided by TFO [redacted] it was believed that Muse may have been secluded in the south building structure. When the marked OGCS patrol vehicles arrived in the vicinity, SAs [redacted], and [redacted] advanced forward into the complex concealing themselves behind a metal garbage dumpster. SA [redacted] and TFO [redacted] set up a rear perimeter around the side and rear of the south building structure while TFO [redacted] remained on the street just outside the complex.

TFO [redacted] arrived at the complex with the confidential source who identified the specific location where Muse was last observed. TFO [redacted] relocated the source at an undisclosed

b6
b7C

b6
b7C

b6
b7C

location, returned to the scene, and parked in front of the complex.

Genesee County Assistant Prosecuting Attorney (APA) [redacted] overheard the radio traffic and telephone calls and observed text/email messages on TFO [redacted] Blackberry device. Based on the information at hand, combined with the historical information from the 2004 Bradley robbery/homicide, Muse's recent escape, and the recovery of firearms, APA [redacted] immediately authorized an exigent circumstances entry of the location to apprehend Muse.

b6
b7C

Shortly after 2:30 p.m., TFO [redacted] exited his vehicle and without stopping or communicating, walked past all law enforcement personnel set up at the adjacent south building structure and proceeded to the east building structure. Displaying only his agency badge, TFO [redacted] knocked on the door of [redacted] SAs [redacted] and [redacted] followed by other law enforcement personnel, left their concealed positions to assist TFO [redacted] SA [redacted] and TFO [redacted] moved to cover the rear of the east building structure.

After TFO [redacted] knocked on the apartment door, a juvenile African American female opened the door. TFO [redacted] identified himself and asked if Muse was inside the apartment. After replying negatively, the juvenile indicated [redacted] (Muse) was upstairs by pointing in that direction. TFO [redacted] followed by SAs [redacted] and [redacted] along with OGCS Deputies [redacted] and [redacted] entered the apartment after being permitted entry by the juvenile. After a short interview with the juvenile, the law enforcement team moved forward to conduct a safety check of the residence.

b6
b7C

SAs [redacted] and [redacted] moved along the wall on the main floor toward the kitchen area, clearing the dining room/kitchen area. As the main floor was being cleared, TFO [redacted] SA [redacted] Deputy [redacted] and Deputy [redacted] ascended the stairway toward the upstairs level accompanied by the juvenile. Team members announced, "Sheriff's Office" and "Police" on multiple occasions while calling out Muse's name. As SA [redacted] entered one bedroom, he was met by a female, later identified as [redacted] who was escorted to another room with the juvenile. Observing the subject in a crouched position behind one of the beds, SA [redacted] directed Muse to show his hands. Ignoring law enforcement commands, Muse aggressively lunged toward SA [redacted] and attempted to grab his rifle. As SA [redacted] and Muse began to scuffle, SA [redacted] fell to the floor with Muse on top of him. Perceiving an imminent threat of death or serious bodily harm, SA [redacted] fired five rounds striking Muse. TFO [redacted] heard the

b6
b7C

commotion and ran to assist SA [redacted] firing two rounds from his pistol. One round struck Muse in the back of the head and the second round struck SA [redacted] in the foot.

Due to the absence of emergency medical services at the scene, SAs [redacted] and [redacted] were driven to a hospital in a patrol vehicle. An OGCS Deputy/Paramedic, who had assisted with providing perimeter support during the arrest, determined Muse was not breathing. She telephoned a Hurley Medical Center Emergency Room physician to advise of her assessment. The doctor concurred and pronounced Muse deceased. b6 b7C

SA [redacted] recovered from his injury.

Immediately following the shooting, SA [redacted] attempted to telephone SSRA [redacted] to advise of the incident. The call failed and SA [redacted] telephonically contacted SA [redacted] at the FRA who contacted SSRA [redacted] at the Detroit Field Office and informed him of the incident. SSRA [redacted] personally contacted Special Agent in Charge (SAC) Andrew G. Arena and Assistant Special Agents in Charge (ASACs) [redacted] and [redacted] to advise of the incident. b6 b7C

On 12/22/2010,Genesee County Prosecutor [redacted] advised his office would not authorize criminal charges against Special Agent [redacted] for his actions in this incident. On 11/22/2010, Deputy Chief [redacted] Criminal Section, U.S. Department of Justice (USDOJ), recommended the matter be closed due to insufficient evidence to support a prosecution under the criminal civil rights statutes.

On 08/09/2011, the SIRG met to discuss the above-captioned shooting incident. Acting Assistant Director Jennifer Smith Love, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Kenneth L. Moore, Chief Inspector, Office of Inspections (OI), INSD; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Criminal Threat Section, Criminal Investigative Division; SC Robert Allan Jones, CD-2, Counterintelligence Division; Acting Unit Chief (UC) [redacted] Defensive Systems Unit, Training Division (TD); Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); Acting UC [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors April D. b6 b7C

Brooks, Joseph S. Campbell, Deirdre L. Pike, and Stephen E. Richardson, OI, INSD; Special Assistant [redacted] INSD; UC [redacted] Strategic Analysis Section (SAS); Inspection Management Unit (IMU), INSD; SSA [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU, INSD; and [redacted] SAS, IMU, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Subsequent to an overview of the incident provided by Inspector Campbell, SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

SIRG members unanimously adopted the following observations and recommendations of the Shooting Incident Review Team:

**OBSERVATION #1:** Subject Kenneth Moses-Alice Muse III, while in custody, was left unattended in the FRA.

After Muse was interviewed by TFOs [redacted] and [redacted] he was escorted back to the polygraph/processing room. While in the polygraph/processing room, TFO [redacted] placed Muse in a chair, and with a set of handcuffs, secured and handcuffed one of Muse's wrists to a wall mounted restraint bar; Muse's opposite wrist remained unsecured. TFO [redacted] then left the room leaving Muse unattended. b6 b7C

Standard law enforcement practice indicates law enforcement officers are responsible for the welfare and condition of any prisoner brought into a temporary holding facility (the supervision, welfare, and security of that prisoner) until turned over to another law enforcement official, detention facility, or released. Prisoners, while present in an

unmonitored temporary holding facility, should not be left unattended. Law enforcement officers, while in such a facility, must maintain close guard over prisoners at all times. Additionally, handcuffs are only a temporary restraining device and should not be intended for long term immobilization. Law enforcement officers should still remain vigilant over such temporarily restrained prisoners as a prisoner could cause injury to themselves in an attempt to defeat the restraining device or escape. Though immobilized, a prisoner should continue to be evaluated as a threat to the safety of themselves, the law enforcement official, or to the public at large.

**RECOMMENDATION #1:** That SAC, Detroit ensure all law enforcement personnel (Agents and Task Force Officers) are aware of the necessity to safeguard persons in temporary custody as a deterrent to injury or an escape attempt.

**OBSERVATION #2:** Prior to the arrest of Kenneth Moses-Alce Muse III, a verbal Operations Plan did not exist.

Prior to the entry of the 1222 Vincent Court Apartment, FRA and GCSSTF personnel did not develop an oral operations plan understood by appropriate law enforcement participants. According to MIOG, Part II, Section 11-1.1, "Certain situations may necessitate an oral briefing in lieu of the written plan in exigent circumstances. Any oral briefing should follow the requirements of written briefings by addressing five categories, specifically, Situation, Mission, Execution, Administration and Equipment, and Control and Communications."

By properly planning and preparing for arrest situations, the safety and effectiveness of Agents and officers can be enhanced during high-risk situations. Understanding that in this exigent circumstance a written plan would have been problematic, efforts should have been made to organize law enforcement participants and develop an oral plan to encourage safe and coordinated law enforcement activity. Activities that may result in the arrest of a potentially dangerous subject (as defined in MIOG) include: service of an arrest warrant; service of a search warrant at an occupied residence or building; and vehicle stops and surveillances conducted with the intent or reasonable likelihood of a resulting arrest of a dangerous subject.

**INSTRUCTION #2:** That SAC, Detroit ensure all FRA and GCSSTF sworn law enforcement personnel comply with the above MIOG requirement.

**OBSERVATION #3:** The FRA failed to establish and maintain leadership responsibility following the escape of Kenneth Moses-Alce Muse III, from the FRA.

When a subject in custody escapes from an FBI maintained facility, an increased risk of harm to the public and additional criminal activity is created. This necessitates expedient action by law enforcement to quickly resolve this matter. To ensure the most effective execution of this action, FBI leadership must engage and take control of the situation. This control should include directing organized interagency efforts and communication with partner agency command personnel to ensure a coordinated, safe, and successful outcome.

After being informed of a subject in custody escaping from an FBI maintained facility, the FRA SSRA opted to travel to Headquarters City to obtain evidence to be returned to the FRA, a matter of less importance which could have been rescheduled. When a dangerous assignment arises in which the practical application of firearms might be reasonably anticipated, the supervising official should take personal responsibility. The supervisor or his/her designated representative must assume leadership in such incidents where liaison and multi-agency coordination may be necessary. Additionally, the supervisor should oversee the planning and conduct of the operation at hand, as it is his/her responsibility to ensure all participants are aware of their roles and adhering to agency policy and procedure.

**RECOMMENDATION #3:** That SAC, Detroit Field Office, ensure supervisory personnel are aware of their leadership responsibilities during a crisis incident.

**OBSERVATION #4:** Upon the escape of a prisoner from an FBI maintained facility, Executive Management overseeing the facility was not appropriately notified of the incident.

With the exception of the Flint SSRA, notification to Detroit Field Office Executive Management (EM) as it pertained to an escaped prisoner from an FBI maintained facility was not communicated. It was not until after the shooting incident occurred that information relating to the initial escape was briefed to EM. As a result, coordinating efforts between jurisdictional law enforcement agencies occurred only after the shooting incident.

**RECOMMENDATION #4:** That SAC, Detroit ensure appropriate notifications are made to EM following the escape of prisoners from FBI space or personnel.

**OBSERVATION #5:** Upon being permitted entry, Agents and law enforcement officers failed to restrict movement and control of a non-law enforcement individual, thus jeopardizing the safety of those present; both officers and individuals.

As law enforcement officers announced their presence at the residence, a juvenile female was initially encountered. The juvenile indicated the subject was located in the upstairs area of the residence. After a brief interview and being permitted entry inside the residence, Agents and officers began to conduct a "safety clear" of the residence in order to secure the scene for further investigation. The juvenile was permitted to accompany the Agents and officers to the upstairs level. When Agents and officers encountered the suspect, an altercation quickly ensued which was followed by gunshots. As a result, the suspect in this matter was mortally wounded, and one Agent sustained injury. By being permitted to accompany the law enforcement team to the upstairs level, the juvenile was placed in a position of potential danger and/or capable of interfering in tactical law enforcement action.

Restricting the movement of non-law enforcement personnel for safety purposes and when tactical action is a possibility is an important function of responding Agent(s)/officer(s). Additionally, restricting the movement of non-law enforcement personnel is essential to maintaining crime scene integrity, officer safety, safeguarding evidence, and minimizing contamination.

**RECOMMENDATION #5:** That SAC, Detroit ensure Special Agents and Task Force Officers are aware of the necessity of securing and controlling non-law enforcement personnel for safety purposes and when tactical action is a possibility.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his use of deadly force in this shooting incident.

b6
b7C

1 - Mr. Joyce, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted] USDOJ
1 - [redacted] USDOJ
1 - [redacted] Room 3246
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Quantico
(Attention: [redacted]
1 - [redacted] Laboratory
(Attention: [redacted]
1 - Mr. Jones, Room 9005
1 - [redacted] WFO
1 - [redacted] Room 6387
1 - [redacted] Room 3043
♦♦

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/22/2010

**To:** Director's Office **Attn:** OPR
AD Candice M. Will

Inspection **Attn:** AD Amy Jo Lyons
Internal Investigations
SC Michael Kaste

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Oswald Donald R

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271966-D

**Title:** SHOOTING INCIDENT
TAMPA DIVISION
11/25/2009

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/25/2009, involving Special Agent (SA) [redacted] of the Tampa Division. Prior to participating in firearms training, SA [redacted] accidentally discharged one round from his Glock Model 23, .40 caliber semi-automatic pistol. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 02/02/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 11/25/2009, quarterly firearms training was conducted for the Sarasota, Fort Myers, and Naples, Florida, Resident Agencies (RAs). Due to strong thunderstorms in the area, SA [redacted] arrived at the training facility after qualifications began and proceeded to a covered staging area located to the rear of the 50 yard line firing point. As he arrived at the staging area, other Agents were located at the ten or five yard line.

In preparation for his first Pistol Qualification Course (PQC), SA [redacted] left the covered staging area, faced away from the shooters on the firing line, and drew his pistol to practice sight acquisition. While looking through his sights, SA [redacted] pressed the trigger of his pistol causing one round to discharge. SA [redacted] stated his weapon was pointed at an angle toward the ground; however, the expended round could not be located.

No personal injury nor property damage was identified as a result of SA [redacted] accidental discharge.

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Donald E. Oswald, Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training in regard to this shooting incident. b6 b7C

The only observation made by SIRG members pertained to SA [redacted] who upon arriving late to a firearms training event, drew and manipulated a weapon from behind the firing line while other participants were shooting downrange from his position. SIRG members emphasized the fact that firearms instructors have control of the range and any manipulation of firearms within the training facility. This matter will be discussed with the Tampa Division Special Agent in Charge.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That SA [redacted] be censured and suspended from duty for a period of three days in regard to this shooting incident. Additionally, the SIRG has instructed the SAC of the Tampa Division to ensure SA [redacted] receives remedial firearms training regarding proper handling of firearms and to properly document this training.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, review the recommendation and adjudicate this incident accordingly.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Ms. Caproni, Room 7427
1 - [redacted], USDOJ
1 - [redacted] USDOJ
1 - Mr. Johnson, Room 3280
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Quantico
1 - [redacted] Laboratory
1 - [redacted] WFO
1 - [redacted], Room 6387
1 - [redacted] Room 3043

♦♦

# 2010

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/24/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1838

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

b6
b7C

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271954-D

**Title:** SHOOTING INCIDENT
SPRINGFIELD DIVISION
02/02/2010

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/02/2010, involving Special Agent (SA) [redacted] of the Springfield Division. While attempting to locate two fleeing subjects, SA [redacted] and Illinois State Police (ISP) Sergeant (Sgt.) [redacted] encountered an armed subject at the door of a residence. Fearing for their safety, SA [redacted] and Sgt. [redacted] fired three rounds each from their Glock Model 22 pistols, injuring the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 05/14/2010.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

While working with local law enforcement authorities in Operation WAVE (Working Against Violent Elements), Agents from the Fairview Heights Resident Agency (FHRA) were conducting investigations into gang/drug related activity in East St. Louis, Illinois.

On 02/02/2010, Federal, state, and local law enforcement personnel attempted to interview four individuals located inside a vehicle in the vicinity of a reported open air drug market. The four individuals fled the scene and were subsequently stopped several blocks away. Two of the subjects were detained by local authorities and two fled the scene on foot.

Investigation determined a nearby residence was connected with the subjects. Three State Troopers along with FBI SA [redacted] proceeded to the identified residence to conduct further investigation. SA [redacted] and Sgt. [redacted] approached the front door of the residence while two state troopers proceeded to the rear of the house. As SA [redacted] and Sgt. [redacted] knocked and announced their presence a subject, later identified as [redacted] appeared inside the front door. Law enforcement personnel repeatedly announced "Police" and ordered the subject to show both hands. [redacted] refused to comply with law enforcement commands and was observed holding a black semi-automatic pistol in his right hand.

Believing their lives were in danger as [redacted] raised his pistol toward them, SA [redacted] and Sgt. [redacted] fired multiple rounds, injuring the subject.

Emergency Medical Services were notified and [redacted] was transported to the Kenneth Hall Regional Hospital for treatment of multiple gunshot wounds. Once stabilized, he was transported to the St. Louis University Hospital for surgical procedures. [redacted] was released from the hospital on 02/18/2010, and arrested upon his release. b6 b7C

Captain [redacted] advised the ISP preferred the investigation be adjudicated by the Federal Southern District of Illinois. Captain [redacted] advised it was not necessary to obtain a local prosecutive opinion from the St. Clair County District Attorney. On 03/09/2010, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the action of law enforcement personnel discharging their weapons.

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy.

SIRG members unanimously adopted the following recommendation of the Shooting Incident Review Team: b6 b7C

**RECOMMENDATION**: SAC, Springfield should consider documenting a WAVE initiative Standard Operations Order (SOO) detailing the roles of FBI personnel. The SOO should contain the FBI's Deadly Force Policy and the locations of all trauma centers, including their levels. The SOO should also include guidance regarding mobile arrest scenarios as well as criteria which would trigger the utilization of a Special Weapons and Tactics (SWAT) team. Additionally, it should include criteria regarding ASAC and

SAC notification of initiative operations. All FBI personnel participating in the initiative should be presented with and briefed on the SOO.

This matter will be discussed with the Special Agent in Charge of the Springfield Division.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of their involvement in this shooting incident.

1 - Mr. Murphy, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] Laboratory
1 - Mr [redacted] WFO
1 - Ms [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/13/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

**Drafted By:** [redacted] irr

b6
b7C

**Case ID #:** 297-HQ-A1271966-D

**Title:** SHOOTING INCIDENT
TAMPA DIVISION
05/19/2010

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/19/2010, involving Special Agent (SA) [redacted] of the Tampa Division. During a confrontation with an armed and noncompliant subject, SA [redacted] fired two rounds from his Bureau-issued M-4 rifle, killing the subject. SIRG members unanimously recommended that no administrative action be taken against SA [redacted] as a result of his use of deadly force during this incident.

**Administrative:** Reference report of Inspector [redacted] dated 07/30/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

b2
b7E

SA [redacted]

b6
b7C

[redacted]

UNCLASSIFIED

On 05/19/2010, he was traveling with SSA [redacted] a Washington Field Office supervisor who was attending a training conference on the base. SA [redacted] and SSA [redacted] were departing the AFB in SA [redacted] Bureau vehicle. As they approached the Dale Mabry Gate, AFB Security Forces (SF) initiated "lock down" procedures resulting in the closure of all entries and exits to the base. SA [redacted] drove around stopped traffic near the guard house, identified himself and SSA [redacted] as FBI Agents, and asked if assistance was needed. A SF officer advised shots had been fired on the base and the subject, later identified as Ronald James Bullock, was on a motorcycle being pursued by other officers toward their location. The officer asked SA [redacted] and SSA [redacted] if they were in possession of long guns. SA [redacted] advised he had a long gun, parked his vehicle, and retrieved his FBI-issued M-4 from the rear storage container of the vehicle. SA [redacted] put on a Special Weapons and Tactics (SWAT) tactical belt and holster which contained his Bureau-issued Glock pistol, three extra magazines, handcuffs, baton, and mace. SSA [redacted] assumed a position of cover next to SA [redacted] vehicle. b6 b7C

Officers continued pursuit of Bullock while SA [redacted] and SSA [redacted] assumed positions of cover. As Bullock struck a perimeter barrier cable with his motorcycle, seven officers engaged in the pursuit exited their vehicles and assumed positions behind him. Bullock crossed the barrier cable, produced a knife, and threatened SF personnel. He proceeded in the direction of SF officers and SA [redacted] As Bullock advanced, officers verbally directed him to drop the knife and get on the ground. Bullock continued his approach, making threatening gestures with the knife as he shouted "kill me, just kill me." SA [redacted] yelled, "FBI, drop the knife, drop the knife." Failing to obey all law enforcement commands, Bullock briskly moved toward SA [redacted] As he moved within three to four feet of SA [redacted] and continued to make threatening movements with his knife, SA [redacted] feared for his life and fired two rounds from his M-4 striking Bullock in the chest. b6 b7C

Immediately following the shooting, two SF officers approached Bullock who was face down on the ground. Bullock struggled with the officers as they attempted to remove the knife from his hand and apply handcuffs. After a short struggle, the knife was removed from Bullock's hand and he was handcuffed with his hands behind his back. One officer rolled Bullock onto his back and checked for a pulse with negative results. SF personnel began cardiopulmonary resuscitation until Emergency Medical Service personnel arrived and determined Bullock was deceased.

On 11/04/2010, the Hillsborough County State Attorney opined SA [redacted] actions did not violate Florida state statutes and declined prosecution in this matter. On 08/18/2010, the United States Department of Justice, Civil Rights Division, advised no federal criminal investigation was warranted regarding the actions of SA [redacted] during this incident.

On 12/07/2010, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted] Office of Inspections (OI), Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted], Practical Applications Unit, TD; and SSA [redacted] CR-2, Washington Field Office. Inspectors [redacted] and [redacted] attended to present the Kansas City and Detroit shootings to board members. The following non-voting members were also in attendance: Inspector [redacted] OI, INSD; SSA [redacted] ERTU, LD; SSA [redacted] Legal Instruction Unit, OGC; UC [redacted], Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; UC [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU; [redacted] Special Advisor, INSD; [redacted] SAS, IMU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Chief Inspector [redacted] provided a brief overview of the incident to SIRG members.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his use of deadly force in this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his use of deadly force in this shooting incident.

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3280
(Attention: Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/10/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

b2
b6
b7C

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
06/16/2010

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/16/2010, involving Special Agent (SA) [redacted] of the New York Field Office. During the execution of an arrest warrant, SA [redacted] fired three rounds from his Colt Model M4, .223 caliber carbine, killing an attacking pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 07/26/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 06/16/2010, members of the New York Special Weapons and Tactics (SWAT) Team executed an arrest warrant in Jamaica, New York. SWAT operators [redacted] and [redacted] were assigned to the rear perimeter of the residence. SAs [redacted] and [redacted] placed two ladders against a large opaque fence located at

the rear of the property which was approximately six feet tall with overgrown vegetation covering the entire fence.

At approximately 4:44 a.m., the house was breached and flashbangs were deployed inside the residence and the back yard due to the presence of a dog pen containing pit bull dogs as well as additional loose dogs in the yard. As the flashbangs were deployed in the yard, a large pit bull jumped on the dog house and attempted to jump the fence to attack SA [redacted]. The charging dog forced SA [redacted] to jump off of his ladder to avoid injury. Fearing for SA [redacted] safety, SA [redacted] fired three rounds killing the dog.

On 12/07/2010, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted] Office of Inspections (OI), Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted], Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted], Practical Applications Unit, TD; and SSA [redacted] CR-2, Washington Field Office. Inspectors [redacted] and [redacted] attended to present the Kansas City and Detroit shootings to board members. The following non-voting members were also in attendance: Inspector [redacted] OI, INSD; SSA [redacted] ERTU, LD; SSA [redacted], Legal Instruction Unit, OGC; UC [redacted] Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; UC [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU; [redacted], Special Advisor, INSD; [redacted] SAS, IMU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 12/10/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3280
(Attention: Mr [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: San Francisco
Date: DECEMBER 28, 2009

Case ID #: 297-HQ-A1271741-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
LOS ANGELES FIELD OFFICE
NOVEMBER 18, 2009

Character: ADMINISTRATIVE INQUIRY

b6
b7C

Synopsis: Special Agent (SA) [redacted] was at his home in Yorba Linda, California, at 2:00 a.m. on November 18, 2009, preparing to depart for a SWAT operation. SA [redacted] placed two gear bags, one of which contained his FBI credentials and his Bureau issued Springfield SWAT pistol, along with a cooler in his garage, then partially opened the roll-up garage door to exit the garage on foot and retrieve his drug detection trained canine from the backyard. As he neared his backyard, SA [redacted] observed a pickup truck, with at least two individuals in it, U-turn at the cul-de-sac adjacent to his home and drive back past his home. SA [redacted] returned to his garage a minute or two later and encountered three white males in his garage. SA [redacted] drew his Bureau approved, personally owned, Sig Sauer P229, .40 caliber pistol and confronted the subjects. SA [redacted] became involved in a physical altercation with one of the subjects as the other two ran from the garage. SA [redacted] subsequently chased the third subject from the garage to a pickup truck, where the other two were waiting. SA [redacted] attempted to stop the subjects from departing by reaching into the truck to remove the keys from the ignition. However, the driver put the truck into gear and steered into SA [redacted] while accelerating. SA [redacted] feared he would be killed or seriously injured, so he fired six rounds in rapid succession, hitting the rear window once, the tailgate three times, and both right tires before he determined the threat was no longer imminent. No one was injured by the shots, but SA [redacted] sustained minor injuries during the struggle.

**DETAILS:**

Special Agent (SA) [redacted] entered on duty on May 23, 1999. He was assigned to the Washington Field Office (WFO) after completing New Agents Training at Quantico, Virginia. While assigned to WFO, he served on an applicant squad, a violent gang squad, and a fugitive task force. SA [redacted] joined the WFO SWAT Team as an operator in April 2002. He transferred to the Los Angeles Field

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Office in November 2003 and was assigned to work violent gang investigations. He was assigned to Squad 3 in the West Covina Resident Agency and served as the Violent Gang and Safe Streets Task Force coordinator. Since approximately February 2006, SA [redacted] has been a SWAT operator in the Los Angeles Field Office. In addition to SWAT training, SA [redacted] has received Safe Streets and a variety of other training related to tactics and violent crime. SA [redacted] has extensive investigative and arrest experience.

On November 17, 2009, SA [redacted] participated in early morning SWAT operations with the Los Angeles Field Office SWAT Team. On November 18, 2009, SA [redacted] was again scheduled to participate in SWAT operations which required his presence at a 3:30 a.m. briefing. Therefore, SA [redacted] went to bed in his home at [redacted] Yorba Linda, California, at 6:30 p.m. (Pacific Standard Time) on November 17, 2009. He slept soundly until he awakened at 1:15 a.m. on November 18, 2009. SA [redacted] got ready for work and began to depart the residence at 2:00 a.m. SA [redacted] was wearing green military-style cargo pants and a green jacket. He was not wearing anything that would identify him as an FBI Agent. However, he was wearing an in-the-pants holster holding a Bureau approved, personally owned, Sig Sauer P229, .40 caliber pistol, on the right side of his waist. The pistol, which holds 12 rounds in the magazine and one in the chamber, was fully loaded with Bureau issued ammunition.

b6
b7C

SA [redacted] exited through his kitchen into the attached, two car, garage. The kitchen door enters the garage through the east corner. The roll-up, two car garage door is on the northwest wall and there is a window on the southwest wall. SA [redacted] wife's sport utility vehicle, a silver Acura MDX, was parked in the garage, nose pointed in, on the left side, along the northeast wall. The right parking space was not occupied by a vehicle. Once in the garage, SA [redacted] placed a cooler, a backpack, and a "Blackhawk" gear bag on an exercise mat, which was on the floor on the right or southwest side of his garage. The backpack was unzipped and contained, among other items, SA [redacted] FBI credentials and his FBI issued Springfield Arms, model 1911, .45 caliber pistol. The pistol was fully loaded and in a holster on the top of the backpack. SA [redacted] made one more trip into the house to retrieve his keys, then returned to the garage to complete his departure.

SA [redacted] partially opened the roll-up garage door by using his automatic garage door opener. SA [redacted] stopped the door from raising when the door was approximately three to four feet above ground level. The interior garage door light was illuminated and there was also an exterior floodlight illuminated. SA [redacted] ducked under the partially opened door to retrieve his narcotic detection trained canine, which was housed in the backyard, before loading his gear into his Bureau vehicle. SA [redacted] residence is the last home on the southeast side of the street, and there is a cul-de-sac just west of his residence. There are no houses situated directly on the cul-de-sac. SA [redacted] walked alongside the south side of his home as he walked east to the backyard. As he neared the southeast corner of the residence, he observed a light colored Ford F-150 pickup truck drive down the street and U-turn at the cul-de-sac. The truck continued back in a northeast direction, past SA [redacted] residence and out of his view. SA [redacted] observed a white male in the front passenger seat and the driver also appeared to be a white male. SA [redacted] stopped and watched the vehicle for about five seconds because his neighbor had been burglarized. SA [redacted] did not believe the occupants of the truck could have seen him. SA [redacted] continued into the backyard, opened a gate, and retrieved his canine from a temporary holding pen, situated just inside the gate. He attached a leash to the canine and brought her into the front yard by the partially opened garage door. Although the canine was not barking, she was excited and there was some noise made by the metal rings that attach her leash to her collar.

b6
b7C

As he approached the south end of his partially opened garage door, he heard an unknown male voice coming from within. The only other occupants of the residence were SA [redacted] wife and his [redacted] SA [redacted] knelt down and looked into the garage, seeing a pair of legs standing in the garage just a few feet from the roll-up door. SA [redacted] drew his Sig Sauer pistol and ducked back into the garage. SA [redacted] found himself standing arms length from a white male, hereafter referred to as Subject #1. SA [redacted] held his pistol in his right hand, but retracted and close to his shoulder, and he extended his left hand in a defensive position for protection. SA [redacted] identified himself and issued a command of "police, don't move." SA [redacted] repeated the command and then noticed another subject, hereafter referred to as Subject #2, standing on the exercise mat next to his backpack that held his Springfield pistol and his FBI credentials. Subject #2 was looking down at the backpack and his body was facing northeast toward the Acura. Due to the positioning of Subject #2, SA [redacted] feared that Subject #2 may have taken his Springfield pistol. SA [redacted] continued to order the two subjects to get down, repeatedly identifying himself as the police. Both subjects froze, but neither obeyed his commands to get down.

SA [redacted] continued to issue similar commands to both subjects, when he observed a third subject, hereafter referred to as Subject #3. Subject #3 was standing on the step that leads from the garage into the kitchen. Subject #3 was looking at SA [redacted] and the kitchen door was ajar. SA [redacted] could not be sure if he left the door ajar, or whether Subject #3 had opened the door. SA [redacted] then began addressing his commands to all three subjects. SA [redacted] was concerned for his wife and [redacted] who were in the house, and he feared that the subjects, who clearly outnumbered him, may have possession of his Springfield pistol. SA [redacted] did not see the pistol in their hands and did not know for sure if they had taken the pistol.

b6
b7C

Subject #3 then ran along the north wall, on the other side of the Acura and toward the roll-up door, which was still partially opened. SA [redacted] feared that Subject #3 was moving into a tactical position, and he also observed that Subjects #1 and #2 started approaching him. Subject #2 then moved toward the garage door while Subject #1 rushed and attacked SA [redacted] SA [redacted] continued to hold his pistol in his right hand in a retracted position, and he grabbed Subject #1 by the hair and began pushing him back and down with his left hand. SA [redacted] did not fire his weapon, but tried to maintain awareness of all three subjects while he moved into a defensive position, and pushed Subject #1 to the ground. Subject #1 grabbed SA [redacted] around the waist, in a bear hug, as SA [redacted] struggled to push him away. SA [redacted] recalled that the struggle knocked things over in the garage. Subject #1 then "bucked up" and began swinging at SA [redacted] SA [redacted] did not recall getting hit, but later realized that he had a bump and some swelling on his forehead. Subject #1 grabbed the right sleeve of SA [redacted] jacket, near his forearm, while SA [redacted] continued to hold his pistol with his right hand. At that point, SA [redacted] began swinging at the head of Subject #1 with his left fist, possibly hitting Subject #1 in the head. SA [redacted] did not fire at the subject because he feared that Subject #1 was so close that the round could hit both of them. SA [redacted] was able to push Subject #1 away and issue further commands of "police, get down" or something similar. Subject #1 then ran from the garage. This struggle lasted approximately 10-15 seconds.

b6
b7C

SA [redacted] conducted a quick scan of the garage for other subjects, then began to pursue the subjects, fearing that they may have his Bureau-issued Springfield pistol. He pursued Subject #1, who was only about 15 yards in front of him, but was running north at a full sprint in front of SA [redacted] house. Subject #1 was running toward the Ford F-150 pickup truck that SA [redacted] had observed earlier. The truck was parked on the south side of the street approximately 3-4 houses northeast of SA [redacted] residence. Subject #1 opened the driver's door and got in,

then closed the door as SA [redacted] was at the left rear of the truck. As SA [redacted] arrived at the driver's door, he observed that the driver's window was rolled down about half way. SA [redacted] stood by the left front quarter panel, facing the driver, as the mirror pressed into his left side lower back. Subject #1 attempted to roll the window up, as SA [redacted] reached in and held the window open with his left hand. SA [redacted] continued to hold his pistol in his right hand and in a retracted position by his right shoulder. SA [redacted] ordered the subjects to get out of the truck and continued to identify himself as the police. SA [redacted] commands were issued forcefully and probably included some obscenities. SA [redacted] observed three white males in the truck, with two in the front seats and one in the right rear seat of the extended cab.

b6
b7C

SA [redacted] realized the truck was running, so he reached in with his left hand and attempted to remove the keys from the ignition. SA [redacted] was pressed tight against the truck, with his left hand over the steering column. SA [redacted] continued to order the subjects out of the truck as he tried to remove the keys, and Subject #1 slapped at his arm, while the others were yelling. SA [redacted] heard the engine race and feared that he may be killed if he didn't get the keys out of the ignition. At that point, SA [redacted] was still pressed tightly against the truck, with his left arm inside the truck, almost to his shoulder. SA [redacted] heard the engine race as Subject #1 turned the steering wheel sharply to the left, toward SA [redacted] SA [redacted] heard a bang as the truck's manual transmission was shifted into gear, and he believed Subject #1 was trying to run him down. The truck lurched to the left, pressing against SA [redacted] body, while his left arm was caught within the driver's window. The truck continued moving into SA [redacted] chest, striking his left leg and throwing him off balance. As his face was pressed against the truck and his arm was still inside the window, SA [redacted] made the decision to shoot at the driver because he feared that he was in imminent danger, and going to be killed. SA [redacted] fired six rounds from his Sig Sauer pistol in very quick succession, less than two seconds. Even after his arm was freed from the window his body continued to come into contact with the truck as it accelerated in his direction. The first shots were fired one handed with his right hand, but his left arm was freed from the window and SA [redacted] ended in a standing two handed shooting position. SA [redacted] stopped firing when the truck was five to seven yards away and he realized he was no longer in imminent danger.

SA [redacted] ran back toward his house and tried to call 911 while running, but his cell phone would not work. He checked the garage to ensure there were no other subjects present. SA [redacted] checked to see if his Springfield pistol was missing, and found that it was still in the backpack in his garage. He then asked his wife to call 911, but subsequently called himself when he realized that his wife did not know what had happened. After describing the events to the 911 operator, SA [redacted] unloaded his Sig Sauer and placed in on the kitchen counter to comply with a request made by the 911 operator.

b6
b7C

The Brea Police Department (BPD), which contracts with the City of Yorba Linda to provide police services, responded, cordoned off most of the street, and conducted a neighborhood canvass for witnesses. SA [redacted] also provided a short, public safety, statement to the BPD. SA [redacted] advised the first responding officer that he had slight pain in his lower back. SA [redacted] did not believe that anything was missing from his home.

At approximately 6:00 a.m. that same morning, the BPD received a citizen's report of a suspicious vehicle, a truck with possible bullet holes, which was located at [redacted] Yorba Linda, California. The BPD responded and located the vehicle, which was a Ford F-150 pickup truck, California registration [redacted] The truck's rear window was shattered, and there appeared to be three bullet holes in the tailgate and two deflated tires on the

right side of the vehicle. The pickup truck was registered to [redacted] Drive, Yorba Linda, California. The BPD arranged for SA [redacted] to view the vehicle and he identified it as the same vehicle that the subjects had fled in.

[redacted] was contacted by the BPD and advised that her pickup truck had been found on a street in Yorba Linda and it had bullet holes in it. [redacted] advised that her son [redacted] had been out with the pickup truck, but he was upstairs in their home. Subject [redacted] was contacted by the BPD, who informed him of the damage to the truck and asked if he was okay. [redacted] stated that he was okay, then spontaneously stated that he didn't have the key. [redacted] stated that he had been using the pickup truck until 11:30 p.m. on 11/17/2009, but he left it parked on Valley View, near his home. [redacted] claimed that he walked to [redacted] home and stayed there until 5:30 a.m. [redacted] could not explain what happened to the truck key after he parked and locked the truck, but admitted that none if his other keys were missing. [redacted] did admit that he was with [redacted] and [redacted] during the previous evening. [redacted] denied being involved in the burglary/assault, but made a statement which indicated he was aware that the truck had been shot while driving away. [redacted] was subsequently arrested by the BPD and he requested an attorney after being advised of his Miranda Rights. [redacted] is described as a white, male, DOB [redacted], height 5'7", weight 155 pounds.

b6
b7C

[redacted] was interviewed by the BPD and he admitted knowledge of the incident, but denied involvement. [redacted] identified [redacted], and [redacted] as being in the truck that evening. [redacted] had spoken with [redacted] and [redacted] after the incident, and both admitted that they had been shot at, but no one was hurt. When [redacted] asked why someone had shot at them, [redacted] mentioned something about a garage, but could not recall the details of what [redacted] had said. [redacted] made similar statements and advised [redacted] that the tires had been shot out.

[redacted] was contacted by the BPD and FBI and placed under arrest by the BPD. [redacted] originally requested an attorney when contacted, but reconsidered after speaking with his father. He subsequently spoke with the police and FBI at the BPD station. [redacted] admitted that he was in the truck and riding around with [redacted] and [redacted] asked the other three, "you want me to go up on Valley View?" [redacted] understood [redacted] comment as an offer to break into something. The four subsequently drove down a cul-de-sac in Yorba Linda, U-turned at the end of the cul-de-sac, and passed by a partially opened garage door. The garage door was approximately half way up, and the light was on inside the garage. [redacted] pulled over and asked [redacted] if he wanted to hit it. [redacted] advised that he and [redacted] exited the pickup truck, while [redacted] and [redacted] stayed in the truck. [redacted] stated that [redacted] went into the garage, under the door [redacted] saw a dog coming around the corner and a leash, while he stayed at the door. [redacted] saw a guy (SA [redacted]) come around and he had a gun. [redacted] yelled "run" and he began to run toward the truck. [redacted] heard SA [redacted] saying "get on the ground." [redacted] heard SA [redacted] say other things, including "what are you doing, get on the ground."

b6
b7C

[redacted] ran to the truck and got in the passenger side. [redacted] got back in the driver's side door and closed the door; however, the window was down. According to [redacted] once the door was closed, SA [redacted] came up to the driver's door and pointed the gun at [redacted] head, saying "I'm going to fucking kill you! Get out of the fucking truck." [redacted] heard [redacted] tell SA [redacted] "I give up, just don't shoot." [redacted] observed SA [redacted] reach inside the truck, as if he was trying to put the truck in "Park." [redacted] also stated that SA [redacted] was leaping through the door

and had [redacted] in some sort of headlock. [redacted] claimed that [redacted] put up one hand, as if to give up, while he slowly placed the key into the ignition with his other hand. SA [redacted] stated, "I'm going to shoot you if you drive off." [redacted] recalled that SA [redacted] arms were in the vehicle as [redacted] began to drive off, and SA [redacted] was screaming that he was going to kill [redacted] drove off and [redacted] heard 5-7 gunshots, with some striking the truck as he ducked for cover. b6 b7C

[redacted] advised that no one was hurt from the gunshots. However, one bullet struck where [redacted] was sitting and [redacted] felt something, but there were no marks on his person. After leaving the area, they headed toward [redacted] condominium complex, but could start to feel the truck lean to one side. [redacted] surmised that the truck was leaning because the tires had been shot out. [redacted] dropped them all off and said he had to find a place to park the truck.

[redacted] did not get into a physical altercation with SA [redacted] and he did not believe [redacted] did either. [redacted] did not hear SA [redacted] say "Police" during the incident. [redacted] is described as a white, male, DOB [redacted] height 6'0", weight 140 pounds.

[redacted] was also arrested by the BPD and he admitted that [redacted] and he were in the vehicle. [redacted] said he was sleeping in the back of the truck when he awoke and saw "some guy" (SA [redacted] with a gun to [redacted] head, and yelling "get out of the car." [redacted] claimed that he was riding around with the other three, falling in and out of sleep. He recalled ending up in a cul-de-sac, but he fell asleep shortly after getting into the cul-de-sac. When he woke up, SA [redacted] was yelling, "get out of the car, get out of the car, I'm going to kill you, get out of the car!" [redacted] believes that SA [redacted] may have stuck his hand in the truck and struck [redacted] is described as a white, male, DOB [redacted] height 5'8", weight 160 pounds.

Assistant District Attorney (ADA) [redacted] Orange County District Attorney's Office (OCDAO), was initially assigned to handle the home invasion investigation. He believed that another attorney from the OCDAO would be assigned to determine whether SA [redacted] had violated any California state laws when he fired his weapon. On December 11, 2009, ADA [redacted] advised that he was also assigned the task of determining whether SA [redacted] had violated any laws of the State of California. ADA [redacted] advised that, based on a review of the evidence, and absent forensic evidence to the contrary, SA [redacted] would not be charged with any crimes for the shooting incident. ADA [redacted] also stated that [redacted] and [redacted] had been formally charged with burglary and assault and were in custody, even though SA [redacted] was unable to identify either of them. ADA [redacted] advised that both were charged because [redacted] placed himself at the garage and he placed [redacted] in the garage. SA [redacted] fought with one subject in the garage, then chased him to the driver's seat of the truck, and [redacted] also placed [redacted] in the driver's seat of the truck. ADA [redacted] advised that because SA [redacted] could not identify [redacted] and no one placed [redacted] in, or at, the garage, the charges against [redacted] will not be pursued further unless forensic evidence is developed to place [redacted] at SA [redacted] garage. According to [redacted] and [redacted] remained in the truck throughout the incident. [redacted] was interviewed by the BPD, but not arrested. BPD advised that [redacted] was essentially homeless, having been thrown out of his parents' home. [redacted] was using the vehicle as a warm place to get some sleep that evening. b6 b7C

A review of criminal records for the three subjects indicated that there were no records for [redacted] had prior convictions for burglary, receiving stolen property, possession of marijuana, driving under the influence of alcohol or drugs, possession of a controlled substance, and a probation violation. [redacted] was on probation at

the time of the incident and had other arrests for which he was not convicted. [redacted] had no convictions, but had been arrested for burglary. [redacted] had a conviction for possession of burglary tools, although the sentence was vacated.

On January 4, 2010, [redacted] and [redacted] entered guilty pleas felony first-degree residential burglary. They were both sentenced to two years in prison.

b6
b7C

**INSPECTOR'S OBSERVATION:**

Observation: SA [redacted] failed to maintain control of one of his firearms, leaving it in an unattended backpack on the floor of his open garage.

Recommendation: ADIC, Los Angeles, should ensure Special Agent personnel are reminded to maintain control of their firearms at all times.

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/10/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1838

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Galligan Mary E

**Drafted By:** [redacted] llh

**Case ID #:** 297-HQ-A1271466-D

**Title:** SHOOTING INCIDENT
DENVER DIVISION
10/08/2009

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/08/2009, involving Special Agent (SA) [redacted] of the Denver Division. SA [redacted] shot and killed an aggressive skunk while walking his two dogs in a rural area of Wyoming. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 10/14/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On the evening of 10/08/2009, SA [redacted] was walking his two dogs in a rural area of Wyoming. A skunk exhibiting aggressive behavior attacked one of the dogs and then sprayed SA [redacted] and both dogs. After the dog freed itself, the skunk continued its aggressive behavior toward SA [redacted] and his dogs. SA [redacted], who believed the skunk was rabid, fired two rounds from his Bureau issued Glock 22 pistol, killing the skunk. b6 b7C

SA [redacted] transported his dog to a veterinarian for treatment. The veterinarian instructed him to transport the deceased skunk to his office and the test determined the skunk was not rabid.

On 03/03/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love observed while Chief Inspector Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted], Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Supervisory Special Agent (SSA) [redacted], Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted], Evidence Response Team, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted] Office of Inspections (OI), INSD; Management and Program Analyst (MPA) [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; and MPA [redacted] IMU, SAS, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Butler, Room 5845
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 6387
1 - Mrs [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/10/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1838

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Galligan Mary E

**Drafted By:** [redacted] :11h

**Case ID #:** 297-HQ-A1271895-D

b6
b7C

**Title:** SHOOTING INCIDENT
PHILADELPHIA DIVISION
10/16/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/16/2009, involving Special Agents (SAs) [redacted] and [redacted] of the Philadelphia Division. During the execution of a search warrant, SAs [redacted] and [redacted] shot and killed an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 01/06/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

On 10/16/2009, Philadelphia Division SAs and members of the Philadelphia Police Narcotics Field Unit executed a search warrant at a Philadelphia address. At approximately 5:30 p.m., personnel made entry into the house and observed a subject, later identified as [redacted] flee down to the basement area. SA [redacted] and SA [redacted] were the first Agents to enter the house and immediately took a position at the top of the basement stairs. Both Agents yelled commands to the subject to show his hands and surrender himself. An aggressive pit bull charged up the basement stairs toward SAs [redacted] and [redacted]. Fearing for their safety, as well as the safety of other Agents, SA [redacted] fired two rounds from his Colt, M-4 rifle and SA [redacted] fired one or two rounds from his Colt, M-16 rifle, fatally wounding the dog. b6 b7C

On 03/03/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love observed while Chief Inspector Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Supervisory Special Agent (SSA) [redacted], Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors [redacted], [redacted], and [redacted] Office of Inspections (OI), INSD; Management and Program Analyst (MPA) [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; and MPA [redacted] IMU, SAS, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident. b6 b7C

LEAD(s):

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted], as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Butler, Room 5845
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/13/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
Galligan Mary E

**Drafted By:** [redacted]:lrr

b2
b6
b7C

**Case ID #:** 297-HQ-A1271917-D

**Title:** SHOOTING INCIDENT
SAN FRANCISCO DIVISION
11/04/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/04/2009, involving Special Agents (SAs) [redacted] and [redacted] During the execution of search and arrest warrants, SA [redacted] fired two rounds and SA [redacted] fired one round at an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Assistant Special Agent in Charge (ASAC) Thomas P. Ravenelle, dated 12/21/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

In connection with a Mexican Drug Trafficking Organization investigation, San Francisco Agents, along with other Federal and local law enforcement officers, planned to execute search and arrest warrants at two locations on 11/04/2009.

To: Inspection From: Inspection
Re: 297-HQ-A1271917-D, 05/13/2010

On 11/02/2009, Team Leaders conducted joint site surveys of the respective targets and met to discuss a plan to ensure the safety of all participants.

On 11/03/2009, SA [redacted] provided a briefing to Agents assigned to his team and advised a large dog was located on the property.

On 11/04/2009, members of both teams met at the San Leandro Police Department for a final joint briefing, with SA [redacted] providing an overview of the case. After approximately 15 minutes the teams separated and SA [redacted] provided a final briefing for his team, including a review of the FBI Deadly Force Policy. The team's mission was to gain access to the property, conduct a knock and announce, secure the residence, arrest the subject, and conduct a search of the property. To gain access to the property, the team had to get over a four foot tall metal fence with pointed steel tips. SA [redacted] reiterated the fact that a large dog was located on the property and offered local officers a fire extinguisher to scare the dog away, if necessary.

b6
b7C

The local officers decided to gain entry to the yard by placing a ladder over the spiked fence, and at approximately 6:01 a.m., officers led the team over the fence and into the yard. SA [redacted] called out that a large dog was located at the top of the stairs. As team members scaled the fence and stood on the property, the growling and barking dog continued moving down the stairs toward the entry team. Fearing for his safety, as well as the safety of team members, a local detective fired one round from his service weapon striking the dog in the muzzle. The dog stopped its approach and laid down. SA [redacted] provided cover as the team moved past the dog and continued with the entry.

After the team entered the residence, the dog moved under a truck with SA [redacted] continuing to watch to ensure it did not pose a threat to any team members. After the residence was secured, an Animal Control Officer (ACO) was requested to take care of the injured dog. The ACO retrieved a snare pole from her vehicle and requested that the Agents provide protection to her in case the dog tried to attack. A lengthy struggle by the ACO to secure the aggressive dog proved unsuccessful. Fearing for her safety, the ACO requested that Agents shoot the dog. Based on the ACO's request, SA [redacted] visually cleared the area, provided a verbal warning to others, and fired one round from his FBI-issued Glock 22, .40 caliber

pistol, striking the dog in the head. Although not dead, the dog became subdued. At that point, the ACO attempted to get the cable loop around the dog's head, but the dog inserted a paw inside the cable loop. After a second struggle to gain control, the dog again became aggressive and began biting at the ACO's snare pole. At that point, the ACO requested that the Agents shoot the dog in the heart and lungs. SA [redacted] fired one round from his Bureau-issued Glock 22, .40 caliber pistol, hitting the dog's body. The dog continued to advance towards the ACO as she continued to struggle to gain control. The ACO requested that SA [redacted] shoot the dog again and SA [redacted] second round slowed the dog which stopped its attack on the ACO. The ACO instructed Agents to place a second snare pole around the dog's head while she obtained her euthanasia kit and set up the drugs to euthanize the dog.

b6
b7C

On 03/03/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love observed while Chief Inspector Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Supervisory Special Agent (SSA) [redacted] Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; and SSA [redacted], CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted] Office of Inspections (OI), INSD; Management and Program Analyst (MPA) [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; and MPA [redacted], IMU, SAS, INSD.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against either Agent as a result of their involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271917-D, 05/13/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Butler, Room 5845
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Philadelphia Field Office
Date: 02/12/2009

Case ID #: 297A-HQ-A1271895-D

b6
b7C

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHILADELPHIA DIVISION
02/09/2009

Character: ADMINISTRATIVE INQUIRY

Synopsis: Subsequent to an armed bank robbery of TD Bank, 2520 Grant Avenue, Philadelphia, PA, on February 6, 2009, a confidential source provided information to the Philadelphia Division of the FBI that "Danny" LNU had robbed a bank earlier in the day. Logical investigation conducted by FBI Philadelphia led to the identification of Danny LNU as Daniel Trinsey, white male, date of birth November 12, 1960. Further investigation by FBI Philadelphia also resulted in probable cause to believe Trinsey was the individual responsible for the TD Bank robbery on February 6, 2009. A query of law enforcement data bases revealed an active State of Pennsylvania arrest warrant for Trinsey for parole violation, where the underlying charge was robbery of a dwelling with a weapon.

On Monday, February 9, 2009, the source began to participate in consensual telephone calls with Trinsey, during which Trinsey advised he was going to commit another armed robbery. As a result, Philadelphia Division's Squad C4, Violent Crimes Task Force, established surveillance in the vicinity of [redacted] Philadelphia, PA, a single family home ("the residence") believed to be occupied by Trinsey. The surveillance team consisted of eight FBI agents and seven Detectives from the Philadelphia Police Department (PPD), all of whom were Task Force Officers (TFOs) assigned to Squad C4. Surveillance identified Trinsey was in fact in the residence.

During the surveillance, the source was in frequent telephonic contact with Trinsey. The source updated Squad C4 members regularly during the surveillance via cell phone. The source advised Trinsey was most likely armed, and planned to rob either a bank or a drug location. The source advised Trinsey had said he would shoot the individuals he intended to rob if necessary, and he was not going back to jail. These updates regarding Trinsey's intentions were passed on via radio to all the Task Force personnel participating in the surveillance of Trinsey's residence.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

As the surveillance proceeded, Squad C4 members formulated a verbal plan over their squad radios to arrest Trinsey on the State warrant when he exited the residence. At approximately 3:00 pm, Trinsey came out of the residence carrying a duffle bag, and began to walk across the driveway of the residence, westbound toward Verree Road. Task Force personnel confronted Trinsey, identified themselves as police officers, and ordered Trinsey to stop and get on the ground. Trinsey dropped his duffle bag on the driveway and began to walk slowly backward toward the residence. Agents and Detectives from the arrest team continued to order Trinsey to stop and get on the ground. Trinsey continued to ignore the commands. He then stopped and looked from side to side, apparently surveying the arrest team. Trinsey then reached into his waist band and removed what appeared, to multiple arrest team members, to be a handgun. Trinsey raised the gun, initially pointed in the direction of two PPD Detectives west of the residence. Trinsey then turned the weapon toward a group of seven Agents to the east. In fear for their lives and the lives of their partners, three Agents and one PPD Detective fired their weapons at Trinsey (a total of seventeen rounds). Trinsey fell face down on the front lawn of the residence, and was later pronounced dead at the scene. The weapon was later determined to be a toy handgun. Examination of evidence photographs and witness statements confirmed the authentic appearance of the handgun.

**DETAILS:**

For background purposes, the Agents identified as firing their weapons during this shooting incident were SA [redacted] SA [redacted] and SA [redacted]

SA [redacted] entered on duty as an SA with the FBI on November 24, 1996. Upon graduation from the FBI Academy, SA [redacted] was assigned for three months to the Philadelphia Division's New Town Square RA. From approximately June 1997 until present, SA [redacted] has been assigned to Philadelphia's Violent Crimes/Fugitive Task Force, Squad C4. SA [redacted] has been a member of the Philadelphia Special Weapons And Tactics Team (SWAT) since October 1998. Prior to entering on duty with the FBI, SA [redacted] served as a Police Officer with the Baltimore County Police Department (BCPD) for approximately seven years. During his tenure with the BCPD, SA [redacted] spent approximately six and one half years as a patrol officer, and six months as a vice and narcotics detective. b6 b7C

SA [redacted] entered on duty as an SA with the FBI on April 4, 2004. Upon graduation from the FBI Academy, SA [redacted] was assigned to the Philadelphia Division's Major Theft Squad, C2. From October 2005 until present, SA [redacted] has been assigned to Squad C4. Prior to entering on duty with the FBI, SA [redacted] served as a State Trooper with the Maryland State Police (MSP) for approximately ten years. During his tenure with the MSP, SA [redacted] spent approximately five years in patrol and five years as an auto theft investigator.

SA [redacted] entered on duty as an SA with the FBI on July 14, 1991. Upon graduation from the FBI Academy, SA [redacted] was assigned to the Philadelphia Division's Labor Racketeering Squad for approximately six months and then the Major Theft Squad for approximately 11 years. From June 2003 until present, SA [redacted] has been assigned to Squad C4. SA [redacted] has been member of the Philadelphia SWAT Team since October 1993, and has been certified as an FBI Tactical Instructor since April 2002. Prior to entering on duty with the

FBI, SA [redacted] served as a U.S. Capitol Police Officer for four years.

The SIRT determined that Squad C4 was a very active Violent Crimes/Fugitive Task Force, which engaged in arrest, search, and surveillance operations on a weekly basis. A vast majority of the operations involved violent, armed and dangerous subjects. The Task Force was comprised of FBI SAs and Detectives from the Philadelphia Police Department (PPD). The Task Force consistently engaged in arrests and searches as a team, affording personnel the opportunity to become familiar with one another and their tactical capabilities. Additionally, the SIRT determined that SAs on the squad routinely participated in firearms together, where they often practiced arrest scenarios.

b6
b7C

On Friday February 6, 2009 at approximately 7:00 pm, SA [redacted] was notified by the Philadelphia Division's switch board operator that the TD Bank, 2520 Grant Avenue, Philadelphia, PA, had been robbed. SA [redacted] the Squad C4 Bank Robbery Coordinator, telephonically contacted his partner, PPD Detective (Det.) [redacted] and requested Det. [redacted] respond with him to the scene of the bank robbery. Due to prior commitments, Detective [redacted] was unable to accompany SA [redacted] to the robbery. SA [redacted] then responded alone, where he met with uniformed officers of the PPD.

Witness interviews conducted by SA [redacted] revealed the bank robbery subject entered the bank, stood in the teller feeder line, and waited for the next available teller. When the next teller (a female) became available, the subject approached the teller, displayed a handgun, and demanded "big bills." The teller handed the subject a $100.00 bill. This only agitated the subject, who demanded more money. The teller then gave the subject approximately $1,550 in cash and a wrapped bundle of one dollar bills. As he was departing the bank, the subject dropped the $100.00 bill and the wrapped one dollar bills. Witnesses described the robber as a white male, 5'6" to 6', between thirty and fifty years of age, wearing a dark hooded sweatshirt with white lining inside, a dark colored skull (knit) cap, khaki colored pants, a winter type brown glove on his left hand, and a white surgical glove on his right hand. Witnesses also noted the subject had a prominently chipped top front tooth, and drove a black or blue two door vehicle.

While SA [redacted] was still at TD Bank, SA [redacted] received a telephone call from a closed CHS who reported he knew an individual who had some "hot" information. The former CHS then placed a three way call between himself/herself, SA [redacted] and this individual (hereafter referred to as the "source"). During the call, the source advised he was interested in providing information regarding a robbery in return for consideration of a Rule 35 (a motion requesting a reduction in sentence) [redacted] who was incarcerated in federal prison. No promises were made to the source, and the source proceeded to furnish information regarding an individual whom he knew as "Danny" LNU [redacted]

b6
b7C
b7D

The source described Danny as a white male, with "messed up teeth." [redacted] he was dressed in tan pants, a hooded sweatshirt and was wearing latex gloves. The source also provided two telephone numbers to SA [redacted] one of which was an older cellular telephone number for Danny and the other was the current cellular

telephone number being utilized by Danny. The source advised that Danny drove a blue Acura, and provided a license plate number for the vehicle.

While talking with the source, SA received an e-mail over his blackberry from SA regarding the bank robbery at the TD Bank on North Grant Avenue. This prompted SA to telephonically contact SA During the telephone call, SA provided SA several details of the TD Bank robbery which included the robber's description and a description of the getaway vehicle. SA in turn briefed SA regarding the information he had received from the source. The Agents began to suspect Danny LNU as the robber of the TD Bank, and focused their attention on identifying him. b6 b7C

After speaking with SA SA met with the source and they drove to the vicinity of Philadelphia, PA. The source identified the address as the location at which he had previously seen Danny park his vehicle. During this meeting, the source also visually identified the Acura he had seen Danny drive, and corrected the prior license tag he had provided. SA requested a query of the tag, and identified the vehicle was registered to SA then called PPD and requested any information they could obtain on

Later in the evening, SA received an e-mail on his blackberry from SA which contained a bank surveillance video photograph of the subject who had committed the robbery of the TD Bank. SA then met with the source, and showed the photograph to the source. The source identified the individual in the surveillance photograph as Danny. The source further advised the hooded sweatshirt in the photograph was identical to the sweatshirt At the direction of SA the source tried to telephonically contact Danny several times, with no success.

The source also informed SA that Danny had committed other bank robberies in the past, had robbed an unidentified drug store where he disarmed an employee, and that he was planning on robbing the Verree Health Mart on Saturday, February 7, 2009. SA alerted PPD Detectives to the potential for a robbery at the Verree Health Mart. b6 b7C b7D

On SA was contacted by the source. The source patched SA into two separate three way telephone calls between the source and Danny. SA was unable to record these telephone calls. During the first telephone call, SA overheard Danny imply to the source that he had committed a robbery, and that the proceeds from the robbery were minimal. During the second phone call, SA overheard Danny tell the source that he (Danny) had lost his gun, and requested that the source assist him in acquiring a handgun which was larger than a .38 caliber.

On February 8, 2009, SA conducted multiple database checks from the information he had been provided by the source to date, and ultimately identified an individual named Daniel Trinsey with an active Pennsylvania State arrest warrant for a parole violation. The underlying charge was robbery of a residence with a weapon. SA then prepared a photo spread with Trinsey's photograph and showed the photo spread to two of the TD Bank tellers and one of the bank managers. None of the bank employees could identify Trinsey as the robber.

Following the meeting with the bank tellers, SA [redacted] met with the source. The source showed SA [redacted] SA [redacted] noted the photograph of Danny clearly depicted him with a chipped front tooth. Based on all the information he had collected to date, SA [redacted] became convinced that Trinsey was the individual responsible for the robbery of TD Bank. SA [redacted] then provided the source with a tape recorder and instructions to record his future telephonic conversations with Trinsey. b6 b7C b7D

On Monday, February 9, 2009, at approximately 11:00 am, SA [redacted] and Det. [redacted] PPD, volunteered to transport a female witness to federal court who was being prepared to testify in a case for SA [redacted] The Squad C4 Supervisor, SSA [redacted] was out of the division, and SA [redacted] was the acting supervisor that day. When SA [redacted] and Det. [redacted] went to the basement parking garage of the Philadelphia Division, they found SA [redacted] vehicle was blocked in a parking space by another vehicle. SA [redacted] then obtained permission to utilize Det. [redacted] vehicle (a black Nissan Altima) instead. Inasmuch as this was a routine witness transport assignment, SA [redacted] left his tactical equipment behind in his assigned Bureau vehicle.

At approximately 11:55 am, SA [redacted] received a telephone call from the source. The source advised Trinsey was about to commit another bank robbery. SA [redacted] was in court preparing to start a trial at the time, so he asked SA [redacted] to contact Det. [redacted] and request he (Det. [redacted] deal with the source. SA [redacted] then thoroughly briefed the U.S. Attorney's Office (USAO) Violent Crimes prosecutor he was working with regarding the FBI's development of the cooperating source, and the consensual monitoring plan. The USAO concurred with the consensual monitoring of the source's telephone conversations with Trinsey. b6 b7C

Just prior to arriving at the female witnesses' home, SA [redacted] and Det. [redacted] were advised the witness had arranged other transportation to court. SA [redacted] telephoned the source, who subsequently advised Trinsey had planned to rob the PNC Bank on Cottman Avenue, Philadelphia, PA. The source further advised Trinsey was located at [redacted] Avenue, Philadelphia, PA, and was trying to recruit a getaway driver.

SA [redacted] and Det. [redacted] then proceeded to the vicinity of Borbeck Avenue. While en route, SA [redacted] notified Acting Assistant Special Agent in Charge (A/ASAC) [redacted] ia telephone regarding the armed robbery of TD Bank on Friday evening, and of SA [redacted] development of a source who was in current communication with the subject. SA [redacted] advised A/ASAC [redacted] the subject (Trinsey) was believed to be residing at [redacted] Avenue, and was planning to commit another robbery later in the day. SA [redacted] informed A/ASAC [redacted] hat the plan was to arrest Trinsey on an outstanding arrest warrant for a parole violation in order to prevent the bank robbery he was planning. SA [redacted] and A/ASAC [redacted] iscussed that Trinsey was considered armed and dangerous in the context of all operations, given he (Trinsey) had utilized a weapon during the perpetration of the TD Bank robbery on February 6, 2009.

A/ASAC [redacted] id not direct a written operations plan be prepared due to the overall fluid nature of the operation. Although the source information was somewhat specific concerning the residence of Trinsey and his intent to commit another robbery, Agents were unaware of exactly when Trinsey would execute his plan, and his plans were likely to change

rapidly and unexpectedly. A/ASAC [redacted] asked SA [redacted] if he needed additional resources to handle the operation. SA [redacted] advised A/ASAC Cosenza Squad C4 had sufficient personnel. A/ASAC [redacted] stated he was confident in the on-scene command and control capabilities of SA [redacted] as the acting Squad Supervisor, and SA [redacted] as case agent for this operation.

Det. [redacted] requested additional Squad C4 resources be directed to the area of [redacted] Avenue. SA [redacted] telephoned Sergeant (Sgt.) [redacted] PPD, who was at the FBI office, and requested he have all available C-4 personnel rally in the vicinity of Borbeck Avenue. b6 b7C

Upon arrival at [redacted] Avenue, SA [redacted] and Det. [redacted] conducted a reconnaissance of the area which surrounded Trinsey's home and started to develop a plan to effect the arrest of Trinsey. They surveyed the area looking for any alleyways with access to [redacted] Avenue, identification of the bordering streets, and positively identified the residence of [redacted] Avenue. This reconnaissance was done in preparation for the arrival of the other responding Task Force personnel so assignments could be properly made. SA [redacted] and Det. [redacted] then parked their vehicle on Rising Sun Avenue, just south of Borbeck Avenue. This allowed them to see the front door of [redacted] Avenue.

While en route to the vicinity of Borbeck Avenue, SA [redacted] continued to receive text messages from Det. [redacted] updating him on the situation. Det. [redacted] advised Trinsey was still believed to be in the house at [redacted] Avenue, he did not have a gun yet, and that he still needed a getaway driver. While waiting at the Rite Aid Pharmacy near Borbeck Avenue to meet with Squad C4 personnel, SA [redacted] used his wireless laptop and printer to access the Pennsylvania Justice Network (JNet) and download a photograph of Trinsey. SA [redacted] printed several copies for the team. SA [redacted] was then advised Task Force members Det. [redacted], Det. [redacted], and Sgt. [redacted] had arrived together in Sgt. [redacted] vehicle. They were positioned on Borbeck Avenue near Verree Road, and had established surveillance on the residence.

At approximately 1:00 pm, SA [redacted] asked Det. [redacted] to team up with him so there would be two Task Force members in each vehicle while they waited for the remainder of the team to arrive. Det. [redacted] and SA [redacted] met at the corner of Borbeck Avenue and Verree Road, and they drove together in SA [redacted] vehicle looking for a good spot from which to watch the rear of Trinsey's house. SA [redacted] also noted that SA [redacted] and Det. [redacted] had established an eye on the front of the house from their position on Rising Sun Avenue, South of Borbeck Avenue. Personnel from C-4 began arriving in the area and were communicating via PPD police radio, on channel "Major Crimes One "(MC1). At this point, Det. [redacted] reported over MC1 he had arrived in the area. b6 b7C

SA [redacted] and Det. [redacted] took up a position to the rear of [redacted] Avenue on Griffith Street. This location afforded SA [redacted] and Det. [redacted] an excellent view of the rear door to [redacted] Avenue. Upon establishing this position, SA [redacted] noted while the storm door to the rear of the house was closed, the rear door stood partially open.

Just prior to 2:00 pm, SA [redacted] contacted SA [redacted] via blackberry and requested he assist with the arrest operation. SA [redacted] requested SA [redacted]

bring "long guns." SA telephoned SA and requested additional details and then handed the phone to SA who was the senior Agent present in the squad area. SA spoke to SA and fully briefed SA on the situation. SA told SA SA had learned through contact with the source Trinsey was now planning on committing either a bank robbery or a home invasion of drug dealers. SA stated Trinsey either had, or was attempting to obtain, a gun, and was awaiting the arrival of a getaway driver at his residence.

Based on the briefing from SA SA directed those persons present in the C4 squad area to gather their equipment and proceed to the vicinity of Borbeck Avenue. SA proceeded in his vehicle, armed with an M4. SSA advised he approved the issuing of M4s to non-SWAT SAs on C4 due to the violent crime mission of the squad. b6 b7C

SA teamed up with SA SA and SA in SA assigned black Chevrolet Suburban. The Agents were seated as follows: SA was in the rear passenger seat, SA was in the driver's side rear seat, SA was driving, and SA was in the front passenger seat. SA was armed with an M4.

SA had received a blackberry message regarding the impending arrest of Trinsey from SA while in the parking garage of the FBI office. He observed SA and his team preparing to respond as well, and he changed his clothing and responded to Borbeck Avenue. As a member of Squad C4, SA was armed with his approved M4. SA teamed up with Det. and drove to the vicinity of Borbeck Avenue in Det. vehicle. While en route to Borbeck Avenue, radio transmissions were overheard by the responding agents which explained Trinsey had planned on committing another bank robbery and another subject was to arrive at the residence, possibly with a bag of weapons.

During the approximate twenty minute drive to Borbeck Avenue, SA was monitoring channel MC1. While en route to Borbeck Avenue, SA was receiving information from SA regarding the positioning of people on scene. SA advised SA he had a photograph of Trinsey, and directed SA to position his vehicle in the vicinity of Rising Sun Avenue and Borbeck Avenue.

At approximately the source had a three way telephone call with Trinsey (monitored by SA During the call Trinsey stated that he had arranged a getaway driver and had obtained "heat", which SA interpreted to mean a handgun. During this call, Trinsey also asked the source if he had "heat." While SA was speaking with the source, Det communicated with SA on at least two occasions, and relayed the updated information regarding Trinsey. SA in turn provided the information via radio to the personnel on scene, and to those responding. b6 b7C b7D

At approximately 2:08 pm, SA sent Trinsey's PPD arrest photo to the Squad C4 arrest team via their blackberries. SA distributed the photograph in this manner because he wanted to ensure everyone who was going to participate in the arrest of Trinsey knew what he looked like, and also because he realized it was impractical to try to hand out the hard copy of the photos he had printed earlier in his vehicle.

While SA [redacted] and his team were proceeding to Borbeck Avenue, SA [redacted] recalled receiving information over the radio from either SA [redacted] or Det. [redacted] who advised the source was talking directly to Trinsey, and had told the source he had been in jail and was never going back. Sgt. [redacted] broadcasted over radio channel MC1 Trinsey was leaving the house in a blue Acura with an unknown male. Trinsey returned minutes later in the blue Acura with the male and a second unknown male. Trinsey parked the blue Acura directly in front of [redacted] Avenue facing eastbound in the westbound lane of Borbeck Avenue, and the three went inside the house.

b6
b7C

SA [redacted] and his team arrived in the area of Borbeck Avenue a few minutes after Trinsey returned to the residence. As SA [redacted] and Det. [redacted] arrived, they were instructed to take up a position in the area of Verree Road and Borbeck Avenue. They were instructed to block the intersection of Borbeck Avenue and Verree Road of any vehicle or pedestrian traffic when the command to "execute" was given. SA [redacted] the last person to arrive on scene, was directed to the rear of [redacted] Avenue and staged in the 900 Block of Griffith Street. This allowed him to see the northwest corner of the residence.

Once the black Suburban arrived in the area, SA [redacted] had the vehicle positioned facing southwest on Rising Sun Avenue a few car lengths from the intersection of Borbeck Avenue. Behind the black Suburban was Det. [redacted] A blue Tahoe driven by Det. [redacted] was parked on Borbeck Avenue facing westbound, east of Rising Sun Avenue. The black Nissan occupied by SA [redacted] and Det. [redacted] was staged on Rising Sun Avenue just south of the intersection with Borbeck Avenue. A vehicle occupied by Sgt. [redacted] and Det. [redacted] was on Borbeck Avenue west of [redacted] Avenue. A vehicle occupied by SA [redacted] and Det. [redacted] was positioned on Verree Road to the north of Borbeck Avenue facing south. Lastly, SA [redacted] vehicle, and the vehicle occupied by SA [redacted] and Det. [redacted] were positioned to the rear of the [redacted] Avenue on Griffith Street.

At approximately 2:35 pm, the perimeter around [redacted] Avenue was effectively established. The weather at the time was determined to be partly sunny, approximately 49 degrees Fahrenheit. SA [redacted] called over MC1 and asked how the team intended to effect the arrest of Trinsey. Sgt. [redacted] then stated that the plan would be if Trinsey and the two unknown males left the house and headed for the blue Acura, all three would be stopped as they were preparing to get into the car. The contingency plan was if Trinsey and the others were able to get into the car before the arrest team could converge and make the arrest, the personnel on Rising Sun Avenue would drive west on Borbeck Avenue and block the Acura from leaving east on Borbeck. Sgt. [redacted] and Det. [redacted] vehicle, along with SA [redacted] and Det. [redacted] vehicle, would block the Acura from gaining access to Verree Road. SA [redacted] designated the Suburban as the primary arrest vehicle which would come from Rising Sun Avenue on to Borbeck Avenue, along with Det. [redacted] blue Tahoe. The two SUVs would pull onto Borbeck Avenue and block the road preventing the Acura from leaving to the east, and also providing cover for the law enforcement personnel in those vehicles. SA [redacted] instructed SA [redacted] to concentrate on his role as the driver, and reminded all occupants of the Suburban to take up a position of cover upon exiting the vehicle. Sgt [redacted] announced he would give the "execute" signal over the radio, based on him having the primary eye on the front of the residence.

b6
b7C

Through both visual and radio contact, SA [redacted], SA [redacted] and SA [redacted]

were confident the placement of the vehicles, as stated above, had established a tight perimeter around [redacted] Avenue, and the Task Force personnel were stationed appropriately to effectively conduct the arrest of Trinsey.

Shortly after 3:00 pm, Sgt [redacted] called out on the radio that Trinsey was leaving the house alone carrying a duffle bag. Sgt. [redacted] monitored Trinsey's movements, and when he got to the corner of the yard west of the Acura, Sgt. [redacted] gave the command over the radio to execute the arrest. The black Suburban and blue Tahoe moved westbound on Borbeck Avenue. The Nissan fell in behind the Suburban and the Tahoe. The black Suburban was slightly ahead of the blue Tahoe, and slowed to allow the blue Tahoe to catch up so the road could be effectively blocked as verbally planned. SA [redacted] and Det [redacted] also moved their vehicle in to the rear of the Suburban and the Tahoe, and stopped in the middle of Borbeck Avenue. b6 b7C

SA [redacted], Det. [redacted], and SA [redacted] exited their vehicles behind [redacted] Avenue, and began to move toward the rear of the residence. Det [redacted] and SA [redacted] blocked the intersection of Verree Road and Borbeck Avenue preventing both vehicular and pedestrian traffic from going east on Borbeck Avenue. Det [redacted] blocked traffic from entering Borbeck Avenue to the east from Rising Sun Avenue.

As the Suburban stopped, SA [redacted] and SA [redacted] took up an initial position utilizing the engine block of the vehicle, on the driver's side, for cover. SA [redacted] and SA [redacted] also exited the Suburban. SA [redacted] took a position of cover behind a telephone pole in front of [redacted] Avenue. As SA [redacted] exited the Suburban, he observed Sgt. [redacted] yelling "Police Get Down, Let me see your hands!" SA [redacted] observed Trinsey looking at Sgt. [redacted] SA [redacted] advised, at this time, he was recalling from his training and experience a subject in this situation would typically do one of three things: 1) they could run; 2) they could comply with the commands and give up, or; 3) they could choose to stand and fight. SA [redacted] thought since Trinsey was not running or complying, he was going to fight.

Commands by Task Force personnel such as "FBI," "Police," "stop,", and "get down on the ground," continued to be yelled at Trinsey. Trinsey was still facing Sgt [redacted] and Det [redacted] at this time. Trinsey then walked backward away from Sgt. [redacted] and Det. [redacted], stood still for a moment, and then began moving his head and upper torso back and forth, appearing to scan the area. Trinsey then dropped the bag and reached into his waist band. Trinsey pulled out what appeared to be a back semi-automatic pistol (latter determined to be a toy or replica handgun). Trinsey raised the weapon in the direction of the law enforcement personnel on the scene, first in the direction of Sgt. [redacted] and Det [redacted] to the west. He then turned slightly and pointed the weapon toward SA [redacted], SA [redacted], Det. [redacted] SA [redacted], SA [redacted], and SA [redacted] to the east.

SAs [redacted] and [redacted] fired their weapons at Trinsey multiple times. SAs [redacted] and [redacted] each stated, at the time, they were in fear for their lives and the lives of their fellow law enforcement officers when Trinsey removed the weapon from his waist band and pointed it in their direction. b6 b7C

Det. [redacted], in a statement to Sgt. [redacted] as part of the PPD shooting investigation, advised he fired one round from his 9mm hand gun at Trinsey because

Trinsey had pointed a gun at him.

Trinsey fell to the ground on his face. When the gunfire stopped, SA [redacted] told everyone to hold their positions so they could assess the threat. SA [redacted] noted Trinsey had blood coming from his nose, but he was still moving. He also observed the gun was very close to Trinsey's right hand. Additionally, there were still unknown individuals in the house who presented a potential threat to the personnel on the scene. After a moment, SA [redacted] directed SA [redacted] and Sgt. [redacted] to holster their weapons and prepare to handcuff Trinsey. SA [redacted] moved forward and handcuffed Trinsey.

b6
b7C

After the shooting stopped, SA [redacted] Det. [redacted] and SA [redacted] entered the residence to secure the subjects inside. In the living room they encountered two males and one female. The female was moving toward the front door. The two males were secured by SA [redacted]. Once the males were handcuffed, they were left with Det. [redacted]. SA [redacted] and SA [redacted] cleared the remainder of the home. When SA [redacted] and SA [redacted] returned to the living room area of the home, other law enforcement personnel were inside the house. The female had run from the house in an effort to secure her dog, and was sitting on a bench outside of the front of the home.

Det. [redacted] called for medical assistance. SA [redacted] a trained paramedic, saw Trinsey laying face down in the front yard. He rolled him into the recovery position, and checked his airway and pulse with negative results. SA [redacted] believed Trinsey was dead and waited for paramedics to arrive. He searched Trinsey for additional weapons with negative results, but did locate some money and other miscellaneous personal items. SA [redacted] remained with Trinsey until paramedics arrived. The paramedics determined Trinsey was deceased. At this point, Trinsey's body was covered with a sheet.

While waiting for the paramedics to arrive, SA [redacted] asked SA [redacted] to secure the handgun. SA [redacted] photographed the weapon, and as he placed the weapon in an evidence bag, he realized it was a plastic toy gun. Examination of photographs of the gun by the SIRT confirmed the authentic appearance of the "handgun."

A search of Trinsey's duffle bag by PPD Homicide Detectives revealed items which matched the clothing worn by the subject in the TD Bank robbery on February 6, 2009. Items recovered included a black hooded jacket, a black wool/knit cap, brown gloves, and latex gloves.

b6
b7C

The PPD's Homicide Unit responded to the scene, as is protocol for all law enforcement involved shootings in the city of Philadelphia. The PPD's Mobile Crime Scene Unit in coordination with FBI Philadelphia's ERT conducted the crime scene survey. Seventeen shell casings were recovered from the scene. One 9 mm shell casing was recovered from in front of [redacted] Avenue, to the west of the residence near where Det. [redacted] exited his vehicle. Nine .40 caliber and seven .223 mm shell casings were recovered in front of [redacted] Avenue. These shell casings were all located in the vicinity of the blue Acura and the telephone pole, near where SA [redacted], SA [redacted] and SA [redacted] advised they had fired their weapons.

At the time of the shooting, SA [redacted] was armed with his FBI issued M-4

(serial#: 5632901). SA [redacted] stated he believed he fired approximately four rounds from a distance of 15 to 20 feet. His weapon and magazine were secured by ERT SA [redacted] following the shooting. One round was in the chamber of the weapon, and seven rounds were in the magazine. SA [redacted] advised he typically loaded his magazines with 25 rounds, but had not counted the rounds inside of the magazine when loading his M-4 before the shooting, thus he was uncertain of the number of rounds in the magazine. According to PPD crime scene reports, seven .223 mm shell casings were recovered at the scene. A PPD ballistic comparison of the recovered .223 mm shell casings with the M-4 carried by SA [redacted] on the day of the shooting indicated the casings were most likely were fired from the M-4. The PPD's ballistic analysis did confirm two projectiles removed from Trinsey's right arm were fired from the M-4 carried by SA [redacted] Additionally, the ballistic report stated that one .223 projectile fired from SA [redacted] s M4 was found under Trinsey's body at the scene (possibly a through and through round).

b6
b7C

SA [redacted] was armed with his Glock 22 pistol (serial #: GMU111 ) at the time of the shooting. SA [redacted] advised he had loaded his weapon to capacity with 16 rounds of .40 caliber ammunition. SA [redacted] was approximately 25 feet away from Trinsey behind a position of cover near the blue Acura when he fired four to five shots from his weapon at Trinsey. SA [redacted] weapon was secured and examined by ERT SA [redacted] after the shooting, and found to have one round in the chamber and nine rounds in the magazine. A ballistic analysis completed by PPD revealed five of nine .40 caliber shell casings recovered from the scene were fired from SA [redacted] Glock 22 pistol.

SA [redacted] was armed with his Glock 27 personally owned, FBI approved handgun, (serial #: LLP570 ). SA [redacted] was in a kneeling position behind a telephone pole approximately fifteen to twenty feet away from Trinsey when he fired his weapon. SA [redacted] advised his Glock 27 was loaded with nine rounds at the time of the shooting. SA [redacted] weapon was secured and examined by ERT SA [redacted], and found to have one round in the chamber and four rounds in the magazine. A ballistic examination completed by PPD determined four of the nine .40 caliber shell casings recovered at the scene were fired from SA [redacted] personally owned Glock 27.

b6
b7C

As previously stated, Det [redacted] advised Sgt. [redacted], as part of the PPD shooting investigation, he fired one round from his 9 mm handgun.

Interviews of all eight FBI personnel present at the shooting revealed all personnel were wearing some form of insignia which identified them as FBI or police officers. All FBI personnel, with the exception of SA [redacted] were wearing ballistic vests, with FBI lettering either in yellow or black on the exterior of the vests. One agent also wore a raid jacket on the outside of his vest which identified him as FBI, and two of the eight agents also had their FBI badge clipped to their belts. SA [redacted] had left his protective equipment in his assigned vehicle when he departed the office earlier in the day to pick up a witness for court. Because of the fast moving events, SA [redacted] was unable to retrieve his equipment.

PPD Homicide Detectives identified the other occupants of [redacted] Avenue as [redacted] son), and [redacted] Investigation revealed they were not part of Trinsey's planned robbery. [redacted] had met Trinsey one week earlier and had offered to let him stay at her house, where she lived with [redacted] was identified

as a friend [redacted]

[redacted] advised he saw Trinsey with a black gun inside his waistband as he was leaving the house. [redacted] also heard police outside saying, "Get down, get down!" [redacted] said those commands were then followed by gunshots. [redacted] said he saw Trinsey leave the house with a red bag. Shortly after Trinsey left the house, [redacted] heard people yelling, "Get Down, get down, get on the ground!" [redacted] said he looked out the front door and then heard gunshots. [redacted] stated she was in the back bedroom of [redacted] when Trinsey came to the door with a red and black colored bag and told her he was leaving. [redacted] then heard what she described as popping sounds. [redacted] then came to her room and advised her Trinsey had been shot. b6 b7C

A neighborhood canvass conducted by PPD's Homicide Detectives resulted in the identification of a witness to the shooting: [redacted] white male, age 72, [redacted] Avenue, Philadelphia, PA (directly across the street from [redacted] Avenue). [redacted] was walking back from his mailbox when he saw a male carrying a red duffle bag. [redacted] saw the man stop for a minute and look around first in the direction of Verree Road. [redacted] observed several police officers with their guns drawn, yelling "Police!" and "Get down!" [redacted] then saw the subject look around and look in the direction of the police behind him. The subject then reached into his jacket with his right hand and pulled out a black gun. [redacted] said the shooting then began and he saw the subject fall to the ground.

Trinsey was determined to have an extensive criminal record dating back to 1979. Trinsey had been convicted of possession with intent to distribute a controlled substance, theft, resisting arrest, bank robbery, simple assault, aggravated assault, burglary and robbery. The SIRT verified that at the time of the shooting, there was an active State of Pennsylvania arrest warrant for Trinsey for parole violation, where the underlying charge was robbery of a residence with a weapon. Additionally, the National Crime Information Center (NCIC) printout which identified the active warrant for Trinsey, listed a caution advisory that Trinsey had violent tendencies and was known to abuse drugs.

The City of Philadelphia, Office of the Medical Examiner (OME) conducted an autopsy and toxicology report. The autopsy findings stated Trinsey had been shot seven separate times, and the cause of death was identified as multiple gunshot wounds. The manner of death was classified as Homicide. The autopsy report detailed the following wounds: a gunshot entry wound to the left shoulder which exited the right side of the body and reentered the right arm, where a bullet was recovered; a gunshot entry wound to the left shoulder which exited the right side of body and reentered the right arm were a bullet was recovered; a gunshot entry wound to the lateral left chest which did not exit and resulted in the recovery of two bullet fragments; a gunshot entry wound and exit to the right arm where no bullet or bullet fragments were recovered; a gunshot entrance wound to the right hip which exited the right buttock and no bullet or fragments were recovered; a gunshot wound to the posterior left shoulder which resulted in the recovery of a bullet from the lateral right back; a gunshot entry wound to the left back which exited the mid left back and no bullet or bullet fragment was recovered. The toxicology report from the OME showed there was a presence of narcotics in Trinsey's urine which included cocaine, codeine, methamphetamine and oxycodeine. b6 b7C

In summary, the FBI Philadelphia Division's Violent Crimes Task Force went to [redacted] Philadelphia, PA on February 9, 2009 in an effort to locate and arrest

Daniel Trinsey on an active arrest warrant for parole violation. The Task Force planned the arrest under time sensitive conditions in order to prevent Trinsey from effecting an armed robbery. At the time of the operation, the Task Force collectively believed Trinsey had committed an armed bank robbery three days earlier, and was actively planning a second robbery. b6 b7C b7D [redacted] Additionally, at the time, the Task Force believed Trinsey was either armed, or in the process of locating a firearm, and was gathering co-conspirators to assist him in the robbery. Finally, the Task Force was aware Trinsey had made statements to the source that he would not go back to prison. Review of the recorded conversations between Trinsey and the source by the SIRT verified the information which the source had provided to law enforcement prior to the shooting.

The Task Force confirmed Trinsey was inside of the house and established a robust perimeter around the residence. When Trinsey departed the residence at approximately 3:00 pm, he was confronted by the Task Force at gun point. The Task Force appropriately identified themselves as Police and FBI, and ordered Trinsey to the ground. Trinsey failed to comply with the law enforcement commands and reached into his waist band with his right hand and removed a black handgun, later determined to be a toy or replica weapon. Trinsey raised the handgun in the direction of law enforcement personnel, threatening the lives of multiple Task Force members. In order to defend themselves and their team mates, four Task Force personnel fired their weapons at Trinsey (a total of 17 times) until he collapsed to the ground. Trinsey was later pronounced dead at the scene.

b6 b7C The City of Philadelphia District Attorney's Office (PDAO), reviewed a report of this incident prepared by the Philadelphia Police Department. On September 10, 2009, the PDAO issued a written opinion that SAs [redacted] and [redacted] were "justified in discharging their weapons under 18 Pa. C.S.A., section 505, Use of Force in Self Protection; and 18 Pa. C.S.A., section 508, Use of Force in Law Enforcement." The PDAO advised they subsequently closed their investigation of this matter..

This report was forwarded to Deputy Chief [redacted], Criminal Section, Department of Justice, for federal prosecutive opinion. A decision is pending.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspections
Date: 02/06/2009

Case ID #: 297-HQ-A1271786-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
NEW HAVEN DIVISION
02/04/2009

Character: ADMINISTRATIVE INQUIRY

Synopsis: On February 4, 2009, the New Haven Division of the Federal Bureau of Investigation (FBI) executed a large scale, multi agency, arrest and search operation targeting 44 federally indicted subjects in an Organized Crime Drug Enforcement Task Force (OCDETF) investigation codename [redacted]

During the entry of one target location in Bridgeport, Connecticut, SA [redacted] a member of the New Haven SWAT team, accidentally discharged (AD) his M16A1 conversion carbine weapon (hereafter referred to as "M-4"). The AD resulted in one .223 caliber round striking subject [redacted] was transported to Saint Vincent Medical Center (SVMC) in Bridgeport, Connecticut, for treatment of a non-life threatening wound. b6 b7C b7E

**DETAILS:**

On January 29, 2009, a Federal Grand Jury sitting in New Haven, Connecticut returned indictments on 44 subjects for felony drug conspiracy and distribution charges.

The indicted subjects were members or associates of the [redacted] Drug Trafficking Organization (DTO), considered to be the most significant suppliers of narcotics in and around the Bridgeport, Connecticut area. In addition, ongoing and past investigations revealed that many members of the [redacted] DTO had extensive criminal histories of violence and drug trafficking activity. One member, [redacted] was believed to be responsible for the first homicide in 2009 in Bridgeport, Connecticut.

The New Haven Division targeted this violent DTO through an OCDETF investigation codename [redacted] Information developed through

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

authorized wiretaps, confidential human sources, and from other law enforcement agencies, indicated that several subjects met the "higher than normal risk" criteria as defined by the Manual of Investigative Operations and Guidelines. These risks included violent criminal histories, possession of weapons by the subjects, presence of weapons at target locations, difficult breaching obstacles, and the presence of dogs used for protection.

Based on the above, New Haven Division determined the circumstances necessitated the utilization of Special Weapons And Tactics (SWAT) teams to plan and execute arrests and searches at seven locations to reduce the risk to agents, innocent persons, and subjects. The New Haven Division coordinated this operation with the Critical Incident Response Group (CIRG), SWAT Operations Unit (SOU), beginning in December 2008. It was determined that SWAT teams from New Haven, New York, Boston and Albany Divisions, along with SWAT teams from the Connecticut State Police (CSP) and the Bridgeport Police Department (BPD) would jointly participate in the operation.

One of the subjects indicted in this investigation was [redacted] was indicted for conspiracy to possess with intent to distribute and conspiracy to distribute heroin and cocaine base, in violation of Title 21 United States Code, Section 846.

A review of [redacted] criminal history revealed the following: 1) arrested 06/13/2003, possession of narcotics, sale of hallucinogenic/narcotic substance; 2) arrested 08/31/2003, possession of narcotics, sale of hallucinogenic/narcotic substance, interfering/resistance; 3) arrested 01/22/2004, sale of illegal drug, sale of hallucinogenic/narcotic substance; 4) 01/20/2006, operating a motor vehicle without a license, run(ning) from police, probation violation; 5) 01/20/2006 criminal use of motor vehicle without permission, larceny 2, interfering/resisting; 6) arrested 01/21/2007, breach of peace, interfering/resistence; 7) arrested 07/12/2008, run(ning) from police, failure to appear; 8) arrested 07/12/2008, interfering/resistence, reckless endangerment, risk of injury, breach of peace; 9) arrested 10/14/2008, interfering/resistence; 10) arrested 10/21/2008, evade-injury/property, under suspension, run(ning) police; 11) sale of illegal drug, sale of hallucinogenic/narcotic substance. b6 b7C

On February 3, 2009, the final New Haven FBI SWAT Operations Order was approved by New Haven Division Special Agent in Charge (SAC) Kimberly K. Mertz. The SWAT Operations Order identified the following locations and assignments in Bridgeport, Connecticut, for SWAT operations:

| Location | SWAT team |
|---|---|
| 1. [redacted] | New York |
| 2. | New York |
| 3. | New Haven/Albany |
| 4. | Boston |
| 5. | Boston |
| 6. | CT State Police |
| 7. | Bridgeport PD |

Investigation determined that [redacted] Bridgeport, Connecticut, was a location where drugs were stored by the DTO. As such, it was the target of a

federal search warrant. Although subjects were known to frequent the location from time to time, it was not a specific residence of any of the subjects.

On February 3, 2009, at 3:00 p.m., all team leaders (SWAT and Non-SWAT) participated in an operational briefing held at the Marriott hotel, 180 Hawley Lane, Trumbull, Connecticut. Following this briefing, at 4:30 p.m., there was an all SWAT operator briefing at the same location which included updated case information, brief-backs, and tactical rehearsals.

On February 4, 2009, at 4:00 a.m., there was an all hands briefing for all personnel involved in the operation at Sacred Heart University, 5151 Park Avenue, Fairfield, Connecticut. At approximately 5:45 a.m., all tactical teams were in position at their designated staging locations. The National Weather Service website indicated the weather conditions on February 4, 2009, at 5:52 a.m., taken at the Sikorsky Memorial Airport in Bridgeport, Connecticut, was 19 degrees Fahrenheit, wind out of the North at 14 mph, and overcast skies with visibility at ten miles.

At approximately 6:00 a.m., the order was given for the SWAT teams to commence their respective tactical operations at the above listed locations.

The following New Haven (NH) and Albany (AL) SWAT team members were assigned and participated in the execution of the search warrant at [redacted] Bridgeport, Connecticut:

| Name | Division /Assignment |
|---|---|
| SA [redacted] | Albany / Perimeter |
| SA | Albany Paramedic / Perimeter |
| SA | New Haven / Perimeter |
| SA | Albany / Perimeter |
| SA | Albany / Hallways |
| SA | Albany / Hallways |
| SA | New Haven / Hallways |
| SA | New Haven / Entry #1 |
| SA | New Haven / Entry #2 |
| SA | New Haven / Entry #3 |
| SA | Albany / Entry #4 |
| SA | Albany / Entry #5 |
| SA | Albany / Entry #6 |
| SA | New Haven / Entry #7 (Team Leader [TL]) |
| SA | Albany / Entry #8 |
| SA | New Haven Paramedic / Entry #9 |
| SA | New Haven / Breacher |
| SA | Albany / Breacher |

b6
b7C

The NH/AL SWAT team initiated their operation by breaching the ground floor entry door of the location. They entered the building, secured the hallway, and then ascended the stairway to the second floor. The entry team assembled near [redacted] in the following order: 1) SA [redacted] 2) SA [redacted] 3) SA [redacted] 4) SA [redacted] 5) SA [redacted] 6) SA [redacted] 7) SA [redacted] 8) SA [redacted] and 9) SA [redacted] (Medic). SA [redacted] (Breacher), who was positioned on the opposite side of the apartment door, knocked and announced "FBI." After receiving no response, SA [redacted] breached the door to [redacted] with a one man ram. SA [redacted] then tossed a diversionary device into the apartment. The device detonated, and SA [redacted] followed by SAs [redacted] and [redacted], entered the apartment.

SA [redacted] moved directly forward, announced "FBI - get down", and utilizing the flashlight on his M-4 rifle, observed a subject, later identified as [redacted] moving away from him. Because of his momentum and close proximity to [redacted] SA [redacted] made a decision to go "hands on" with the subject in order to secure him. Just as SA [redacted] was preparing to place his M-4 rifle to his side, he tripped and fell towards the floor. Unbeknownst to SA [redacted] there was a box spring and mattress on the floor of the apartment just to the right of the doorway. SA [redacted] made contact with the mattress at or below his knees, well below his line of sight. With the momentum of his movement toward the subject, the contact with the mattress caused SA [redacted] to lose his balance and fall forward.

SA [redacted] braced himself for the fall while attempting to maintain positioning and control of his M-4 rifle. SA [redacted] reasserted his right hand grip on the M-4 rifle as he fell. SA [redacted] advised that his M-4 rifle was on "safe" prior to entering the apartment. SA [redacted] believed the motion of his hand carried the safety into the "fire" position and led to inadvertent contact with the trigger. The weapon discharged one round at some point during SA [redacted] fall, but he did not recall the exact moment.

SA [redacted] got back on his feet and visually reacquired [redacted] who had also fallen to the ground. SA [redacted] positioned himself over [redacted] to ensure he was subdued when he noticed [redacted] was wounded. SA [redacted] lifted the subject's t-shirt and observed what appeared to be a gunshot wound somewhere above the waistline. SA [redacted] recalled that someone in the room called for the SWAT medic and an ambulance.

SA [redacted] had followed SA [redacted] into the apartment after the detonation of the diversionary device. SA [redacted] turned to the right to cover the far corner of the room. Upon making his turn to the right, SA [redacted] made contact at or below the knees with the same mattress that was on the floor. This contact caused him to momentarily lose his balance. He then stepped on top of, and over the mattress to cover the far corner of the room. SA [redacted] saw a subject, out of the corner of his eye, who appeared to be moving in front of, and to SA [redacted] right.

After crossing the bed and reaching the other side, SA [redacted] heard a gun shot. He did not observe a muzzle blast. He looked toward the subject who was on the ground to see if he was a threat, and determined he was not. SA [redacted] continued to clear his area until it was determined the subject had been wounded.

SA [redacted] had followed SAs [redacted] and [redacted] into the apartment. He observed SA [redacted] moving straight ahead and SA [redacted] turning to the right, so he filled the gap between SAs [redacted] and [redacted] Upon entering the room, SA [redacted] heard a "pop" and saw a flash of light. SA

[redacted] did not know if it was a muzzle blast from a firearm or a flashlight being turned on.

After taking a couple of steps into the room, SA [redacted] noticed SA [redacted] was on his knees on top of a subject who was on the ground. SA [redacted] moved closer to SA [redacted] to check for any weapons near the subject. SA [redacted] noticed a small red circle on the subject's back and thought the subject may have been shot. He did not recall any comments being made at this time, except for the subject crying out in pain and cursing.

SA [redacted] advised he did not observe any other members of the entry team that were behind him enter the room, as the space was very small. He heard someone call out for a "cuffer" and SA [redacted] entered the room and placed handcuffs on the subject.

b6
b7C

Team Leader SA [redacted] was positioned in the tactical formation outside of apartment #6 when he heard the detonation of the diversionary device. A few seconds later, SA [redacted] heard a gun shot. When SA [redacted] entered the apartment he observed the subject lying on the floor with a small hole in his right side. SA [redacted] called for the medic, and SA [redacted] (Medic) immediately responded from the hallway. SA [redacted] began to administer first aid to the subject. SA [redacted] then radioed the Command Post/Tactical Operations Center (CP/TOC) and advised: "shot fired, subject down, send ambulance." SA [redacted] directed SAs [redacted] and [redacted] to leave the apartment. SA [redacted] established control over the scene by limiting access to the apartment and ensuring overall security of the building.

SA [redacted] advised he had been positioned in the tactical formation outside [redacted] when he heard explosions he assumed were diversionary devices. Shortly thereafter, SA [redacted] heard someone say "medic up," which meant someone was injured. SA [redacted] immediately made his way into the apartment. He observed the apartment to be dark, with a thick layer of smoke. SA [redacted] observed the apartment was cramped and the only source of light was from SWAT team operators' flashlights.

SA [redacted] observed [redacted] lying on his side in a somewhat prone position. He observed a SWAT team operator placing handcuffs on this subject. SA [redacted] assessed [redacted] injuries noting he was responsive to verbal stimulus. He checked the subject's vital signs and determined he was probably in shock. SA [redacted] observed what appeared to be an entry wound on the right side of [redacted] body and an apparent exit wound on the left flank. SA [redacted] stated it appeared to be a "through and through" wound associated with the lower abdomen, and very survivable. SA [redacted] did not detect signs of internal injuries.

b6
b7C

SA [redacted] requested the assistance of the other medic on the team, SA [redacted] to bring additional equipment including oxygen and a backboard. SAs [redacted] and [redacted] continued to administer aid to [redacted] until a civilian ambulance arrived. [redacted] was placed in the ambulance, and SA [redacted] rode with the subject to Saint Vincent's Medical Center (SVMC) in Bridgeport, Connecticut.

The CP/TOC advised SA [redacted] the Connecticut State Police (CSP) Quick Reaction Force (QRF) would be arriving at the apartment to take control of the scene. The CSP QRF arrived at the apartment at approximately 6:50 a.m., and SA [redacted] turned the scene over to them. SA [redacted] then instructed the SWAT team to withdraw from the scene.

The CSP, Western District, Major Crimes Squad (MCS), processed the shooting scene at [redacted] based on a state search warrant. Examination of the scene revealed a bullet hole in a window on the far wall of the apartment opposite the front door. The spent .223 caliber shell casing from SA [redacted] M-4 was recovered. All evidence/items collected by the CSP MCS were turned over to the New Haven Division Evidence Response Team (ERT). A neighborhood canvas was conducted for possible witnesses to the shooting and none were identified. Additionally, the bullet from SA [redacted] M-4 could not be located. No collateral damage was observed outside [redacted] from where the round exited the apartment window. b6 b7C

Upon completion of the state search warrant, the CSP MCS turned the scene over to the NH ERT which executed the federal search warrant for the apartment, pursuant to the underlying criminal investigation of the [redacted] DTO. The NH ERT recovered, among other things, approximately $785 in cash, and various documents and cell phones.

Trooper [redacted] of the CSP MCS responded to SVMC, 2800 Main Street, Bridgeport, Connecticut, and obtained a written statement from [redacted] In his statement, [redacted] said he was asleep at approximately 6:00 a.m. when he heard a loud bang and got up to look out the window. When he turned away from the window he saw a masked man coming through the apartment door. He saw other men as well, and knew they were police officers because they had uniforms with the word "Police." He saw a flash and then fell to the ground. He thought he had been struck with a "tazer" and felt a burning pain in his back. He did not hear a gun shot and did not realize he had been shot. After he fell on the floor, his hands were then handcuffed behind his back. He was then transported to the hospital. [redacted] signed a medical release form authorizing the SVMC to release his medical records to the CSP.

On February 5, 2009, [redacted] was presented before a U.S. Magistrate Judge in his hospital room at SVMC. [redacted] was then remanded to the custody of the United States Marshal's Service (USMS). On February 6, 2009, [redacted] was released from the SVMC and remains in the custody of the USMS.

On February 8, 2009, Dr [redacted] Surgeon, SVMC, was interviewed concerning [redacted]. Dr [redacted] advised he was the attending Emergency Room physician on February 4, 2009, when [redacted] was admitted with a gunshot wound. Dr. [redacted] indicated [redacted] suffered a non-life threatening gun shot wound to his abdomen, with the round entering [redacted] right front abdomen and exiting his right rear flank. [redacted] was described by Dr [redacted] as being heavy, and due to the location of the wound, the round had not penetrated or damaged any vital organs. Dr [redacted] further stated [redacted] had some bruising of his kidney from the percussion of the round, but indicated the wounds were of a non-life threatening nature and that the kidney would heal itself within days. Medical records concerning the treatment of [redacted] were obtained from Saint Vincent's Hospital and made a part of the SIRT report. b6 b7C

The M16A1 conversion carbine rifle utilized by SA [redacted] was forwarded to the FBI's Defensive Systems Unit (DSU), Quantico, Virginia for technical inspection. The technical inspection was conducted by Gunsmith [redacted] The results of the inspection were documented in an EC dated 04/17/2009, and reported the following:

"A visual inspection of the exterior of the weapon noted no mechanical deficiencies. It

was noted an H&K MP-5 sling was attached to the weapon and that a plastic cable tie had been used to affix the rear portion of this sling to the weapon.

A visual inspection and disassembly of the internal mechanics of the weapon similarly noted no deficiencies, only that the chamber and bolt carrier were dirty. The weapon was found to be fully functional, with all safety and operating mechanisms working properly and within factory specifications. The selector lever was found to have positive engagement in both the safe and semi-automatic positions and the trigger weight was measured at 7.5 pounds."

The Inspection Division requested DSU to determine if it was possible for the weapon's trigger to be pressed simultaneously with the selector lever being moved from the safe position. Gunsmith [redacted] advised the selector lever on all Colt style carbines (such as the M16A1), when positively engaged in the safe mode, is designed to completely block the trigger tail from moving upward. It is this blocking of the trigger tail that makes the weapon safe. Once the selector lever is rotated from the positive safe position (off safe) absolute blocking is no longer possible. b6 b7C

The EC from DSU also stated:

"When tested with a National Rifle Association (NRA) trigger weight set, and the selector lever staged approximately half-way between the safe and semi-automatic positions, the New Haven Division weapon required 27 pounds of force applied to the trigger to cause the hammer to move to the forward position. With the selector lever staged approximately two-thirds the distance between the positive safe and positive semi-automatic positions, the weapon required 15.5 pounds of force to cause the hammer to move to the forward position. It should be noted that normal trigger weight, as established by Colt, is 5.5-8.5 pounds."

# FBI
# Shooting Incident Report Summaries

# 2009

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspections b6 b7C
Date: 03/20/2009

Case ID #: 297-HQ-A1271725-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
LITTLE ROCK DIVISION, TEXARKANA RESIDENT AGENCY
02/13/2009

Character: ADMINISTRATIVE INQUIRY

Synopsis: Jeremy Ray Reed was charged with Possession of a Firearm by a Person After a Court Order Prohibiting Same, in violation of Title 18, United States Code, Sections 922(g)(8) and 924(a)(2). On February 4, 2009, an attempt to serve a federal arrest warrant on Jeremy Reed was made by law enforcement officers. On that day, it was reported that Jeremy Reed was residing at his grandfather's residence, located on the property of 138 Highway 71 North, Ashdown, Arkansas. The arrest team primarily consisted of two FBI Special Agents and two local police officers. Upon arriving on the scene, and after securing the perimeter, an Agent identified himself as a federal law enforcement officer to Jeremy Reed, while Jeremy Reed was inside the residence of the grandfather. Upon being notified of the presence of law enforcement officers, Jeremy Reed exited the residence carrying a long gun and began to flee to the residence belonging to Jeremy Reed's mother, which was located nearby on the same property. Upon fleeing the grandfather's residence, and while attempting to gain entry into the mother's residence, firearms were discharged when Jeremy Reed, who failed to heed law enforcement commands to drop his weapon, pointed his weapon in a threatening manner in the direction of the law enforcement officers. A total of five shots were fired. One shot was fired by Jeremy Reed, two shots were fired by a local police officer, and two shots were fired by Special Agent (SA) [redacted] of the Little Rock Field Office, Texarkana, Resident Agency (RA). None of the law enforcement officers were struck. Jeremy Reed, struck by buckshot from one of the shots fired by the local police officer, sustained non-life threatening injuries. Subsequent to being struck by buckshot, Jeremy Reed gained entry into his mother's residence. After gaining entry into his mother's residence, SAs [redacted] and [redacted] and a local Sheriff initiated negotiations with Jeremy Reed in an attempt to gain his surrender. Jeremy Reed refused to surrender and sustained a fatal, self-inflicted gun shot wound. Jeremy Reed was pronounced dead on February 4, 2009, at 11:12 p.m. b6 b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

RJM 3-31-09

**DETAILS:**

On October 21, 2005, Jeremy Reed allegedly assaulted his spouse at the Electric Cowboy in Texarkana, Arkansas. Jeremy Reed crossed the state line into Texas while transporting his spouse to Ogden, Arkansas, where he allegedly continued to assault her. The spouse of Jeremy Reed was treated at a hospital emergency room and she later filed charges against Jeremy Reed for 3rd Degree Domestic Battery. A state protective order was subsequently issued against Jeremy Reed in Little River County Arkansas. Based on provisions of the state protective order, Jeremy Reed was prohibited from receiving or possessing a firearm under Title 18, United States Code, Section 922.

On March 3, 2006, Jeremy Reed posted bond after being arrested by the Texarkana Arkansas Police Department (TAPD) on the Domestic Battery charge.

On August 5, 2007, the TAPD was notified that Ashdown Police Department (APD), Ashdown, Arkansas was in possession of an arrest warrant for Jeremy Reed, who was, at that time, reportedly in Texarkana, Arkansas. The warrant pertained to Jeremy Reed allegedly "pistol whipping" an individual in Ashdown, Arkansas. In addition, the TAPD was warned Jeremy Reed was in possession of a handgun. Ultimately, TAPD officers located Jeremy Reed in Texarkana. Although he was armed with a loaded handgun and resisted arrest, Jeremy Reed was disarmed and taken into custody.

On August 15, 2007, an Assistant United States Attorney (AUSA) was made aware of the matter and expressed intent to prosecute Jeremy Reed upon confirmation that he violated federal criminal statutes.

On June 25, 2008, an Indictment was filed with the U.S. District Court, Western District of Arkansas, Texarkana Division, which consisted of One Count, which asserted: "On or about August 5, 2007, in the Western District of Arkansas, Texarkana Division, the defendant, Jeremy Ray Reed, who was subject to a court order issued by the Little River County Circuit Court on November 29, 2005, in case number DR2005-155-2, which was issued after a hearing of which he received actual notice, and at which he had an opportunity to participate, restraining him from harassing or threatening an intimate partner, that by its terms explicitly prohibited the use, attempted use, or threatened use of physical force against such intimate partner that would reasonably be expected to cause bodily injury, or that included a finding that the defendant was a credible threat to the physical safety of the intimate partner, did knowingly possess a firearm, specifically an HR .22 caliber revolver, serial number AC32264, which had been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(g)(8) and 924(a)(2)."

On July 08, 2008, the United States District Court, Western District of Arkansas, Texarkana Division, issued a federal arrest warrant for Jeremy Ray Reed charging him with Possession of a Firearm by a Person After a Court Order Prohibiting Same, in violation of Title 18, United States Code, Sections 922(g)(8) and 924(a)(2). b6 b7C

On February 4, 2009, at approximately 12:30 p.m., FBI SA [redacted] Little Rock Field Office, Texarkana Resident Agency (TRA), was advised by APD Detective [redacted] that information had been received indicating that Mr. [redacted] the grandfather of Jeremy Reed, was near death and was being treated at St. Michael's Hospital, 2600 St. Michael Drive, Texarkana, Texas. Detective [redacted] opined that Jeremy Reed would likely be visiting his

grandfather at the hospital. SA [redacted] and SA [redacted] also assigned to the Little Rock Field Office, Texarkana RA, proceeded to the hospital. While en route, the SA's contacted Texarkana Texas Police Department (TTPD) dispatch and requested TTPD assist in the location and potential arrest of Jeremy Reed. FBI SA [redacted] Dallas Field Office, co-located at the TRA, was also notified and responded to the hospital. Upon arriving at the hospital, SAs [redacted] and [redacted] met with uniformed TTPD officers and, after briefing them on the matter pertaining to Jeremy Reed, proceeded immediately to the nursing station on the 6th floor of St Michael's Hospital where [redacted] was receiving medical attention. SA [redacted] met with the nursing staff caring for [redacted] The nurses were shown a photograph of Jeremy Reed and confirmed the individual in the photograph was the same person that had been visiting [redacted]. In addition, it was learned that Jeremy Reed departed the hospital approximately 30 minutes prior to the arrival of the SAs. The SAs then showed a photograph of Jeremy Reed to a hospital security guard. The hospital security guard stated he thought Jeremy Reed was in the hospital cafeteria. The SAs then proceeded to the cafeteria, but Jeremy Reed was not found. The SAs provided the security guard with an FBI business card and Blackberry telephone number, and the guard advised he would notify them immediately should Jeremy Reed return to the hospital. A photograph of Jeremy Reed and FBI business card were also provided to the nursing staff and they were asked to call if Jeremy Reed returned. Thereafter, a search of the hospital parking lot was conducted in attempt to locate Jeremy Reed, but he was not found. The SAs then returned to the TRA.

b6
b7C

On February 4, 2009, at approximately 6:20 p.m., APD Detective [redacted] was telephonically contacted by City of Ashdown Mayor Earnest Wayne Reed who is Jeremy Reed's uncle. Mayor Reed advised Detective [redacted] that Jeremy Reed was threatening his (Jeremy Reed's) mother, [redacted] his sister, and his children. Mayor Reed also advised Detective [redacted] that Jeremy Reed had barricaded himself in his grandfather's residence, located at [redacted] Ashdown, Arkansas, and that Jeremy Reed had informed his mother he would kill anybody who tried to remove him from the residence. Mayor Reed also advised Detective [redacted] that during a prior conservation, Jeremy Reed had stated he would kill any police officer who tried to take him into custody and would then kill himself. At the conclusion of his conversation with Mayor Reed, Detective [redacted] contacted the Little River County Sheriff's Office (LRSO) and discussed the matter with Sheriff Danny Russell, inasmuch as [redacted] Ashdown, Arkansas, is located a short distance outside the city limits of Ashdown, Arkansas.

b6
b7C

On February 4, 2009, at approximately 6:30 p.m., APD Detective [redacted] telephonically contacted the TRA and spoke with SA [redacted] Detective [redacted] advised SA [redacted] that Jeremy Reed had barricaded himself in his grandfather's residence, that he reportedly had a shotgun, and that he was reportedly threatening to kill his family. SA's [redacted] and [redacted] responded immediately to the LRSO, which is located in Ashdown. En route to the LRSO, SA [redacted] telephonically notified Senior Supervisory Resident Agency (SSRA) [redacted] who was physically located at Fort Smith, Arkansas, which is located several hours away from Ashdown. As SSRA [redacted] was already familiar with the Jeremy Reed matter, SA [redacted] provided an update on the latest developments. SSRA [redacted] encouraged SA [redacted] a Special Weapons And Tactics (SWAT) Operator, to utilize SWAT, if possible and appropriate. SSRA [redacted] requested SA [redacted] keep him advised of developments and advised SA [redacted] he fully supported the TRA's efforts to work in concert with local authorities to resolve the matter. SA [redacted] then contacted LR Headquarters City SWAT Team Leader SA [redacted], who, like SSRA [redacted] was previously briefed on the Jeremy Reed matter. SA [redacted] made SA [redacted] aware that SWAT Team assistance may be needed. Upon arriving at the LRSO, SA's

[redacted] and [redacted], and Detective [redacted] discussed the situation and developed a verbal operational plan in the presence of LRSO deputies, as well as in the presence of APD Detective [redacted]. The operational plan included a strategy to access and secure the premises, assess the situation, and extricate family members.

b6
b7D

On February 04, 2009, also sometime around 6:30 p.m., Detective [redacted] telephonically contacted Sheriff Russell. Detective [redacted] advised Sheriff Russell he had received information that Jeremy Reed was at his grandfather's residence, and Jeremy Reed had made several threats indicating he would kill his entire family, kill any police officer that tried to arrest him, and kill himself as well. Sheriff Russell and Detective [redacted] agreed it would be prudent to establish perimeter security on the property. Sheriff Russel met at the LRSO with Detective [redacted] APD Detective [redacted] SA [redacted] and SA [redacted]. Afterwards, Sheriff Russell proceeded to the area and established surveillance of the driveway leading to the property and awaited the arrival of other law enforcement personnel.

On February 4, 2009, while Detective [redacted] was still at the LRSO with SA's [redacted] and [redacted], and Detective [redacted] Mayor Reed telephonically re-contacted Detective [redacted] Mayor Reed advised Detective [redacted] that his (Mayor Reed's) wife was on the telephone with [redacted] the mother of Jeremy Reed, who informed Mayor Reed's wife that Jeremy Reed was barricaded in his grandfather's house, was in possession of a shotgun, and was threatening to kill [redacted], his two children and another child, and himself. Mayor Reed also informed Detective [redacted] that Jeremy Reed was kicking at the walls of the grandfathers residence, and [redacted] was anxious for law enforcement to arrive. Mayor Reed asked Detective [redacted] for immediate law enforcement assistance in resolving this matter. While still at the LRSO, SA [redacted] telephonically contacted [redacted] SA [redacted] was advised by [redacted] that she, her mother (the grandmother of Jeremy Reed), two children belonging to Jeremy Reed, and another child were in a mobile home trailer, which was also located on the [redacted] property approximately 70 feet away from Jeremy Reed's grandfather's house. [redacted] also advised SA [redacted] that Jeremy Reed was armed with a shotgun, he was knocking holes in walls, and that she feared for her life. [redacted] while still on the telephone with SA [redacted] stated on two occasions, "I've already signed my death warrant." [redacted] then became distraught to the point that she was unable to speak, and asked SA [redacted] to speak with her mother (who was also in the trailer). SA [redacted] asked [redacted] mother if they were all capable of exiting the trailer through the back door, and advised them to go the end of the driveway and meet Sheriff Russell. While on the telephone, SA [redacted] could hear some minor commotion in the background, and [redacted] mother advised SA [redacted] they were all exiting the trailer.

b6
b7C

Sheriff Russell had established a staging area near the property and instructed his deputies to assemble there. Sheriff Russell positioned his patrol unit on the side of the road south of the driveway leading to the property. After a brief time had elapsed, Detective [redacted] telephonically contacted Sheriff Russell and advised that SA [redacted] had spoken to [redacted] by telephone and had convinced her to take her family and leave the property, and that [redacted] and her family would be leaving the property by way of motor vehicle. Detective [redacted] requested Sheriff Russell stop the vehicle of [redacted] upon its departure from the property. Detective [redacted] then proceeded to the staging area where Sheriff Russell was located. Subsequently, Sheriff Russell observed a vehicle transiting the driveway, leaving the property, and accessing a major roadway. Sheriff Russell followed the vehicle to a safe location and effected a traffic stop. Sheriff Russell then escorted [redacted] her mother, and the three children back to a staging area south of the driveway leading to the property. At about this same time, SA's [redacted] and [redacted] as well as APD officers arrived at the scene.

Upon arriving at the staging area, SAs [redacted] and [redacted] checked their operational equipment, and discussed an operational plan with local law enforcement officers at the scene. It was determined SA [redacted] a trained FBI Crisis Negotiator, would communicate with [redacted] in an attempt to gain relevant intelligence in the event negotiations with Jeremy Reed ensued. It was also determined SA [redacted] and Detective [redacted] would approach the area of the house and trailer to establish a perimeter and initiate surveillance, as SA [redacted] was most familiar with the area.

SA [redacted] and Detective [redacted], under cover of darkness and natural foliage, approached first the house belonging to the grandfather and made a sweep of the north, east, and south sides of the house. There were no lights visible, and no apparent activity inside. SA [redacted] and [redacted] established static surveillance, with Detective [redacted] positioned on the west side of the residence and SA [redacted] positioned on the east side of the residence. b6 b7C

After debriefing [redacted] SA [redacted] and Detective [redacted] walked down the driveway of the property and positioned themselves at the south end of the house; this location also positioned them facing the front of the trailer parked adjacent to the house. This position was maintained for a period of time, with no activity being noticed within the house.

It appeared to SA [redacted] the house was unoccupied, and considering the possibility Jeremy Reed had left the property before the arrival of law enforcement, or that Jeremy Reed had committed suicide, SA [redacted] decided to try to contact Jeremy Reed before any request was made for SWAT deployment. SA [redacted] telephonically contacted SA [redacted] and advised he was in a position to knock on the door of the house. SA [redacted] pulsed his flashlight in the direction of SA [redacted] to indicate his position.

SA [redacted] went to the north side of the residence and again pulsed his flashlight to indicate his position to other law enforcement personnel. SA [redacted] could see Detective [redacted] from his position. SA [redacted] then banged on a window and announced his presence and then calling out to Jeremy Reed by name. SA [redacted] "knocked and announced" on two occasions. Detective [redacted] heard a voice from inside the residence respond, "Come get me." Detective [redacted] heard SA [redacted] and the occupant of the residence having dialogue.

According to SA [redacted] and to the best of his recollection, the following dialogue between he and Jeremy Reed took place:

Reed: Who is it?
[redacted]: It's [redacted] with the FBI. b6 b7C
Reed: What do you want?
[redacted] Jeremy, we need to talk to you.
Reed: I'm not coming out. You're going to have to come in and get me.
[redacted] Jeremy, we're not going to come in and get you. The police have your house surrounded. Jeremy, we've already talked about this. We have a warrant.
Reed: Yeah I know, but I'm not coming out. You're going to have to come in and get me. You just need to go away and leave me alone.
[redacted] Jeremy, you know we can't do that.

SA [redacted] believed Jeremy Reed was moving inside the house and coming very close to his location and became concerned Jeremy Reed was targeting his position. SA [redacted] then discontinued the conversation and quickly moved away from the house into the brush. SA

[redacted] had not observed any doors on the north side of the residence. SA [redacted] was concerned Jeremy Reed would try to escape and, therefore, he moved to a position covering the southeast side of the residence.

As SA [redacted] confirmed Jeremy Reed was inside the house, he notified SA [redacted] he was going to contact the SWAT team. SA [redacted] then contacted SWAT Assistant Team Leader SA [redacted] (as SWAT Team Leader SA [redacted] was out of town), and requested deployment of SWAT to the location. SA [redacted] advised SA [redacted] there was no reason for the on-scene law enforcement officers to make entry into the house, and the best option was for them to maintain the perimeter until FBI SWAT arrived on scene. SA [redacted] requested SA [redacted] to contact SSRA [redacted] and provide him with an update on the situation. SA [redacted] advised SA [redacted] he contacted the Little Rock SWAT Team, and further advised it would take the SWAT team three to four hours to arrive on scene. b6 b7C

SA [redacted] advised SA [redacted] he was going to meet with Sheriff Russell to brief him on the situation and coordinate a negotiation strategy. Afterwards, SA [redacted] heard a noise near the house and he observed Jeremy Reed now outside the residence, with a long gun in his hand while looking around and walking toward the adjacent trailer. SA [redacted] then shouted, "Jeremy, drop your weapon!" Jeremy Reed did not comply and instead began running toward the trailer. SA [redacted] lost sight of Jeremy Reed, but again shouted, "Jeremy, drop your weapon!" Still unable to see Jeremy Reed, SA [redacted] shouted "Drop your weapon" once again. Detective [redacted] heard something to the effect of SA [redacted] yelling at Jeremy Reed to drop his gun and get down. Detective [redacted] then observed Jeremy Reed, carrying a long gun that was believed to be a shotgun, moving towards the trailer.

SA [redacted] attempted to regain visual sighting of Jeremy Reed by maneuvering in the direction of where he had previously observed Jeremy Reed. SA [redacted] then heard a loud "boom" which he believed was a shotgun being discharged, which he thought was initiated by Detective [redacted] as it came from near Detective [redacted] location. SA [redacted] then regained sight of Jeremy Reed, observing Jeremy Reed standing on the steps at the front of the trailer. SA [redacted] observed Jeremy Reed holding the long gun horizontally. SA [redacted] now fearing for the safety of the other law enforcement officers, raised his Bureau issued rifle in preparation to engage Jeremy Reed. SA [redacted] then heard the sound of Jeremy Reed discharging his weapon, and visually observed a muzzle-flash from Jeremy Reed's location. SA [redacted] then brought his M-4 rifle into firing position and noticed the reticle of the EO Tech electronic sight was not illuminated. Since the rear factory sight had been removed to accommodate the EO Tech sight, SA [redacted] used the EO Tech sight as a rear peep sight, centered the top of the front sight post in the glass display of the EO Tech sight, put the front sight post at the center of mass of Jeremy Reed, and then fired his M-4 rifle. Jeremy Reed did not react. SA [redacted] then held the front sight post slightly lower and fired his M-4 rifle a second time and observed Jeremy Reed flinch. Jeremy Reed then entered the front door of the trailer, and SA [redacted] lost sight of him. Almost simultaneous to firing his M-4 rifle the second time, SA [redacted] heard a shotgun blast from the right of his position and heard someone state, "I hit him." (SA [redacted] later learned it was Detective [redacted] who fired his shotgun, and the buckshot from the shotgun fired by Detective [redacted] struck Jeremy Reed.) b6 b7C

SA [redacted] then moved to a position on the east side of the trailer and checked to ensure Jeremy Reed had not escaped out the back of the trailer. SA [redacted] then heard Jeremy Reed moving around inside the trailer. SA [redacted] also heard Jeremy Reed moaning and heard him yell, "I'm bleeding out!" SA [redacted] then yelled for Jeremy Reed to come out of the trailer

in order to receive medical assistance. Jeremy Reed responded he was not coming out, and stated again that he was shot and was "bleeding out." SA believed Jeremy Reed was moving westward inside the trailer, and thinking he might come out the front of the trailer, SA began to move along the north side (front) of the trailer toward the front door.

During the time Jeremy Reed was moving from the house to the trailer, SA was discussing the situation with Sheriff Russell. Upon hearing gunfire, Sheriff Russell and SA entered Sheriff Russell's vehicle and proceeded toward the house and the trailer. Once near the two residences, and upon exiting the vehicle, SA called out to Detective to determine if he was alright. Detective indicated he was alright and then briefed SA as to what had just transpired, and indicated that Jeremy Reed had taken refuge in the trailer. At that time, SA observed SA moving in the direction of the trailer. b6 b7C

SA continued to attempt to convince Jeremy Reed to leave the trailer in order to receive medical attention. Subsequently, SA informed Jeremy Reed that he was having trouble hearing him and was going to push the front door open a little so he could understand him better. Upon pushing the door open, through the hinge gap between the door and the door frame, SA was able to see Jeremy Reed. SA observed that Jeremy Reed had sustained injuries to his right wrist and right thigh. SA also observed Jeremy Reed was holding his weapon by the barrel with his left hand. It appeared to SA that Jeremy Reed was no longer wanting to engage law enforcement personnel. SA again offered medical assistance to Jeremy Reed and Reed again refused. It was about this time SA joined SA outside the trailer, near the front door.

SAs and each called out to Jeremy Reed, and SA could hear moaning coming from within the trailer. At one point, SA heard Jeremy Reed state "man, I'm bleeding out." SAs and negotiated with Jeremy Reed, encouraging him to exit the trailer so he could be taken to a hospital. Jeremy Reed refused to leave the trailer and at one point commented, "I'm going to finish myself off." Jeremy Reed also stated there was no way he was going back to jail.

SAs and continued to negotiate and offer assistance, and Reed continued to refuse. At this point, Jeremy Reed stated, "You sons of bitches shot me and I'm bleeding out." SA opened the door a littler wider in effort to get a better view of Jeremy Reed. SA observed Jeremy Reed in the hallway of the trailer with blood stains on the right leg of his jeans. Based on his crisis negotiation training, SA believed the longer Jeremy Reed was engaged and talking, the more likely he was to surrender. Therefore, SA attempted to maintain ongoing dialogue with Jeremy Reed. All-the-while, Jeremy Reed refused to exit the trailer.

During the stand off, Jeremy Reed stated he had taken sixty-five pills, including Xanax. SA observed Jeremy Reed become unsteady on his feet. Jeremy Reed then threatened suicide. SA then observed Jeremy Reed put the shotgun down. SA subsequently advised Jeremy Reed he was going to take one step into the living room and talk to him face to face. SAs and now positioned in the doorway of the trailer, observed Jeremy Reed walking periodically from the hallway to a room adjacent to the hallway. On two occasions Jeremy Reed walked out of the adjacent room with the shotgun, holding the barrel end with his left hand. On one occasion, Jeremy Reed walked out with the shotgun pointing toward the floor of the trailer. All-the-while, SAs and being at the doorway of the trailer, continued to negotiate with Jeremy Reed. b6 b7C

As SAs [redacted] and [redacted] continued to negotiate with Jeremy Reed, SA [redacted] requested Sheriff Russell to come to the door of the trailer to assist in the negotiation for Jeremy Reed's surrender, as the Sheriff and Jeremy Reed were very familiar with each other. Sheriff Russell complied and thereafter participated in the negotiation. After nearly an hour, SAs [redacted] and [redacted] noticed a change in Jeremy Reed's demeanor. Jeremy Reed then walked into the room adjacent to the hallway of the trailer and closed the door. Within seconds, a muffled blast was heard by SAs [redacted] and [redacted] as well as by Sheriff Russell. Detective's [redacted] and [redacted] outside the trailer, also heard the muffled blast. SA [redacted] called out to Jeremy Reed by name a number of times, but Jeremy Reed did not respond. As this time, Detective [redacted] used his police radio to request an ambulance. SA's [redacted] and [redacted] entered the adjacent room saw Jeremy Reed's body slumped in a chair. It was obvious to SA's [redacted] and [redacted] that Jeremy Reed placed the barrel of the shotgun under his chin and discharged the weapon. Detective [redacted] was subsequently advised of the details, and he then contacted the LRSO Dispatcher and requested a Coroner. He also requested an Arkansas State Police (ASP) Investigator be dispatched to the scene.

b6
b7C

On February 4, 2009, at 10:50 p.m., the LRSO Dispatcher contacted ASP Senior Special Agent (SSA) [redacted] for assistance. ASP SSA [redacted] then contacted his supervisor, ASP Sergeant [redacted] and advised him of the matter. At approximately 11:16 p.m., ASP SSA [redacted] arrived on scene. ASP SSA [redacted], being assisted by ASP SA's [redacted] and [redacted] as well as ASP Sergeant [redacted], conducted a State of Arkansas Crime Scene Search and initiated a Death Investigation.

[redacted] M.D., Associate Medical Examiner, Arkansas State Crime Laboratory, issued a report advising an examination was conducted on February 06, 2009 on decedent Jeremy Reed. Jeremy Reed was pronounced dead at 11:12 p.m. on February 4, 2009, at [redacted] Ashdown, Arkansas. The manner of death was determined to be suicide, with the cause of death being a shotgun wound to the neck.

On February 13, 2009 [redacted] Prosecuting Attorney, Judicial District 9th West, State of Arkansas, advised ASP SSA [redacted], with respect to his Death Investigation of Jeremy Reed, "Pursuant to our telephone conversation today, I am writing to notify you that I have reviewed the Arkansas State Police's investigative file in regards to this matter. After review of the statements from the witnesses, the pictures and diagrams of the scene, I do not find that the police officers or the agents (sic) from the Federal Bureau of Investigations (sic) did anything to violate Arkansas criminal law."

b6
b7C

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/11/2009

**To;** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections,
**Contact:** [redacted]

b2
b6
b7C

**Approved By:** Galligan Mary E

AD Lyons

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
08/14/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/14/2009, involving Special Agent (SA) [redacted] During the execution of an arrest warrant, SA [redacted] fired five rounds from his Bureau-issued Colt Model M1641, .223 caliber carbine killing an attacking bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 08/17/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/14/2009, at approximately 6:00 p.m., members of the Violent Crimes Task Force executed an arrest warrant for [redacted] who was wanted for a number of bank robberies. Investigation determined [redacted] was inside a residence located in Chicago.

b6
b7C

Upon arrival at the residence, SA [redacted] knocked on the door of the residence and announced law enforcement presence. Receiving no response, SA [redacted] noticed the door was

UNCLASSIFIED

ajar and pushed it open. As the door opened, a large white bull dog charged at the arrest team. SA [redacted] yelled "dog" and kicked at the animal which continued to attack. SA [redacted] located directly behind SA [redacted] pulled him away from the dog and fired five rounds killing the dog.

b6
b7C

After the shots were fired, a number of individuals exited the residence through the back door. Perimeter Agents detained the individuals, conducted interviews, and determined [redacted] was located in the basement of the residence. The subject surrendered and was taken into custody without further incident.

On 12/03/2009, the SIRG met to discuss the above-captioned shooting incident. Acting Deputy Assistant Director Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Inspector Donald E. Oswald, Office of Inspections, INSD; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit, TD; SSA [redacted], Evidence Response Team, Laboratory Division; SSA [redacted], CR-2, Washington Field Office; SSA [redacted], Firearms Training Unit, TD; SSA [redacted] Defensive Systems Unit, TD; and SSA [redacted] Investigative Law Unit, Office of General Counsel. The following non-voting members were also in attendance: SC Linda M. Krieg, Internal Investigations Section, Inspection Division; UC [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; Management and Program Analyst (MAPA) [redacted] IMU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 12/11/2009

SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 12/11/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 6387
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/11/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Galligan Mary E

**Drafted By:** [redacted] lrr

AD Lyons

b2
b6
b7C

**Case ID #:** 297-HQ-A1271741-D

**Title:** SHOOTING INCIDENT
LOS ANGELES FIELD OFFICE
08/12/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/12/2009, involving Special Agent (SA [redacted] While securing a rear perimeter area during the execution of a search warrant, SA [redacted] fired two rounds from his Bureau-issued Glock Model 22 pistol, injuring an attacking pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge James L. Struyk, dated 08/12/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/12/2009, SA [redacted] participated in the execution of a state search warrant. At approximately 9:00 a.m., a briefing was held at the Los Angeles Police Department in Culver City. At the conclusion of the briefing, SA [redacted] and approximately 30 other law enforcement personnel proceeded to the location to execute the search warrant.

At approximately 10:30 a.m., the entry team approached the initial entry point to the business. A locked white metal

security door had recently been installed and a decision was made to enter through the preplanned secondary entry point while SA [redacted], Internal Revenue Service (IRS) Agent [redacted] and a local police officer maintained the perimeter at the security door. As the entry team went to the secondary entry point, a construction worker appeared at the security door, complied with the law enforcement command to unlock the metal door, and was subsequently detained. SA [redacted] proceeded down a narrow path while SA [redacted] maintained his position at the security door. Moments later SA [redacted] observed SA [redacted] running toward him yelling "dog, dog" and observed a large pit bull dog chasing and growling at SA [redacted] As SA [redacted] passed SA [redacted] position, SA [redacted] fired two rounds causing the injured dog to retreat.

On 12/03/2009, the SIRG met to discuss the above-captioned shooting incident. Acting Deputy Assistant Director Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Inspector Donald E. Oswald, Office of Inspections, INSD; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit, TD; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] CR-2, Washington Field Office; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Defensive Systems Unit, TD; and SSA [redacted] Investigative Law Unit, Office of General Counsel. The following non-voting members were also in attendance: SC Linda M. Krieg, Internal Investigations Section, Inspection Division; UC [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; Management and Program Analyst (MAPA) [redacted] IMU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 12/11/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr [redacted] Laboratory
1 - Mr [redacted] WFO
1 - Ms [redacted], Room 6387
1 - Mrs. [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/10/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Galligan Mary E AD LYONS

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271984-D

b2
b6
b7C

**Title:** SHOOTING INCIDENT
TRAINING DIVISION
08/07/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/07/2009, involving Law Enforcement Specialist (LES) [redacted] LES [redacted] fired one round from his Glock Model 23, .40 caliber S&W pistol killing a severely injured deer. SIRG members recommended that no administrative action be taken against LES [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Assistant Director Brian D. Lamkin, dated 08/10/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/07/2009, at approximately 5:45 a.m., LES [redacted] was driving to work at the FBI Academy when he encountered a U. S. Marine standing next to an injured female deer. The Marine was in the oncoming lane of traffic using a flashlight to signal traffic to slow down because the deer was struggling to stand and was dragging itself across the roadway.

Due to the darkness, increasing traffic, lack of emergency lights, and location of the deer, LES [redacted] shot and

UNCLASSIFIED

To: Inspection From: Inspection
Re: 297-HQ-A1271984-D, 12/10/2009

killed the injured deer to eliminate the traffic hazard and prevent potential injury to personnel in the area.

It should be noted that Game Wardens usually handle these situations; however, all Game Wardens were assigned temporary duty assignments in South Carolina at the time of the incident.

On 12/03/2009, the SIRG met to discuss the above-captioned shooting incident. Acting Deputy Assistant Director Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Inspector Donald E. Oswald, Office of Inspections, INSD; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit, TD; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] CR-2, Washington Field Office; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Defensive Systems Unit, TD; and SSA [redacted] Investigative Law Unit, Office of General Counsel. The following non-voting members were also in attendance: SC Linda M. Krieg, Internal Investigations Section, Inspection Division; UC [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; Management and Program Analyst (MAPA) [redacted] IMU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that no administrative action should be taken against LES [redacted] as a result of his involvement in this shooting incident. It was noted by the members that although LES [redacted] actions were humane, the

To: Inspection From: Inspection
Re: 297-HQ-A1271984-D, 12/10/2009

shooting of the injured deer was not within the current deadly force policy. This matter will be discussed with the Assistant Director of the Training Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271984-D, 12/10/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

[redacted] That no administrative action be taken against LES [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] aboratory
1 - Mr. [redacted] NFO
1 - Ms. [redacted] Room 6387
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/01/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Stevens Michael S

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271912-D

b2
b6
b7C

**Title:** SHOOTING INCIDENT
SAN ANTONIO DIVISION
06/19/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/19/2009, involving Special Agent (SA) [redacted] While executing a federal arrest warrant, SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol at an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Assistant Special Agent in Charge D. True Brown, Jr., dated 07/15/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/19/2009, San Antonio Division Agents, along with local police officers, were executing an arrest warrant on an indicted gang member.

A briefing was held at approximately 2:30 p.m., and SA [redacted] advised team members that two large pit bull dogs had been observed at the residence within the previous two weeks. SAs [redacted], and [redacted] were assigned to approach the

UNCLASSIFIED

front of the residence accompanied by a uniformed officer. Two additional Agents and a uniformed officer were to provide rear security of the residence as Agents attempted to make contact with the individuals inside the residence.

SAs [redacted] and [redacted] traveled to the residence in one vehicle. Upon arrival, SAs [redacted] and [redacted] exited and began moving toward the front door of the residence. SA [redacted] exited and assumed a position behind SAs [redacted] and [redacted] As the Agents proceeded to the front door, SA [redacted] heard barking and growling and observed a large dog charging toward her and SA [redacted] SA [redacted] pointed his weapon and fired one round at the dog which was inches away from his right leg. The shot did not strike the dog; however, the pit bull retreated allowing Agents time to move to a location of safety.

On 09/09/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ [redacted] Attorney, Criminal Division, USDOJ; Chief Inspector Mary E. Galligan, Office of Inspections, INSD; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted], Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: SC Ellen B. Icochea, Strategic Analysis Section (SAS), INSD; UC [redacted] Inspection Management Unit (IMU), SAS, INSD; SSA [redacted] Inspection Analysis Unit (IAU), SAS, INSD; Management and Program Analyst (MAPA) [redacted] IAU, SAS, INSD; MAPA [redacted] IMU, SAS, INSD; MAPA [redacted] IAU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271912-D, 10/01/2009

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271912-D, 10/01/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] CIRG
1 - Mr. [redacted], Quantico
1 - Ms. [redacted], Room 6387
1 - Mr. [redacted] FBO
1 - Mrs. [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 12/14/2009

To: Inspection Attn: AD Amy Jo Lyons

From: Inspection
Office of Inspections
Contact: [redacted]

Approved By: Lyons Amy Jo
Galligan Mary E

Drafted By: [redacted]

b2
b6
b7C

Case ID #: 297-HQ-A1271895-D

Title: SHOOTING INCIDENT
PHILADELPHIA DIVISION
09/11/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/11/2009, involving Special Agent (SA) [redacted]. While conducting a cellular telephone tracking operation, SA [redacted] fired two rounds from his Bureau-issued Glock Model 22, .40 caliber pistol at a subject who was backing a vehicle toward him and a local police officer. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent [redacted], dated 11/17/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 09/11/2009, Agents and Task Force Officers (TFOs) were conducting a cellular telephone tracking operation on fugitive [redacted]. During the operation, [redacted] parked his vehicle and Detective [redacted] parked the tracking vehicle directly behind him. SA [redacted] and Detective [redacted] exited their vehicle while issuing commands to the subject. Detective [redacted] was positioned behind the rear passenger side of

UNCLASSIFIED

the subject vehicle and SA [redacted] was situated along the passenger side. In an attempt to seek cover, SA [redacted] repositioned himself to the rear passenger side forcing Detective [redacted] to the rear of the vehicle.

Attempting to prevent the subject from leaving the area, Detective [redacted] repositioned the tracking vehicle along the side of the subject's vehicle. [redacted] placed his car in reverse and backed toward Detective [redacted] and SA [redacted] Believing both were in imminent danger of being injured or killed, SA [redacted] fired two rounds at the subject.

[redacted] was not struck by the fired rounds and fled the scene. His vehicle was recovered by local police and the two expended rounds were recovered from the rear of the vehicle.

On 12/03/2009, the SIRG met to discuss the above-captioned shooting incident. Acting Deputy Assistant Director Mary E. Galligan, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Inspector Donald E. Oswald, Office of Inspections, INSD; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Practical Applications Unit, TD; SSA [redacted] Evidence Response Team, Laboratory Division; SSA [redacted] CR-2, Washington Field Office; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Washington, Defensive Systems Unit, TD; and SSA [redacted] Investigative Law Unit, Office of General Counsel. The following non-voting members were also in attendance: SC Linda M. Krieg, Internal Investigations Section, Inspection Division; UC [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; Management and Program Analyst (MAPA) [redacted] IMU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 12/14/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 6387
1 - Mrs. [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/05/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Siemens Michael S

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271801-D

**Title:** SHOOTING INCIDENT
OKLAHOMA CITY DIVISION
03/07/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/07/2009, involving Special Agent (SA) [redacted] While hiking along an Oklahoma highway, SA [redacted] shot and killed an aggressive dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 03/10/2009. b6 b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 03/07/2009, as SA [redacted] was hiking along a highway outside of Woodward, Oklahoma, a large mixed breed dog approached him in a menacing manner. SA [redacted] looked around to determine if the dog's owner was in the area, however, the nearest house was approximately two hundred yards away from his location. SA [redacted] attempted to continue his walk several times; however, each time he turned his back to the animal, the dog aggressively charged him. After several attempts to leave the area, SA [redacted] turned and continued to walk toward town. He heard the dog barking in

UNCLASSIFIED

an aggressive manner and as he turned he saw the dog running toward him. Fearing for his safety, SA [redacted] dropped his backpack to the ground and drew his weapon from his fanny pack. As the dog continued approaching him, SA [redacted] fired one round killing the dog.

SA [redacted] continued his walk toward town and while on a secondary road, observed two County Sheriff's Deputies. He advised them of the incident and was informed the dog's owner had also reported the incident.

On 05/28/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Barry Kowalski, Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted] Practical Applications Unit, TD; UC [redacted], Defensive Systems Unit, TD; SSA [redacted] Evidence Response Team Unit, Laboratory Division; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-17, Washington Field Office. UC [redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the

b6
b7C

recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271801-D, 08/05/2009

LEAD(s):

Set Lead 1: (Action)

b6
b7C

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Kowalski, USDOJ
1 - Mr [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC Donald E. Oswald Office: Inspections
Date: 03/09/2009

Case ID #: 297-HQ-A1270961D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BUFFALO DIVISION
02/26/2009

Character: SHOOTING INCIDENT REVIEW

Synopsis: The Buffalo Division conducted an investigation entitled [redacted] which focused on the cocaine distribution activities of the "31 Street Gang," also known for extreme violence, including several murders. In January 2009, a joint law enforcement operation was conceived to obtain and simultaneously execute 34 arrest warrants, 11 search warrants for residences, and five search warrants for vehicles. Execution of the operation occurred on Thursday, February 26, 2009, and involved the FBI's Buffalo Division, New York State Police (NYSP), City of Buffalo Police, and numerous other federal, state, and local agencies. During the operation, the Buffalo Division's SWAT Team was assigned to clear two residences, in both of which were thought to live potentially armed subjects. Both residences located in the City of Buffalo were to be searched following clearing by the SWAT Team.

b6
b7C
b7E

The first residence cleared by the SWAT Team was located at [redacted] and was executed as planned. The second residence was located at [redacted] where recent intelligence indicated the subject had obtained an assault rifle and two hand guns. The SWAT Team deployed a flash bang grenade and made entry into the residence. As the SWAT Team entered the living room, two SWAT operators broke off from the stack to clear a room along the right side wall of the living room. The remainder of the team proceeded through the living room to the threshold of the dining room located behind the living room. Within the dining room, there was a closet at the far left corner of the room, a hallway at the far right corner leading to the kitchen, and another doorway along the right side wall. Several operators stacked at the threshold between the living and dining rooms and began providing cover on the dining room and the far doorways, while one of the operators, SA [redacted] moved into the dining room. As he entered the dining room, SA [redacted] observed a cloth covering the doorway along the right wall billow out slightly into the dining room. Believing someone was in the adjacent room, SA [redacted] pulled down the covering, and conducted a quick peek into the room. SA [redacted] was unaware this

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

doorway was a second entrance into the same room SWAT operators had previously entered from the living room.

During the quick peek, SA [redacted] saw the silhouette of a man holding an assault rifle which was moving up and down as if being handled by an untrained person. SA [redacted] immediately backed away, took a tactical crouching position and fired at what he believed to be an armed subject about to engage his weapon. Unknown to SA [redacted] SA [redacted] one of the SWAT operators clearing the room along the right side wall of the living room, had inadvertently passed the covered doorway and was standing on a box spring and two mattresses, which were located in front of a closet he was attempting to clear. SA [redacted] fired four rounds from his M-4 .223 caliber rifle, the first two of which struck the adjacent room's exterior wall and window, and embedded into the neighboring house at [redacted] After slightly adjusting his aim, SA [redacted] fired a third round which first penetrated the door jam, and then struck SA [redacted], but was stopped by [redacted] tactical vest in the kidney area. SA [redacted] forth round struck SA [redacted] in the shoulder with the bullet eventually lodging in his neck. SA [redacted] was immediately attended to by the SWAT Team's Medic and a special medical response team trauma surgeon, following which he was transported to a nearby trauma center. He was released from the hospital on Saturday, February 28, 2009, and was expected to make a full recovery. b6 b7C

**DETAILS OF OPERATION:**

On April 10, 2007, the Buffalo Division's Violent Crime/Organized Crime Squad (Squad Four) opened an OCDETF investigation, [redacted] involving the "31 Street Gang." The "31 Street Gang" was known to be a violent gang involved primarily in cocaine distribution. During the investigation [redacted] Title IIIs were initiated on numerous members of the gang to [redacted] and [redacted] Numerous controlled drug purchases, physical surveillances and electronic tracking devices were utilized during the investigation. The Buffalo Division operated [redacted] who targeted the gang and obtained additional intelligence. Use of the various investigative techniques identified the scope of the cocaine trafficking conspiracy by the gang, as well as numerous gang members and gang associates. In addition to cocaine trafficking, the "31 Street Gang" was believed to be involved in violent assaults, homicides, and money laundering. In June 2008, the OCDETF investigation involving the "31 Street Gang" was selected by FBIHQ as a Top 30 FBI gang investigation. b3 b6 b7C b7D

[redacted]

In February 2009, subsequent to the vehicle stop, a decision was made by the investigators to arrest all identified subjects. A contributing factor in this decision was one of the main subjects, [redacted] was becoming increasingly aware of surveillance and began confronting surveillance teams. On February 24, 2009, the Buffalo Division obtained 34 federal arrest warrants for members and associates of the "31 Street Gang" and 17 federal search warrants.

SWAT TEAM PREPARATIONS

SA [redacted] became the Buffalo Division SWAT Team Leader (TL) in June 2008. TL [redacted] had been a member of the team since 2001. Since assuming the role of TL, he led two SWAT operations prior to the captioned operation. The SWAT Team trained three days each month and one full week each year. A training matrix was used to determine what training was necessary to fulfill FBI requirements and the specific needs of the Buffalo Division, from which the training schedule for the year was established. In November 2008, the Chief Division Counsel (CDC) provided training on the FBI's Deadly Force Policy to the SWAT Team. The SWAT Team conducted firearms and tactics training on a regular basis, including standard operating procedures (SOP) for weapons handling. The SWAT Team SOP for weapons handling concurred with FBI policy. b6 b7C

On Monday, February 23, 2009, the SWAT Team held regularly scheduled training at the Alden SWAT Training facility owned by Erie County, NY. The facility was equipped with pistol and rifle ranges, as well as a shooting house. Training consisted of discussions on various topics from the recent SWAT TL Conference. One of the items discussed was the weapon safety manipulations policy, which TL [redacted] reviewed with the participating members of the SWAT Team. Training was provided on the HK gas gun, including familiarization fire and qualifications. The team also reviewed Close Quarters Battle (CQB) techniques, specifically movement in hallways, at doorways, and at room entrances. Link-up procedures were also discussed. While TL [redacted] attended a meeting on the upcoming operation from 10:30 a.m. to 12:30 p.m., SA [redacted] conducted M-4 training drills with the SWAT Team.

During the afternoon portion of the training, TL [redacted] fully briefed the Operations Plan using a PowerPoint presentation. Included in the presentation were a target matrix describing potential threats at each location, identification of the assembly area location, maps, intelligence on the subjects sought at each address, photographs of each subject, aerial photographs of each location, reconnaissance and site survey data for each location, and weather information for the date of the operation. Paper copies of the presentation or the draft Operations Plan were not provided during the briefing. After the briefing, a rehearsal was conducted for each location. The shoot-house was utilized to simulate the first location [redacted] and the "Hogan's Alley" range was utilized to simulate the [redacted] location. The SWAT Team rehearsed vehicle positioning, positions inside vehicles, dismount, approach, assigned positions, actions at the entry points, and breach procedures. b6 b7C

Due to the overall intelligence regarding the subjects of the investigation and information which indicated subjects at the [redacted] location were expected to be armed, TL [redacted] felt an entry utilizing the deployment of a flash bang grenade was the best method to use for the SWAT entry. TL [redacted] felt it was the safest method by which to execute the search, as it would provide an element of surprise and provide the SWAT Team a tactical advantage.

TL [redacted] completed the Operations Plan on Tuesday, February 24, 2009. On Wednesday, February 25, 2009, he briefed SSA [redacted], the SWAT Team Coordinator and Squad 4 supervisor. Subsequently, they both briefed ASAC Richard W. Kollmar and ASAC

[redacted] on the plan. During the briefing, TL [redacted] requested approval for the deployment of flash bang grenades inside each of the two residences. Although the Operations Plan did not require the use of flash bangs in the interior portion of the houses, he requested the approval in case a situation arose that called for such use. ASAC Kollmar approved the deployment of flash bang grenades. ASAC Kollmar provided both verbal and written approval of the SWAT Operations Plan at that time. SAC Laurie Bennett approved the Operations Plan later that day. The final approved version of the Operations Plan was uploaded to the SWAT folder on the Buffalo Division's Shared Drive, where team members could access it. SWAT Team members were also sent an e-mail with a copy of the Operations PowerPoint presentation by TL [redacted]

b6
b7C

In order to rehearse closer to the actual day of the operation, the SWAT Team scheduled a rehearsal for the early morning on the day of the operation. In preparation for the rehearsal, TL [redacted] utilized chalk to draw distinct mock-ups of the front of [redacted] and [redacted] on the floor of the Electronic Technicians (ET) bay. The outlines included the front of each residence, window locations, porches, front entrances, and stairs.

EARLY MORNING OPERATIONS: FEBRUARY 26, 2009

On Thursday, February 26, 2009, SWAT Team members arrived at the field office around 3:30 a.m., to get dressed for the operation. They had been directed to arrive by 3:45 a.m. The SWAT Team dressed in the same uniforms, which consisted of green BDUs, olive drab SWAT tactical vest with plates inserted, black tactical boots, black balaclava, flight gloves, kevlar helmet, goggles, crotch protector, and knee pads. SA [redacted] wore a green flight suit, as he did not possess BDUs. The rear perimeter team, SA [redacted] and SA [redacted] wore black vests, as they did not have olive drab vests. Each SWAT Team member had their issued Glock pistol and M-4 rifle, and extra loaded magazines for each. Each operator also had a flashlight, either attached to one or both weapons, and/or a tactical light. They were also equipped with Pelcor hearing protection devices.

When the team reported, SA [redacted] advised TL [redacted] that he had injured himself and asked to be removed from the entry team. SA [redacted] was moved to the SWAT driver position and SA [redacted] was moved to the number six position in the entry team line-up. All SWAT Team members involved in the operation rehearsed their planned entries and breaching options by walking through the chalk mock-ups in the ET bay from approximately 4:30 a.m. until almost 5:00 a.m. Prior to the rehearsal, SA [redacted] provided additional information from his CHS to the SWAT Team that [redacted] who resided at [redacted] recently came into possession of an AK-47 or AR-15 assault rifle and two handguns, which had been brought to [redacted] SA [redacted] received this information the day prior to the operation.

b6
b7C

At 5:00 a.m., there was a general briefing at the Buffalo Field Office for all personnel involved in the operation. Some SWAT Team members attended this briefing, while others did not or attended only a portion of the briefing. SAC Bennett, SSA [redacted] and the case Agent made remarks and provided information about the operation. The 34 arrest teams were also present for the briefing. Each arrest team had completed their own briefing on Wednesday, February 25, 2009. CDC David Szumski reviewed the FBI's Deadly Force Policy at the 5:00 a.m. briefing, and advised officers of other departments to follow their own Deadly Force Policy. During or shortly after the 5:00 a.m. briefing, TL [redacted] briefed the NYSP

troopers regarding escorting the SWAT Team on the operation. TL advised the NYSP to turn on the emergency lights of their vehicles when the SWAT Team made entry.

362 EMSLIE STREET

At the conclusion of the briefing, the SWAT Team proceeded to A federal arrest warrant had been issued for residen and a federal search warrant had been issued for the premises. A pair of Deputy United States Marshals had taken up a position in a backyard adjacent to The Marshals were confronted by a Great Dane, which they shot and killed. In spite of this event, it was determined by ASAC Kollmar, On-Scene Commander, the execution of the warrants at could proceed as planned. b6 b7C

At approximately 6:00 a.m., entry was achieved a and the subject was located and apprehended. Three babies were found inside the premises. The Operations Order called for an arrest team to be on scene to deal with matters such as this, but the team did not arrive as scheduled. As a result, the SWAT Team was required to remain in control of until the arrest team arrived. It took approximately one hour for the SWAT Team to complete operations a

There was no set time for the SWAT Team to arrive a for the second operation. However, according to interviews of SWAT Team members, both operations were to be conducted prior to daylight. The late arrival of the arrest team made this virtually impossible. When interviewed, some SWAT Team members indicated they felt a sense of urgency to get to the location.

Upon concluding the operation a TL conducted an after action debriefing with the team and then directed the sniper/observers, SA and SA to to conduct an advance surveillance on the house.

STREET

At approximately 7:15 a.m., the sniper/observers arrived in the vicinity of and approached the residence from a direction which allowed them to observe the right side of the house. They observed lights on inside the front room at the residence and reported the information to TL via radio channel T-5, dedicated to internal SWAT Team communications. The sniper/observers pulled their vehicle alongside the curb in front of a large brick building adjacent to a short distance from the target house which provided cover and concealment, and waited for the arrival of the rest of the team. b6 b7C

The remaining SWAT operators were en route in the SWAT van driven by SA SA drove the SWAT truck equipped with a winch, and brought along SA and SA the rear perimeter observers. Both SWAT vehicles stopped in front of a warehouse located on Smith Street directly behind the residence, where SWAT Team members repositioned in the vehicles, and deployed the rear perimeter observers to a surveillance position on the warehouse roof. The warehouse rooftop provided a direct view of the backyard of the residence at

Upon notification of the SWAT Team's imminent arrival, SA [redacted] and [redacted] staged on the sidewalk adjacent to [redacted] and awaited the remainder of the team. The SWAT van and the winch truck moved into position, and subsequently two marked NYSP vehicles blocked off each end of Coit street. ASAC Kollmar's vehicle was in front of the NYSP vehicle at the intersection of Howard Street and Coit Street. The SWAT Team exited their vehicles, off-loaded their gear, and stacked-up along the large brick building adjacent to the residence. The order of the stack on the sidewalk was SA [redacted] (position #1), SA [redacted] (position #2), SA [redacted] (position #3), SA [redacted] (position #4), TL [redacted] (position #5), SA [redacted] position #6), SA [redacted] (position #7), SA [redacted] (position #8), SA [redacted] (position #9), SA [redacted] (breacher/position #10), SA [redacted] (breacher/position #11), SA [redacted] (position #12/winch truck driver), SA [redacted] (SWAT van driver), and SA [redacted] (SWAT Medic/left side security).

Once in position, SA [redacted] initiated the ready check and when the check was complete, TL [redacted] gave the order to the team to advance toward the door of the house. The team moved deliberately toward the front steps of the residence covering all visible windows. SA [redacted] moved up the front stairs positioning himself against the banister on the right, assessed the door and announced "FBI Search Warrant." SA [redacted] and SA [redacted] then left their positions in the stack formation and moved toward the front door to position themselves for its breach. The NYSP vehicles activated their emergency lights at this time. Simultaneously, multiple SWAT Team members announced "FBI Search Warrant"and SA [redacted] (position #8) left his position in the stack to take a position near the winch truck in case the initial breach attempt was unsuccessful and a chain needed to be attached to the outer metal security door and winch truck to pull the door from its hinges. The stack order at the time just prior to breaching action was SA [redacted] (position #1), SA [redacted] (position #2), SA [redacted] (position #3), SA [redacted] (position #4), TL [redacted] (position #5), SA [redacted] (position #6), SA [redacted] (position #7), and SA [redacted] (position #8).

SA [redacted] set the Halligan tool at the storm door/door jam gap and SA [redacted] struck the Halligan tool with a ram. The storm door opened outward from this strike. SA [redacted] hit the front door two or three times with the ram and the door opened inward. SA [redacted] entered the vestibule and observed a closed door to the left, consistent with the limited intelligence available on the house layout. SA [redacted] called for a secondary breach, but turned the door knob and found it unlocked. SA [redacted] opened the secondary door and SA [redacted] called for a flash bang grenade. SA [redacted] deployed a flash bang grenade into the living room. The grenade detonated a few feet past the secondary doorway in the living room resulting in a significant amount of smoke. SA [redacted] entered the living room first, SA [redacted] second, SA [redacted] third, and SA [redacted] fourth.

The lighting conditions in the living room were moderate. SA [redacted] moved from the secondary doorway along the wall parallel to the street and yelling "FBI Search Warrant" until reaching the room's corner. SA [redacted] took a position by a couch at a secondary doorway and identified a long hallway going from the living room, through a dining room, and into a kitchen. The dining room was dark, but the kitchen area was well-lit. SA [redacted] moved farther into the living room along the couch and SAs [redacted] and [redacted] identified a doorway to the right, off of the living room. SA [redacted] called out for another SWAT operator. SA [redacted] acknowledged and moved to the doorway to the right off of the living room which was later identified as a bedroom. SA [redacted] and SA [redacted] passed SA [redacted] on the right and

b6
b7C

b6
b7C

entered the bedroom yelling "FBI Search Warrant." SA [redacted] entered the bedroom first and went to the far wall of the room, SA [redacted] entered the bedroom second, button-hooked left and stayed to the interior wall.

SA [redacted] trained his weapon on the hallway through the dining room and into the kitchen area and called, "I'm long," while moving to a position at the doorway to the dining room. From this position, SA [redacted] looked into the dining room and identified a cloth covering over a doorway to the right and called out identifying the door and the need for two SWAT operators. SA [redacted] moved from his position in the corner of the living room and posted adjacent to SA [redacted], and said "got one." SA [redacted] responded, "no, need two." Subsequently, SA [redacted] identified the cloth covered doorway on the right. Light from the kitchen made for dim lighting in the dining room. SA [redacted] and SA [redacted] considered the doorway on the right to be an entrance for a second room on the right, and therefore considered it an unaddressed danger area.

SHOOTING OF SA [redacted]

Simultaneous with the advance of SA [redacted] and SA [redacted], SA [redacted] and SA [redacted], having made entry into the bedroom, advanced through the bedroom. The lighting conditions in the bedroom were dim to moderate. SA [redacted] moved through the doorway to the far wall and identified a long room with several mattresses and a closet at far right and. SA [redacted] moved from the doorway to the near wall, and identified same. SA [redacted] saw a doorway on the left covered by a cloth, but believed it to be a doorway where other SWAT operators were on the other side. He did not believe it to be a danger area and therefore did not call it out to SA [redacted] SA [redacted] moved along the far wall, weapon trained on the closet, intermittently employing the tactical light on his M-4. SA [redacted] moved more slowly along the interior wall and did not engage his tactical light. SA [redacted] advanced towards the closet along a path blocked by three stacked mattresses that had a height of one foot and seven inches off the floor. Having a blind-covered window on his right and a covered doorway on his left, SA [redacted] stepped onto the mattress and continued to move toward the closet. SA [redacted] stated he did not initially see the doorway or else he would not have moved in front of it. SA [redacted] moved short of the stacked mattresses and stayed along the interior wall.

b6
b7C

SA [redacted] moved forward into the dining room along the wall adjacent to the bedroom, tactically slicing to address the cloth covered doorway on the right in a semi-crouched position with the tactical light of his M-4 engaged. SA [redacted] observed the cloth covering the doorway flutter or billow into the dining room, and according to his statement, yelled "show me your hands," and observed the cloth covering return to its original position. SA [redacted] reached out with his left hand, pulled the cloth covering down, and did a quick peek into the bedroom. SA [redacted] identified a pair of hands holding an assault rifle with its barrel parallel to the exterior wall, in front of the blinds-covered bedroom window. SA [redacted] further observed the assault rifle to be bobbing up and down as if being fumbled with by an untrained operator (actually SA [redacted] walking across the mattresses.) SA [redacted] did not identify the individual as SA [redacted]

b6
b7C

SA [redacted] took his M-4 to the high-ready position, stepped out pivoting away from the bedroom doorway in transition towards a kneeling position, while disengaging the safety. SA [redacted] fired four rounds in rapid succession to address what he believed to be a

subject preparing to engage a high-powered weapon against him and other SWAT Team operators.

Nearly all witnesses described hearing three or four gunshots. SA [redacted] was described as falling backwards just after firing the shots. He was making noises described as high-pitched moaning. He was thought to have been shot. The SWAT Team had only been in the residence approximately 15 seconds at this point. SWAT Team members yelled repeatedly, "Where's the shooter?," and, "Who has the shooter?" TL [redacted] and SA [redacted] asked SA [redacted] where he had been hit and if he could move, but received no response. TL [redacted] and SA [redacted] had coverage on the room SA [redacted] was in, and could see it was clear, but did not know if there were threats in the adjacent rooms. SA [redacted] and TL [redacted] quickly grabbed SA [redacted] and pulled him into the living room near the large couch. b6 b7C

Immediately after the gunfire, SA [redacted] who was behind TL [redacted] in the stack on the living room door, turned to his right and saw SA [redacted] fall face down next to the feet of SA [redacted]. He believed SA [redacted] had been shot, as SA [redacted] was lying on the floor and not moving. SA [redacted] yelled for help and pulled SA [redacted] to the doorway of the bedroom. SA [redacted] immediately went into the room, grabbed SA [redacted] vest and dragged him to the front entrance of the house, which had been identified as the casualty collection point during briefings prior to the operation.

The SWAT TL thought two operators had been shot, and believed there was still an active shooter in the house. TL [redacted] instructed the interior team to continue clearing the residence and he disengaged from the stack to go to the casualty collection point to identify which operator had been shot. SA [redacted] was instructed to stay with SA [redacted]. After several moments, SA [redacted] was heard crying out, "I shot [redacted] I shot [redacted]" At that time, SA [redacted] secured SA [redacted] M-4 and pistol.

The SWAT Team cleared the rest of the house and located no occupants. After the house was cleared, TL [redacted] gathered the team in the living room for a debrief. During SA [redacted] portion of the debrief, he was able to make a statement to the effect he had shot SA [redacted]

## MEDICAL / MANAGEMENT RESPONSE

Medical response planning and efforts at the scene were noteworthy. A detailed medical response plan was incorporated within the SWAT Team Operations Plan. As part of their medical response plan, the Buffalo Division coordinated with local medical entities and arranged for a Specialized Medical Response Team (SMART) to be on standby for the operation. This resulted in an ambulance and a trauma surgeon assigned to SMART arriving on scene within approximately two to four minutes. Initially, the SWAT Team's Medic, SA [redacted] was on scene and provided immediate treatment to SA [redacted] Within minutes, the SMART arrived. A trauma surgeon also assigned to SMART arrived approximately two minutes later. SA [redacted] was transported to the Erie County Medical Center (ECMC) at 462 Grider Street, Buffalo, NY. With police escort, SA [redacted] arrived at the hospital within four to five minutes and was taken immediately to the trauma room. An MRI administered at the hospital revealed the trajectory of the bullet caused non-life threatening tissue and skeletal damage. SA [redacted] was transported separately to the ECMC, as indicated in the SWAT Operations Plan. b6 b7C

SAC Bennett responded immediately to the scene and shortly thereafter responded to the hospital. EM notified the families of both Agents. Each of the Agents were allowed, with the concurrence of the SAC, to speak with each other, which proved extremely helpful in relieving the anxiety of the incident. The meeting also immediately aided the emotional well-being of both. SA [redacted] was provided with the services of a hospital staff psychiatrist and EAP counselor [redacted] who had been deployed to the Buffalo Division to assist employees with the trauma stemming from the Continental Flight 3407 crash on February 13, 2009. The crash incident required the employees of the field office to work and process the crash site. SA [redacted] stated the ability to talk with EAP in the hospital was helpful to his emotional well-being. b6 b7C

POST SHOOTING

TL [redacted] had a standard procedure for an operational debrief following the execution of a mission. The TL held a debrief with the entire SWAT Team, including SA [redacted] once the [redacted] location was secured. This allowed an opportunity to establish what occurred during the incident, pause any potential rumors, provide welfare status to the entire team, inform the team of SA [redacted] last known medical status, and provide procedural guidance to the team as a whole.

At the scene, it was determined rounds from the shooting incident had impacted and penetrated the neighboring residence [redacted]. Buffalo Division's EM acknowledged the potential for collateral casualties and ensured a welfare check was conducted at [redacted]

The Buffalo Division's Evidence Response Team (ERT) was called to [redacted] by SSA [redacted] Upon arrival, the ERT was not allowed to enter the residence while the SWAT Team conducted their debrief. It was evident that there was a lack of clarity with the team as to whether or not ERT would be processing the scene. ASAC Kollmar clarified ERT would process the scene and gave the approval to do so.

The scheduled search for drug evidence commenced by the previously assigned search team for [redacted] This coincided and, at times, overlapped with the processing of the shooting event by those assigned to do so. In one instance, Agents assigned to the shooting scene processing departed the [redacted] location and allowed the drug search team full access to all areas of the residence. The Agents assigned to the shooting event returned and had to replace moved items to complete their processing. b6 b7C

Agents assigned to the shooting investigation were unaware of the extent the scene needed to be processed and the detail needed in reporting due to unfamiliarity with a Shooting Incident Response involving an FBI Agent. As a result, the scene was prematurely released and a consent to search had to be subsequently obtained from the subject to reenter [redacted] on February 28, 2009, to obtain a scale drawing, generate a recreation of the shooting scene, and take additional photographs. If the subject would have been uncooperative, a thorough and detailed review of the shooting scene would not have been possible.

SA [redacted] vest and SA [redacted] weapon were maintained by the SWAT Team in the team's gun locker at the Buffalo Field Office. ERT obtained and entered SA

b6
b7C

[redacted] M-4 and ballistic vest into evidence on March 2, 2009, four days after the shooting incident.

The U.S. Naval Observatory, Astronomical Applications Department provided the following information regarding the weather for Buffalo, NY on February 26, 2009: the morning temperature was in the low 40's and the sky was overcast. The phase of the moon was a waxing crescent with 3% of the moon's visible disk illuminated. Civil twilight was at 6:27 a.m. and sunrise was at 6:56 a.m.

## SUMMARY

In summary, Buffalo Division's SWAT Team operator SA [redacted] while participating in the clearing of a house at which a federal search warrant was being executed, mistakenly identified SA [redacted] as a threat. SA [redacted] fired four rounds from his M-4 rifle to neutralize the threat, hitting it twice. The individual was subsequently identified as fellow SWAT Team operator SA [redacted] who was clearing the room in which SA [redacted] had looked and mis-identified as a threat.

Based on investigation subsequent to the shooting incident, the SIRT identified potential factors which may have played a contributing role in the shooting of SA [redacted] including:

- [redacted] - The first house cleared by the SWAT Team had a similar physical layout as the location, but had two small bedrooms instead of one long bedroom with two doorways. This different layout contributed to both Agents' inaccurate situational awareness.

b6
b7C

- SA [redacted] while clearing the long bedroom at [redacted] experienced tunnel vision, focusing on a far closet and failing to notice the danger area to his left. The tunnel vision was caused by him focusing on the closet as the only perceived threat. He inadvertently stood in front of the danger area (the sheet-covered doorway) while attempting to clear the closet.

- SA [redacted] failed to verbally call out a "danger area" (doorway left) he observed in the bedroom which could have prevented SA [redacted] from crossing in front of it as SA [redacted] attempted to clear the bedroom closet.

- Intelligence received the morning of the operation indicated the resident of [redacted] had recently obtained an AK-47 or AR-15 assault rifle and two hand guns.

- SA [redacted] misidentified SA [redacted] as an armed subject, and shot SA [redacted] before full target acquisition.

**INSPECTOR'S OBSERVATIONS:**

The SIRT identified the following issues:

**Issue #1:** A Buffalo Division SWAT operator shot another SWAT operator while executing a federal search warrant.

# 2009

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/21/2009

To: Inspection
Training

Attn: AD Amy Jo Lyons
Attn: AD Brian D. Lamkin

From: Inspection
Office of Inspections
Contact: [redacted]

Approved By: Lyons Amy Jo
Clemens Michael S
[redacted]

Drafted By: [redacted]

b2
b6
b7C

Case ID #: 297-HQ-A1270961-D

Title: SHOOTING INCIDENT
BUFFALO DIVISION
02/26/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/26/2009, involving Special Agent (SA) [redacted]. During the execution of a search warrant, SA [redacted] fired four rounds from his Bureau-issued Colt .223 caliber, Model M4A1 carbine. One of the rounds fired by SA [redacted] resulted in an injury to SA [redacted]. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 05/13/2009.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

The Buffalo Division conducted an investigation focusing on the cocaine distribution activities of the "31 Street Gang" who were known for extreme violence, including several murders. In January 2009, a joint law enforcement operation was planned to obtain and simultaneously executive 34 arrest

warrants, 11 search warrants for residences, and five search warrants for vehicles.

On 02/26/2009, Agents of the Buffalo Division, as well as officers of the New York State Police, City of Buffalo Police, and numerous other federal, state, and local agencies executed the operation. Members of the Buffalo Division's Special Weapons and Tactics (SWAT) Team were assigned to clear two residences where potentially armed subjects were thought to reside. Both residences were to be searched following clearing by the SWAT Team.

The first residence was cleared and the operation was executed as planned. Investigation indicated a subject residing in the second residence had obtained an assault rifle and two handguns. The SWAT Team deployed a flash bang grenade and entered the residence. As the team entered the living room, two SWAT operators broke off from the group to clear a room along the right side wall of the living room. The remainder of the team proceeded through the living room to the threshold of the dining room which was located behind the living room. Within the dining room, a closet was located at the far left corner, a hallway was located at the far right corner leading to the kitchen, and another doorway was located along the right side wall. Several operators stacked at the threshold between the living and dining rooms and provided cover on the dining room and far doorways, while SA [redacted] moved into the dining room. As he entered the room, SA [redacted] observed a cloth covering the doorway along the right wall billow out into the dining room. Believing someone was in the adjacent room, SA [redacted] pulled down the covering and peeked into the room. SA [redacted] was unaware this doorway was a second entrance into the same room SWAT operators previously entered from the living room.

During his quick look, SA [redacted] saw the silhouette of a man holding an assault rifle which was moving up and down as if being handled by an untrained person. SA [redacted] immediately backed away, assumed a tactical crouching position, and fired at what he believed to be an armed subject about to engage his weapon. Although unknown to SA [redacted] SA [redacted] one of the SWAT operators clearing the room along the right side wall of the living room, had inadvertently passed the covered doorway and was standing on a box spring and two mattresses which were located in front of a closet he was attempting to clear. SA [redacted] fired four rounds from his M-4, .223 caliber rifle. The first two rounds struck the adjacent room's exterior wall and window, and embedded into a neighboring house. After slightly

b6
b7C

adjusting his aim, SA [redacted] fired a third round which first penetrated the door jam, and struck SA [redacted] The round was stopped by SA [redacted] tactical vest in the kidney area. SA [redacted] fourth round struck SA [redacted] in the shoulder with the bullet eventually lodging in his neck.

SA [redacted] received immediate medical assistance from the SWAT Team's medic and a special medical response team trauma surgeon. He was subsequently transported to a nearby trauma center where he received medical treatment and was released on 02/28/2009. SA [redacted] was expected to make a full recovery from his injury. b6 b7C

The Buffalo District Attorney opined his office had no interest in this matter, nor was an investigation into this shooting incident opened by the Buffalo Police Department. By email dated 05/08/2009, the DOJ Civil Rights Division advised no criminal investigation was warranted regarding this shooting incident.

On 09/09/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Chief Inspector [redacted] Office of Inspections, INSD; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted], Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: SC Ellen B. Icochea, Strategic Analysis Section (SAS), INSD; UC [redacted] Inspection Management Unit (IMU), SAS, INSD; SSA [redacted] Inspection Analysis Unit (IAU), SAS, INSD; Management and Program Analyst (MAPA) [redacted] IAU, SAS, INSD; MAPA [redacted] IMU, SAS, INSD; MAPA [redacted] IAU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1270961-D, 10/21/2009

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Subsequent to an overview of the incident provided by Inspector [redacted] SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

SIRG members discussed the fact that a modified dynamic entry procedure was used instead of a slower, methodical entry causing increased pressure on participants. Contributing factors in this incident included a modified layout of the house, SA [redacted] did not acquire full target acquisition before firing, and SA [redacted] did not realize he was in a danger area.

The SWAT Operations representative opined SA [redacted] made an error in judgment and target acquisition. Emphasis was placed on the fact that a Senior Team Leader has the responsibility to ensure individuals are ready to participate in operations and all training is up-to-date.

The main concern of attendees pertained to the decrease in training Bureau-wide, including target identification drills. Members opined the decrease in overall training may be a causal factor in the increase of "blue on blue" and "friendly fire" incidents. SIRG attendees emphasized the need for increased Bureau-wide training.

To: Inspection From: Inspection
Re: 297-HQ-A1270961-D, 10/21/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Set Lead 2: (Action)

TRAINING

AT QUANTICO, VA

That AD, TD, review the upward trend of "blue on blue" or "friendly fire" situations to determine if an increase in Bureau-wide training, in particular target identification drills, will result in a decrease of this type of incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr [redacted]
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 6387
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/01/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
Contact:

**Approved By:** Lyons Amy Jo

**Drafted By:** 11h

**Case ID #:** 297-HQ-A1271725-D

**Title:** SHOOTING INCIDENT
LITTLE ROCK DIVISION
02/04/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/04/2009, involving Special Agent (SA). During the execution of a federal arrest warrant, SA fired two rounds from his Colt M4, .223 caliber rifle. Although SA rounds did not injure the subject, he was subsequently shot and injured by a local police officer. In addition to incurring non life threatening injuries, Reed sustained a fatal self-inflicted gun shot wound to the neck. SIRG members recommended that no administrative action be taken against SA as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector dated 02/20/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b2
b6
b7C

b6
b7C

UNCLASSIFIED

To: Inspection From: Inspection
Re: 297-HQ-A1271725-D, 12/01/2009

**Details of the Shooting Incident**

On 07/08/2008, a federal arrest warrant was issued charging Jeremy Ray Reed with Possession of a Firearm by a Person After a Court Order Prohibiting Same.

On 02/04/2009, SA [redacted] assigned to the Texarkana Resident Agency (TRA), was advised by local authorities that information indicated [redacted] the grandfather of Jeremy Reed, was near death and being treated at St. Michael's Hospital in Texarkana, Texas. Local authorities believed Reed would likely be visiting his grandfather at the hospital.

While en route to the hospital, SAs [redacted] and [redacted] contacted Texarkana Texas Police Department (TTPD) dispatch and requested assistance in locating and arresting Jeremy Reed. SA [redacted] a Dallas Agent who is co-located at the TRA, was also notified and responded to the hospital. Upon arriving at the hospital, SAs [redacted], and [redacted] met with uniformed TTPD officers to brief them on the matter and proceeded to the nurses station. The nurses confirmed the individual in the photograph shown by the Agents had visited [redacted] and further investigation revealed the subject left the hospital approximately 30 minutes before the Agents' arrival.

b6
b7C

At approximately 6:20 p.m., Ashdown Police Department (APD) Detective [redacted] was telephonically contacted by the city Mayor, who is the subject's uncle. He advised Reed barricaded himself inside his grandfather's residence, threatened his family, and stated he would kill anybody who tried to remove him from the residence. Additionally, the subject stated he would kill any police officer who tried to take him into custody and would then kill himself.

At approximately 6:30 p.m., Detective [redacted] telephonically advised SA [redacted] of the situation. SAs [redacted] and [redacted] responded immediately to the Little River County Sheriff's Office (LRSO) and SA [redacted] telephonically notified Senior Supervisory Resident Agent (SSRA) [redacted] of the developments. SSRA [redacted] encouraged SA [redacted] a Special Weapons and Tactics (SWAT) Operator, to utilize SWAT if possible and appropriate. SSRA [redacted] requested that SA [redacted] keep him advised of developments and supported efforts to work in concert with local authorities. SA [redacted] contacted SWAT Team Leader SA [redacted] who was also familiar with the investigation, and advised SWAT assistance may be needed. Upon arriving at the

b6
b7C

LRSO SA [redacted] SA [redacted] and Detective [redacted] discussed the situation and developed a verbal operations plan (OP). The OP included a strategy to access and secure the premises, assess the situation, and extricate family members.

Detective [redacted] contacted Sheriff Russell and advised him of the situation. Agreeing it would be feasible to establish perimeter security on the property, Sheriff Russell met with Detective [redacted] Detective [redacted] and SAs [redacted] and [redacted] Sheriff Russell proceeded to the area and established surveillance of the driveway leading to the property while awaiting the arrival of additional law enforcement personnel. b6 b7C

While Detective [redacted] remained at the LRSO with SAs [redacted] and [redacted] and Detective [redacted] Mayor Reed contacted Detective [redacted] requesting immediate law enforcement assistance. He advised his wife was on the telephone with Jeremy Reed's mother who confirmed the subject was barricaded in his grandfather's house, possessed a shotgun, and was threatening to kill her, his two children, another child, and himself. SA [redacted] contacted [redacted] who advised she, her mother, two children belonging to Jeremy Reed, and another child, were in a mobile home located approximately 70 feet away from Jeremy Reed's grandfather's house. She stated Jeremy was armed with a shotgun, was knocking holes in the wall, and advised she feared for her life. [redacted] stated, "I've already signed my death warrant." Becoming distraught and unable to speak, she asked SA [redacted] to speak with her mother. SA [redacted] asked [redacted] mother if they were all capable of exiting the trailer through the back door. He told them to go to the end of the driveway and meet Sheriff Russell. SA [redacted] heard minor commotion in the background and [redacted] mother advised they were all exiting the trailer. b6 b7C

Detective [redacted] contacted Sheriff Russell and advised SA [redacted] had spoken to [redacted] by phone and convinced her to take her family and leave the property. He advised she and her family would be leaving the property in a vehicle and requested that Sheriff Russell stop the vehicle upon departure from the property. At that time Sheriff Russell observed a vehicle moving in the driveway which left the property and accessed a major roadway. Sheriff Russell effected a traffic stop and escorted the occupants to the staging area.

Upon arriving at the staging area, SAs [redacted] and [redacted] checked their operational equipment and discussed the OP with local law enforcement officers. It was decided that SA [redacted], a trained FBI Crisis Negotiator, would communicate with [redacted] in an attempt to gain relevant intelligence should negotiations with Jeremy Reed occur. SA [redacted] and Detective [redacted] would establish a perimeter and initiate surveillance at the house and trailer. b6 b7C

SA [redacted] and Detective [redacted] approached the house and made a sweep of the north, east, and south sides. With no lights visible and no apparent activity inside, SA [redacted] and Detective [redacted] established static surveillance, with Detective [redacted] on the west side and SA [redacted] on the east side.

After debriefing [redacted] SA [redacted] and Detective [redacted] proceeded to the south end of the house which faced the front of the trailer. The house appeared to be unoccupied and SA [redacted] considered the possibility Reed had left the property or committed suicide. He decided to attempt to contact Reed before requesting SWAT deployment. SA [redacted] contacted SA [redacted] and advised he was in a position to knock on the door of the house. SA [redacted] banged on a window, announced his presence, and called out to Jeremy Reed. Detective [redacted] heard a voice from inside the residence respond, "Come get me."

When SA [redacted] confirmed Reed was inside the house, he contacted SWAT Assistant Team Leader SA [redacted], and requested deployment of the SWAT team. SA [redacted] advised SA [redacted] there was no reason for the on-scene law enforcement officers to make entry into the house, and the best option was for them to maintain the perimeter until SWAT arrived. SA [redacted] requested that SA [redacted] contact SSRA [redacted] and update him on the situation. SA [redacted] advised SA [redacted] he contacted the SWAT Team and it would take three to four hours for their arrival. SA [redacted] advised he was going to brief Sheriff Russell on the situation and coordinate a negotiation strategy.

SA [redacted] heard a noise near the house and observed Reed outside the residence with a long gun in his hand looking around and walking toward the trailer. SA [redacted] shouted, "Jeremy, drop your weapon!" Reed did not comply and began running toward the trailer. SA [redacted] lost sight of Reed, and again shouted "Jeremy, drop your weapon!" Unable to see the subject, SA [redacted] again shouted "Drop you weapon." According to Detective [redacted] he heard SA [redacted] yelling at Reed to drop his b6 b7C

gun and get down. Detective [redacted] then observed Jeremy Reed carrying a long gun while moving toward the trailer.

As SA [redacted] attempted to regain visual sighting of Reed, he heard a loud "boom" that he believed was a shotgun being discharged. SA [redacted] observed Reed standing on the steps at the front of the trailer holding his gun horizontally. Fearing for the safety of law enforcement personnel, SA [redacted] raised his Bureau-issued rifle, heard Reed discharge his weapon, and observed a muzzle-flash from Reed's location. SA [redacted] brought his M-4 rifle into firing position and noticed the reticle of the EO Tech electronic sight was not illuminated. Since the rear factory sight had been removed to accommodate the EO Tech sight, SA [redacted] used the EO Tech sight as a rear peep sight, centered the top of the front sight post in the glass display of the EO Tech sight, put the front sight post at the center of mass of Reed and fired one round. When Reed did not react, SA [redacted] held the front sight post slightly lower and fired a second time. He observed Jeremy Reed flinch and enter the front door of the trailer. As he fired his rifle the second time, SA [redacted] heard a shotgun blast from his right and heard someone state, "I hit him." SA [redacted] later learned it was Detective [redacted] who fired his shotgun and the buckshot struck Jeremy Reed.

b6
b7C

SA [redacted] moved to a position on the east side of the trailer and checked to ensure Reed had not escaped. He heard Reed moving around inside the trailer moaning and heard him yell "I'm bleeding out!" SA [redacted] instructed Reed to exit the trailer in order to receive medical assistance and Reed responded he was not coming out. Reed stated again that he was shot and "bleeding out."

Upon hearing gunfire, Sheriff Russell and SA [redacted] drove toward the house and the trailer. SA [redacted] called out to Detective [redacted] who advised he was okay and briefed SA [redacted] on the events.

While continuing to convince Reed to leave the trailer for medical attention, SA [redacted] told him he was having trouble hearing him and was going to push the front door open. As he pushed the door open, SA [redacted] saw Reed had injuries to his right wrist and thigh and observed him holding his weapon by the barrel with his left hand. It appeared Reed no longer wanted to engage law enforcement personnel and SA [redacted] again offered medical assistance which was refused.

b6
b7C

SA [redacted] joined SA [redacted] outside the trailer and each of them called out to Reed. SA [redacted] could hear moaning from within the trailer and heard Reed state, "man I'm, I'm bleeding out." SAs [redacted] and [redacted] negotiated with Reed, encouraging him to exit the trailer so he could be taken to a hospital. Reed refused to leave the trailer and commented, "I'm going to finish myself off." Reed also stated there was no way he was going back to jail and stated, "You sons of bitches shot me and I'm bleeding out." As SA [redacted] opened the door a little wider, SA [redacted] observed Reed in the hallway with blood stains on his jeans. Based on his crisis negotiation training, SA [redacted] believed the longer Reed was engaged and talking, the more likely he was to surrender. b6 b7C

Reed stated he had taken 65 pills, including Xanax, and threatened suicide. SA [redacted] observed Reed put his shotgun down and told him he was going to take one step into the living room and talk to him face-to-face. SAs [redacted] and [redacted] continued to negotiate with Reed and SA [redacted] requested Sheriff Russell's assistance since he and Reed were familiar with each other. Approximately one hour later, SAs [redacted] and [redacted] noticed a change in Reed's demeanor. Reed walked into a room adjacent to the hallway of the trailer, closed the door, and within seconds, a muffled blast was heard. SA [redacted] called out to Reed a number of times, receiving no response. SAs [redacted] and [redacted] entered the room and saw Reed's body slumped in a chair.

An ambulance, coroner, and Arkansas State Police investigator were dispatched to the scene.

It was subsequently determined Jeremy Reed died as a result of a self-inflicted shotgun wound to the neck.

On 09/09/2009, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Chief Inspector [redacted] Office of Inspections, INSD; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted], Practical Applications Unit, TD; UC [redacted] Special b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271725-D, 12/01/2009

Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; SSA [redacted], Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: SC Ellen B. Icochea, Strategic Analysis Section (SAS), INSD; UC [redacted], Inspection Management Unit (IMU), SAS, INSD; SSA [redacted] Inspection Analysis Unit (IAU), SAS, INSD; Management and Program Analyst (MAPA) [redacted] IAU, SAS, INSD; MAPA [redacted] IMU, SAS, INSD; MAPA [redacted] IAU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

The only observation made by the SIRG pertained to SA [redacted] removal of the factory installed standard rear sight to facilitate the installation of the EO Tech holographic sight on his Bureau-issued M-4 rifle. The Manual of Investigative Operations and Guidelines, Part 2, Section 12-3(5) states, "Any changes or alterations to any assigned weapon must be authorized by the Firearms Training Unit and must be accomplished by the Weapons Management Facility at Quantico. Exceptions to this requirement must be requested in writing and approved by the Weapons Management Facility." This matter will be discussed with the Special Agent in Charge of the Little Rock Division to ensure proper procedures are followed regarding changes or alterations to assigned weapons.

To: Inspection From: Inspection
Re: 297-HQ-A1271725-D, 12/01/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr [redacted] CIRG
1 - Mr [redacted] Quantico
1 - Ms [redacted] Room 6387
1 - Mr. [redacted]
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/13/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

b2
b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271917-D

**Title:** SHOOTING INCIDENT
SAN FRANCISCO DIVISION
11/04/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/04/2009, involving Special Agents (SAs) [redacted] and [redacted] During the execution of search and arrest warrants, SA [redacted] fired two rounds and SA [redacted] fired one round at an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Assistant Special Agent in Charge (ASAC) Thomas P. Ravenelle, dated 12/21/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

In connection with a Mexican Drug Trafficking Organization investigation, San Francisco Agents, along with other Federal and local law enforcement officers, planned to execute search and arrest warrants at two locations on 11/04/2009.

On 11/02/2009, Team Leaders conducted joint site surveys of the respective targets and met to discuss a plan to ensure the safety of all participants.

On 11/03/2009, SA [redacted] provided a briefing to Agents assigned to his team and advised a large dog was located on the property.

On 11/04/2009, members of both teams met at the San Leandro Police Department for a final joint briefing, with SA [redacted] providing an overview of the case. After approximately 15 minutes the teams separated and SA [redacted] provided a final briefing for his team, including a review of the FBI Deadly Force Policy. The team's mission was to gain access to the property, conduct a knock and announce, secure the residence, arrest the subject, and conduct a search of the property. To gain access to the property, the team had to get over a four foot tall metal fence with pointed steel tips. SA [redacted] reiterated the fact that a large dog was located on the property and offered local officers a fire extinguisher to scare the dog away, if necessary. b6 b7C

The local officers decided to gain entry to the yard by placing a ladder over the spiked fence, and at approximately 6:01 a.m., officers led the team over the fence and into the yard. SA [redacted] called out that a large dog was located at the top of the stairs. As team members scaled the fence and stood on the property, the growling and barking dog continued moving down the stairs toward the entry team. Fearing for his safety, as well as the safety of team members, a local detective fired one round from his service weapon striking the dog in the muzzle. The dog stopped its approach and laid down. SA [redacted] provided cover as the team moved past the dog and continued with the entry.

After the team entered the residence, the dog moved under a truck with SA [redacted] continuing to watch to ensure it did not pose a threat to any team members. After the residence was secured, an Animal Control Officer (ACO) was requested to take care of the injured dog. The ACO retrieved a snare pole from her vehicle and requested that the Agents provide protection to her in case the dog tried to attack. A lengthy struggle by the ACO to secure the aggressive dog proved unsuccessful. Fearing for her safety, the ACO requested that Agents shoot the dog. Based on the ACO's request, SA [redacted] visually cleared the area, provided a verbal warning to others, and fired one round from his FBI-issued Glock 22, .40 caliber b6 b7C

pistol, striking the dog in the head. Although not dead, the dog became subdued. At that point, the ACO attempted to get the cable loop around the dog's head, but the dog inserted a paw inside the cable loop. After a second struggle to gain control, the dog again became aggressive and began biting at the ACO's snare pole. At that point, the ACO requested that the Agents shoot the dog in the heart and lungs. SA [redacted] fired one round from his Bureau-issued Glock 22, .40 caliber pistol, hitting the dog's body. The dog continued to advance towards the ACO as she continued to struggle to gain control. The ACO requested that SA [redacted] shoot the dog again and SA [redacted] second round slowed the dog which stopped its attack on the ACO. The ACO instructed Agents to place a second snare pole around the dog's head while she obtained her euthanasia kit and set up the drugs to euthanize the dog. b6 b7C

On 03/03/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love observed while Chief Inspector [redacted] Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Supervisory Special Agent (SSA) [redacted], Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted] Office of Inspections (OI), INSD; Management and Program Analyst (MPA) [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; and MPA [redacted] IMU, SAS, INSD. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against either Agent as a result of their involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271917-D, 05/13/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Butler, Room 5845
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/30/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271464-D

**Title:** SHOOTING INCIDENT
DALLAS DIVISION
09/21/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/21/2009, involving Special Agents (SAs) [redacted] and [redacted] of the Dallas Division. During the attempted arrest of a bank robbery fugitive, SAs [redacted] and [redacted] along with local law enforcement personnel, returned multiple rounds of fire after the suspect fired through a locked bedroom door. SIRG members unanimously recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 10/23/2009.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

The Dallas Division Safe Streets Task Force (SSTF) conducted a bank robbery investigation of Jerry Lee Gray, who was believed to be responsible for 11 bank robberies.

Subsequent investigation confirmed Gray's participation in at least one of the robberies and the Dallas SSTF requested the placement of Gray's photograph on six electronic billboards throughout the Dallas metropolitan area. The placement of the photographs resulted in a witness's recognition of Gray as the occupant of an apartment in Dallas.

In an attempt to execute a federal arrest warrant issued for Gray, an Operations Plan was executed and a verbal operations plan briefing was held at 5:00 p.m., on 09/21/2009. During the briefing, assignments and positions were made for members of two teams responsible for the surveillance of two locations. Each team member received maps, photographs of Gray, and a copy of the arrest warrant. Team members discussed Gray's brother who was similar in appearance to him and was reportedly mentally unstable, the need for clothing identifying team personnel as law enforcement, Gray's display of weapons during robberies, as well as his propensity for violence.

Both teams met at a McDonald's restaurant and a re-briefing of the Operations Plan was conducted which included two members absent from the original briefing. During the second briefing, the Deadly Force Policy was reiterated to all participants.

At approximately 7:00 p.m., surveillance of two locations frequented by Gray was established. Although Gray was not located at either of the two addresses, information obtained revealed Gray's current location, a description of his vehicle, and confirmed he was currently located inside his apartment.

Believing all arrest team personnel were needed on the arrest at the identified location, Acting Supervisory Special Agent (A/SSA [redacted] directed a task force officer (TFO) to lead the caravan to the subject's identified location. At 9:20 p.m., A/SSA [redacted] advised the Command and Tactical Operations Center (CTOC), the team was en route to Gray's location. b6 b7C

As the caravan entered the apartment complex through the east gate, several Dallas Police Department (DPD) officers were present at the apartment complex in response to an unrelated shooting incident. A/SSA [redacted] advised the DPD officers they

were attempting to locate a bank robbery suspect and asked the officers to assist with the outer perimeter.

A green Hyundai, believed to be Gray's, was parked near a dumpster. At that time, A/SSA [redacted] ordered the team to spread out and enter the complex and attempt to locate Gray's apartment. Additionally, the team was told to secure the second floor of the complex based on the description of Gray's residence.

Upon entering the complex, TFO [redacted] and SA [redacted] questioned a man, who identified himself as the Maintenance Manager for the complex. SA [redacted] and TFO [redacted] described Gray and showed the [redacted] a photograph of Gray. [redacted] confirmed Gray was the occupant of Apartment [redacted] and verified Gray was currently located inside the apartment. Two additional apartment residents also identified Gray from photographs and verified his apartment as [redacted]

b6
b7C

Two TFOs took positions at the front door of Gray's apartment with A/SSA [redacted] A/SSA [redacted] announced, "FBI, police, open the door, we have a warrant," several times while one of the TFOs used his foot to knock on the door. TFO [redacted] indicated he was ready for entry and A/SSA [redacted] called out for Gray to "get on the ground and put your hands up," before instructing a TFO to breach the door.

As the door was breached with a single strike, A/SSA [redacted] entered the apartment and proceeded to a position to the right while one TFO went to the left, and three Agents followed [redacted]. Law enforcement personnel repeatedly announced "FBI, we have a warrant." After securing several smaller areas, A/SSA [redacted] asked TFO [redacted] to breach the door of a locked bedroom. TFO [redacted] hit the door once and the ram penetrated the hollow-core door. As TFO [redacted] made contact with the door a second time, a shot came from inside the bedroom hitting him in the right side below his vest. TFO [redacted] went down immediately, stumbled backwards, and fell to the floor saying, "I'm hit." A/SSA [redacted] saw the muzzle flash from the back of the bedroom near the window and was hit in the left side of his body armor with the second shotgun blast from the bedroom. A/SSA [redacted] was knocked off of his feet by the impact of the shotgun blast.

b6
b7C

SA [redacted] entered the apartment as the bedroom door was breached and positioned himself to the left of the bedroom door behind SA [redacted] and TFO [redacted] TFO [redacted] fired his M-4 into the bedroom and SA [redacted] fired from his MP-5 toward the threat inside the bedroom, while A/SSA [redacted] and TFO [redacted] moved back into the living room area. A/SSA [redacted] saw

muzzle flashes from the subject and believed he was still taking fire from the bedroom. He saw the outline of a person during each muzzle flash and believed multiple people were in the bedroom.

When the firing stopped, A/SSA [redacted] stood up. SA [redacted] thought he heard another type of firearm being fired from within the bedroom. As SA [redacted] and TFOs [redacted] and [redacted] heard the subject fire again from the bedroom, a second volley of gunfire ensued. SA [redacted] fired his MP-5 toward the threat in the bedroom until the weapon's bolt locked back. All firing stopped. b6 b7C

A/SSA [redacted] began removing his team members, and the DPD Special Weapons and Tactics (SWAT), as well as medical assistance, were requested. SA [redacted] called the CTOC to advise of the shooting and a trained FBI Negotiator unsuccessfully attempted to make verbal contact with Gray.

Team members voiced concern regarding the safety of anyone occupying the adjoining apartment. Forced entry was made into the adjoining apartment in order to conduct a welfare check; however, no one was located inside the apartment.

Immediate medical assistance was provided to TFO [redacted] until the ambulance arrived. TFO [redacted] was transported to a local hospital for medical assistance.

TFO [redacted] sustained internal and external pellet wounds from the subject's shotgun and was also transported to a local hospital by ambulance.

Dallas Division Executive Management (EM) arrived on the scene as well as DPD SWAT team members. After unsuccessfully attempting verbal communication with Gray, a camera-equipped search robot was sent into the residence. The camera showed Gray motionless on the bedroom floor. The robot nudged Gray's leg with no response. An entry team entered the apartment and a tactical physician pronounced Gray dead at the scene. After being examined, it was determined that A/SSA [redacted] received a dimple in his right bicep from a gun pellet.

On 10/11/2009, TFO [redacted] was released from the hospital. He received long-term damage as a result of his abdominal wounds from the shotgun blast.

An autopsy determined Gray died as a result of multiple gunshot wounds.

On 05/19/2010, the case was presented to the Dallas County Grand Jury and a no-bill of indictment was returned, finding no misuse of force or any prosecutable criminal offense. On 06/18/2010, the United States Department of Justice, Civil Rights Division, advised no federal criminal investigation was warranted regarding the actions of law enforcement personnel discharging their weapons.

On 08/10/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division (INSD); [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crime Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Management and Program Analysts (MPAs) [redacted] and [redacted] Inspection Management Unit (IMU), Strategic Analysis Section, INSD.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against the Agents as a result of their involvement in this shooting incident.

SIRG members commented on the importance of utilizing body armor and noted the use of body armor saved A/SSA [redacted]

from serious injury during this incident. SIRG members unanimously adopted the following observations and recommendations of the Shooting Incident Review Team:

**OBSERVATION #1:** The operation leading up to the shooting was a planned arrest situation and was not considered an exigent circumstance. The written operations plan, which was not reviewed by Executive Management (EM), did not address contingencies for commonly confronted scenarios such as a barricaded subject.

**RECOMMENDATION:** SAC, Dallas should direct SSAs, A/SSAs, and Relief Supervisors to develop detailed operations plans containing specific contingencies which could be expected to be confronted in a planned arrest situation, particularly commonly confronted scenarios such as a barricaded subject and flight. Additionally, SAC, Dallas should require written operations plans for planned arrests be reviewed and approved by EM in advance of the execution of the operation.

**OBSERVATION #2:** During the course of their investigation on the evening of 09/21/2009, the Dallas SSTF identified with a high level of confidence, a third location determined to be Gray's current residence. A/SSA [redacted] notified the Dallas operations center of his plans to divert the team to this third location to locate and arrest Gray; however, he did not notify or consult with ASAC Blaise F. Mikulewicz before proceeding to Gray's residence and executing an arrest operation. b6 b7C

**RECOMMENDATION:** SAC, Dallas should direct SSAs, A/SSAs, and Relief Supervisors to notify and consult with EM, absent exigent circumstances, when operational developments dictate a diversion from a pre-approved operations plan.

**OBSERVATION #3:** On its own initiative, the Dallas SSTF developed and engaged in team tactical skills training, including officer down drills, breaching, surveillance, shield use and law enforcement clearing, and felony vehicle stops. Several of these skills were successfully employed by the arrest team in the execution of the operation on 09/21/2009.

**RECOMMENDATION**: SAC, Dallas should continue to support the tactical skills training by the SSTF and encourage its adaptation by other squads and task forces as a best practice.

The last item discussed by SIRG members pertained to comments provided in an FD-302 by SA [redacted] the Dallas Division's Principal Firearms Instructor (PFI). SIRG members opined that any issues identified by PFI [redacted] regarding range time, as well as consultation issues with the Chief Division Counsel regarding Deadly Force Policy training, should be resolved with Dallas Division EM. This matter will be brought to the attention of the Dallas Division Special Agent in Charge. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271464-D, 11/30/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/10/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271895-D

**Title:** SHOOTING INCIDENT
PHILADELPHIA DIVISION
02/09/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/09/2009, involving Special Agents (SAs) [redacted] and [redacted] of the Philadelphia Division. During the attempted arrest of a suspected bank robber who was non-compliant and raised a gun toward law enforcement personnel, the Agents and one Philadelphia Police Department (PPD) Detective fired multiple shots, killing the suspect. SIRG members unanimously recommended that no administrative action be taken against SAs [redacted], and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of former Inspector [redacted] dated 02/09/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

**Details of the Shooting Incident**

Subsequent to an armed bank robbery on 02/06/2009, information was provided to the Philadelphia Division that "Danny" LNU robbed a bank earlier that day. Investigation identified "Danny" LNU as Daniel Trinsey, who was believed to be the bank robber. A query of law enforcement data bases revealed an active State of Pennsylvania arrest warrant for Trinsey for parole violation pertaining to a previous robbery of a dwelling with a weapon charge.

On 02/09/2009, a source participated in consensual telephone calls with Trinsey who advised he was going to commit another armed robbery. Based on information provided by Trinsey during these calls, members of the Violent Crimes Task Force established surveillance near a Philadelphia residence believed to be occupied by the subject. Surveillance determined Trinsey was inside the residence and information was received that he was most likely armed and planned to rob either a bank or a drug location. Additionally, task force members were advised Trinsey said he would shoot the individuals he intended to rob if necessary, and he was not going back to jail.

As the surveillance continued, task force members formulated a verbal plan over squad radios to arrest Trinsey on the state warrant as he exited the residence. At approximately 3:00 p.m., Trinsey exited the residence carrying a duffle bag and walked across the driveway toward a road. At that time, task force personnel confronted Trinsey, identified themselves as police officers, and ordered him to stop and get on the ground. Trinsey dropped his duffle bag on the driveway and began to slowly walk backward toward the residence while law enforcement officers continued to order him to stop and get on the ground. Trinsey continued to ignore law enforcement commands, stopped and looked from side to side, reached into his waist band, and removed what appeared to be a handgun. Trinsey raised the gun and initially pointed in the direction of two PPD detectives, then turned the weapon toward a group of seven Agents. Fearing for their lives, as well as the lives of their partners, SAs [redacted] and [redacted] as well as PPD Detective [redacted] fired a total of 17 rounds at Trinsey. The subject fell face down on the front lawn and was pronounced dead at the scene. b6 b7C

SA [redacted] instructed everyone to hold their positions until he assessed the threat. He observed the subject moving and also noted the subject's gun was very close to his hand. Moments later, SA [redacted] directed SA [redacted] and Sergeant [redacted] to holster their weapons and handcuff the subject.

SA [redacted] a trained paramedic, checked the subject's airway and pulse with negative results. He remained with Trinsey until paramedics arrived and determined the subject was deceased. Subsequent examination of the subject's weapon determined it was a toy handgun.

The Medical Examiner conducted an autopsy and toxicology examination which revealed Trinsey had been shot seven times, and the cause of death was identified as multiple gunshot wounds. The toxicology report showed a presence of narcotics including cocaine, codeine, methamphetamine and oxycodeine. b6 b7C

On 09/10/2009, the City of Philadelphia District Attorney's Office issued a written opinion that SAs [redacted] and [redacted] were justified in discharging their weapons, and closed its investigation into the matter. On 12/01/2009, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of law enforcement personnel discharging their weapons.

On 03/03/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love observed while Chief Inspector [redacted] Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Supervisory Special Agent (SSA) [redacted], Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted] Office of Inspections (OI), INSD; Management and Program Analyst (MPA) [redacted] Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; and MPA [redacted] IMU, SAS, INSD. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted], and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against the Agents as a result of their involvement in this shooting incident. b6 b7C

Noting SA [redacted] was not utilizing body armor at the time of the incident, SIRG members unanimously adopted the following recommendation of the Shooting Incident Review Team:

**RECOMMENDATION:** SAC, Philadelphia will ensure all division personnel are reminded the use of body armor during arrest operations is mandatory.

During the discussion of this incident, a SIRG member commented on the effective use of a blackberry to transmit the subject's photograph to members of the arrest team ensuring all participants could identify the subject. This matter will be discussed with the Special Agent in Charge of the Philadelphia Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 05/10/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Butler, Room 5845
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 6387
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/27/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271741-D

**Title:** SHOOTING INCIDENT
LOS ANGELES FIELD OFFICE
11/18/2009

b2
b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/18/2009, involving Special Agent (SA) [redacted] While preparing to depart for a Special Weapons and Tactics (SWAT) operation, SA [redacted] encountered three subjects in the garage of his home. SA [redacted] fired six rounds from his personally-owned, Bureau-approved Sig Sauer model P229, .40 caliber semi-automatic pistol at the subjects. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 12/28/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

b6
b7C

On 11/18/2009, while preparing for participation in early morning SWAT operations, SA [redacted] dressed for work and exited his kitchen into an attached, two-car garage. Although not wearing anything identifying himself as an FBI Agent, SA [redacted] was wearing an in-the-pants holster containing a Bureau-

approved, personally-owned, Sig Sauer P229, .40 caliber pistol. The pistol was fully loaded with Bureau-issued ammunition with 12 rounds in the magazine and one in the chamber.

SA [redacted] exited through his kitchen into the garage. Once in the garage, SA [redacted] placed a cooler, a backpack, and a "Blackhawk" gear bag on an exercise mat. The backpack was unzipped and contained SA [redacted] FBI credentials and his Bureau-issued Springfield Arms, Model 1911, .45 caliber pistol which was fully loaded and in a holster on top of the backpack. After re-entering his residence to retrieve his keys, SA [redacted] returned to the garage and partially opened the roll-up garage door. He ducked under the partially opened door to retrieve his narcotic detection trained canine from the backyard before loading his gear into the Bureau vehicle. As SA [redacted] walked to the corner of his residence, he observed a light colored truck drive down the street and make a U-turn. Although the truck continued past SA [redacted] residence and out of view, he observed a male in the front passenger seat and the driver of the vehicle. Due to a recent burglary in his neighborhood, SA [redacted] watched the vehicle for about five seconds. Believing the occupants of the truck did not see him, SA [redacted] continued into the backyard, leashed his dog, and took the dog into the front yard near the partially opened garage door. As he approached the garage door, SA [redacted] heard an unknown male voice coming from within the garage. Knowing no other males were in his household, SA [redacted] knelt down, looked into the garage, and saw a pair of legs standing in the garage just a few feet from the door. SA [redacted] drew his pistol, entered the garage, and stood a short distance from the white, male subject. SA [redacted] identified himself and stated, "police, don't move." As SA [redacted] repeated the command a second time, he noticed a second subject standing on the exercise mat near his backpack containing his pistol and FBI credentials. As SA [redacted] continued to order both subjects to get down, they froze but did not obey his commands.

b6
b7C

While continuing to issue verbal commands to the first two subjects, SA [redacted] observed a third subject standing on a step leading from the garage into the kitchen where the door was ajar. The third subject was looking at SA [redacted] who did not know if he left the kitchen door ajar or if the subject had opened it.

b6
b7C

At that point, fearing for the safety of his wife and daughter inside the residence, SA [redacted] addressed his commands to the three subjects. The third subject ran toward the garage door while the first two subjects began approaching SA [redacted] The second subject moved toward the garage door while the first

subject rushed and attacked SA [redacted] who held his pistol in his right hand while grabbing the subject by the hair and began pushing him back and down toward the floor. SA [redacted] attempted to maintain awareness of all three subjects while he moved into a defensive position, pushing the first subject to the ground. The subject grabbed SA [redacted] around the waist in a bear hug while SA [redacted] struggled to push him away. The subject began swinging at SA [redacted] and grabbed the right sleeve of his jacket. Following a short struggle, with SA [redacted] issuing further commands, the subject ran from the garage.

b6
b7C

SA [redacted] scanned his garage and determined the three subjects fled; however, was concerned they may have taken his pistol from the backpack. He pursued the first subject who was approximately 15 yards in front of him and running toward the suspect vehicle. The subject opened the driver's door of the truck, entered, and closed the door. As SA [redacted] arrived at the driver's door, the window was partially down. He stood by the left front panel facing the driver. The driver attempted to close the window as SA [redacted] reached in and held the window open and demanded that the subjects exit the vehicle.

Realizing the truck's engine was running, SA [redacted] reached in and attempted to remove the keys from the ignition. SA [redacted] continued to order the subjects from the vehicle as he attempted to remove the keys. Two of the subjects were yelling and one subject began slapping SA [redacted] arm. SA [redacted] heard the vehicle's engine race and believed he may be killed if he didn't get the keys out of the ignition. SA [redacted] was pressed tightly against the truck with his left arm inside. As the driver turned the steering wheel sharply to the left toward SA [redacted] he heard a bang as the transmission shifted into gear and believed the subject was attempting to run him down. The truck lurched to the left, pressing against SA [redacted] body while his left arm was caught in the driver's window. The truck continued moving into SA [redacted] chest, striking his left leg and throwing him off balance. Fearing for his life, SA [redacted] fired six rounds from his Sig Sauer pistol until the truck was approximately seven yards away from him.

b6
b7C

SA [redacted] ran toward his house while dialing 911; however, his cell phone was not working. He checked his garage to ensure no other subjects were inside and also verified his pistol was still in his backpack inside the garage. After calling the police, SA [redacted] unloaded his pistol and placed it on the kitchen counter to comply with the 911 operator's request.

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 05/27/2010

The Brea Police Department (BPD) arrived on the scene and conducted a neighborhood canvass for witnesses. At approximately 6:00 a.m., the BPD received a report of a suspicious vehicle, with possible bullet holes, located in the area. The BPD located the vehicle and SA [redacted] identified it as the same vehicle the subjects occupied.

The owner of the vehicle was contacted and she advised her son, [redacted] had been out in the truck but was currently located inside her residence. [redacted] admitted he and three other individuals had been together the night before but denied involvement in the burglary/assault. [redacted] as well as two of the other subjects, was subsequently arrested. [redacted] and one other subject were formally charged with burglary and assault, and entered guilty pleas to felony first-degree residential burglary. Both were sentenced to two years in prison. b6 b7C

On 01/27/2010, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this incident.

On 03/03/2010, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Jennifer Smith Love observed while Chief Inspector [redacted] Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Section Chief (SC) Ralph Butler, CD-1, Eurasian Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes [redacted] Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Supervisory Special Agent (SSA) [redacted], Practical Applications Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: Inspectors [redacted] and [redacted], Office of Inspections (OI), INSD; Management and Program Analyst (MPA) [redacted], Inspection Management Unit (IMU), Strategic Analysis Section (SAS), INSD; and MPA [redacted] IMU, SAS, INSD. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 05/27/2010

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

The Inspector's observation was discussed regarding SA [redacted] failure to maintain control of one of his firearms, leaving it in an unattended backpack on the floor of his open garage. Members noted SA [redacted] was retrieving his dog to complete the loading of his vehicle and deemed his actions appropriate. This discussion resulted in an agreement that the Inspection Division will place a reminder on its website advising all Agents to be cognizant of the location and security of their weapons at all times. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 05/27/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Butler, Room 5845
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/30/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Lyons Amy Jo
Love Jennifer Smith
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271659-D

b6
b7C

**Title:** SHOOTING INCIDENT
KANSAS CITY DIVISION
11/01/2009

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/01/2009, involving Special Agents (SAs) [redacted], [redacted] and [redacted] of the Kansas City Division. Each Agent fired multiple rounds at a subject who had shot at a task force officer (TFO). SIRG members unanimously recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 03/01/2010.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

Pursuant to an Unlawful Flight to Avoid Prosecution (UFAP) warrant, the Kansas City Division's Violent Crime Task Force (VCTF) planned the arrest of [redacted] a convicted felon who was known to be armed and dangerous.

UNCLASSIFIED

[redacted] b6 b7C b7D

On 11/01/2009, at approximately 3:30 p.m., an arrest team, consisting of a TFO and six Agents, was advised of an arrest briefing at the Overland Park, Kansas, Police Department (OPKPD). During the oral briefing, which was provided by SA [redacted] and TFO [redacted] photographs were provided of the subject, his girlfriend, and vehicles associated with [redacted] TFO [redacted] advised of [redacted] criminal background involving weapons violations, crimes of violence, possession of a bullet proof vest, methamphetamine use, and his access to various weapons, including a MAC-11 type gun. Utilizing a diagram, SA [redacted] explained where he wanted personnel positioned during the operation and provided photographs of the location. SA [redacted] did not have a written operations plan but referred to the task force "Standard Operating Procedure" (SOP). According to SA [redacted] the Task Force arrested many fugitives with backgrounds similar to [redacted] therefore, he did not believe written guidance beyond the SOP was needed. Acting Supervisory Special Agent (A/SSA) [redacted] was the only management official notified regarding the arrest plan since personnel considered it a "routine" arrest, making use of the SOP. b6 b7C

[redacted] b6 b7C b7D

As arrest team members moved their vehicles into position at the third location, [redacted] backed their vehicles into spaces in the parking lot. As the arrest team van approached, they saw [redacted] vehicle. [redacted] girlfriend, who was located inside his vehicle, yelled to [redacted] that she suspected the approaching unmarked van was a law enforcement vehicle. As team members exited the van to arrest him, [redacted] ran back to his vehicle, entered, closed the driver's side door, and displayed a handgun, pointing it in the direction of a TFO. As the TFO observed [redacted] pointing the weapon at him, he dove for cover at the front of [redacted] vehicle. Evidence indicated [redacted] fired at the TFO resulting in three of the arrest team Agents returning fire. [redacted] who was shot multiple times, was arrested, provided medical care, and transported to the Overland Park Regional Medical Center. [redacted] was released from the hospital on 11/07/2009.

FBI, Laboratory Division analysis revealed SA [redacted] fired seven rounds from his Springfield Professional, .45 ACP revolver, SA [redacted] fired 18 rounds from his Colt M4, .223 caliber rifle, and SA [redacted] fired four rounds from his Springfield, .45 ACP revolver. Analysis also determined a pistol recovered from the interior of [redacted] vehicle was fired twice.

b6
b7C

On 06/29/2010, Johnson County, Kansas, District Attorney [redacted] determined the use of deadly force by SAs [redacted], and [redacted] was legal and justified under Kansas statutes. On 05/24/2010, the United States Department of Justice, Civil Rights Division, determined insufficient evidence existed to warrant a criminal investigation in this matter.

On 12/07/2010, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted] Office of Inspections (OI), Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Criminal Division, USDOJ; Assistant Section Chief (SC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel (OGC); SSA [redacted] Evidence Response Team Unit (ERTU), Laboratory Division (LD); SSA [redacted], Practical Applications Unit, TD; and SSA [redacted] CR-2, Washington Field Office. Inspectors [redacted] and [redacted] attended to present the Kansas City and Detroit shootings to board members. The following non-voting members were also in attendance: Inspector [redacted] OI, INSD; SSA [redacted] ERTU, LD; SSA [redacted], Legal Instruction Unit, OGC; UC [redacted], Strategic Analysis Section (SAS), Inspection Management Unit (IMU), INSD; UC [redacted] SAS, Inspection Analysis Unit (IAU), INSD; Management and Program Analysts (MPAs) [redacted] SAS, IAU; [redacted] Special Advisor, INSD; [redacted] SAS, IMU, INSD; and [redacted] SAS, IMU, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Inspector [redacted] who led the Shooting Incident Review Team (SIRT), provided an overview of the incident to SIRG members.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted], [redacted] and [redacted] was justified and in conformance with the FBI's Deadly Force Policy. This discussion resulted in the recommendation that no administrative action be taken against any of the Agents as a result of their involvement in this shooting incident. b6 b7C

SIRG members unanimously adopted the following observations and recommendations of the SIRT:

**OBSERVATION #1:** Ballistic protective vests (BPVs) were not worn by two occupants in the arrest team van.

**INSTRUCTION #1:** Every indication was that this arrest was "reasonably" going to involve a violent altercation. Under such circumstances, it is imperative Executive Managers and SSAs in the Kansas City Division ensure all personnel wear BPVs in accordance with the MIOG, or that BPVs are immediately available.

**OBSERVATION #2:** The written SOP utilized by the Task Force, dated 03/10/2009, was inadequate to support the 11/01/2009 arrest circumstances. The SOP provided sufficient guidance regarding static arrest sites and vehicle pursuits, but it did not provide sufficient guidance regarding mobile arrests. The SOP, authored by SA [redacted], had the following sections: Arrest Plan Brief, Uniform and Equipment, Target Location Surveillance, Movement To The Objective, Deployment and Entry, Special Considerations, Contingencies, Transportation of Arrestees, Vehicle Stops, Vehicle Pursuits, Pre-Arrest SOPs, and Post Arrest SOPs. b6 b7C

The SOP did not include the FBI's Deadly Force Policy. Additionally, numerous arrest team members stated the FBI's Deadly Force Policy was not discussed in detail at the pre-arrest briefing and SA [redacted] had advised the arrest might require deadly force and they "all know the policy." Numerous arrest team members stated

they were familiar with the Deadly Force Policy, since it had been briefed extensively relative to another arrest two weeks before the 11/01/2009 arrest.

The SOP did not provide specific guidance regarding what criteria would require Special Weapons and Tactics (SWAT) utilization for an arrest. It did not provide a sufficient Medical Response plan. The "Emergency Medical Situation" section stated, should a medical emergency occur, 911 should be called immediately. This was insufficient because it did not include the location of the nearest trauma facility.

The Violent Crimes Section, Criminal Investigative Division (CID), indicated to the SIRT it had issued no guidance to the field regarding the use of SOPs versus formalized Operation Plans. CID delegated this specific authority to field offices and the respective Special Agents in Charge (SACs).

**RECOMMENDATION #2:** The Kansas City Division should make the Task Force SOP a more detailed and versatile document. At a minimum, the FBI's Deadly Force Policy and the locations of all trauma centers, including their levels, should be added. The SOP should also include guidance regarding mobile arrest scenarios as well as criteria which would trigger the utilization of a SWAT team. In addition, it should include criteria guiding when the Assistant Special Agent in Charge (ASAC) and SAC should be notified of an arrest. All participants in task force arrests should be briefed on the SOP before arrest scenarios.

During this discussion, SIRG members commented on the use of the Standard Operating Plan utilized by task force personnel. SIRG members emphasized the availability of the fillable Form FD-888, Law Enforcement Operations Order. Completion of this form would provide relevant information to all involved participants.

**OBSERVATION #3:** Better post incident care needs to be provided to personnel.

The overall medical response planning for this operation was inadequate. Following the oral briefing provided by SA [redacted] and TFO [redacted] Captain [redacted] Overland Park Police Department (OPPD), arranged for an ambulance to be staged in the vicinity of the operation. After [redacted] was in custody and his truck

b6
b7C

was cleared, Sergeant [redacted] OPPD, requested medical assistance, which arrived a short time later. Additionally, once the scene was secure, SA [redacted] checked to see if any arrest team personnel were injured.

After the arrest, SA [redacted] had a significant amount of blood on both hands from [redacted] which transferred to SA [redacted] when he pulled [redacted] from the truck. SA [redacted] provided hand sanitizer to SA [redacted] and the responding ambulance personnel provided him with some antiseptic foam. SA [redacted] became concerned after the shooting because he could not obtain information regarding [redacted] HIV status. SA [redacted] also believed [redacted] (subject's girlfriend) was HIV positive. Although SA [redacted] did not have any open wounds, he was still concerned about follow-up treatment after coming into contact with [redacted] and [redacted] b6 b7C

Additionally, while at the scene SA [redacted] told ASAC Jones he was fine. However, during his interview with the SIRT and in his Signed Sworn Statement he said, after arriving home his "ears began to hurt and there was a ringing sensation. My ears are still ringing (11/08/2009) as a result of the shooting incident."

**RECOMMENDATION #3:** Following a shooting incident, it is the responsibility of Executive Management to ensure adequate experts such as Blood Borne Pathogen Coordinator, Medic, and Nurse are made available to all involved personnel, ensuring the timely identification and resolution of medical issues.

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their use of deadly force in this shooting incident.

1 - Mr. Murphy, Room 7142
1 - Mr. Harrington, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3280
(Attention: Mr. Lasky)
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] Laboratory
1 - Mr. [redacted] WFO
1 - Ms. [redacted], Room 6387
1 - Mrs. [redacted] Room 3043

b6
b7C

♦♦

# FBI
# Shooting Incident Report Summaries

# 2008

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/25/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271787-D

**Title:** SHOOTING INCIDENT
NEW ORLEANS DIVISION
04/13/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/13/2008, involving Special Agent (SA) [redacted] While visiting a friend, SA [redacted] fired two rounds from her Bureau-issued Glock Model 22, .40 caliber pistol injuring an aggressive pitbull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 04/17/2008.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 04/13/2008, SA [redacted] visited [redacted] a friend who owned a small dog. Anticipating being away from her residence for several hours, SA [redacted] rode with [redacted] to take the dog to the residence of [redacted] and [redacted].

Approximately three hours later, SA [redacted] and [redacted] completed their errands and returned to the [redacted]s residence to retrieve the dog. SA [redacted] remained inside the vehicle while

[redacted] proceeded to the front door of the residence. As SA [redacted] sat in the vehicle, she observed a red truck park down the street and a male known as [redacted] along with a dog, exit the truck. At that time, [redacted] returned to her vehicle to ask SA [redacted] a question and re-entered the [redacted] residence.

A few moments later, SA [redacted] observed [redacted], and [redacted] exit the residence with [redacted] guiding [redacted] dog on a leash. As they walked down the steps toward the vehicle, SA [redacted] advised [redacted] that [redacted] dog was rapidly approaching. b6 b7C

As [redacted] and the [redacted] attempted to create a playful environment for the dogs, SA [redacted] noticed [redacted] pitbull dog was not being playful and was attacking [redacted] the [redacted] and [redacted]s dog. As [redacted] and [redacted] attempted to protect the small dog, the pitbull lunged at [redacted] Commands from [redacted] and the [redacted], along with physical force, seemed to make the pitbull more aggravated and vicious. Additionally, the owner of the pitbull did not come to the scene of the incident despite hearing and seeing the activity. Ensuring all individuals were in a safe area and fearing for her safety, as well as the safety of others, SA [redacted] retrieved her weapon and fired two rounds injuring the pitbull dog who ceased its attack.

The local police and animal control authorities were notified of the incident. The injured pitbull dog was removed from the scene by local animal control authorities.

On 08/19/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted], Trial Attorney, Gang Squad, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC Thomas A. Nunemaker, Violent Crimes Section, Criminal Investigative Division (CID); Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Acting UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. Management Program Analyst [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271787-D, 08/25/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Anderson, Room 4825
1 - Mr. Nunemaker, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIC [redacted] Office: Inspections
Date: 02/15/2008

Case ID #: 297-HQ-A1271895-D

b6
b7C

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHILADELPHIA DIVISION
01/28/2008

Character: ADMINISTRATIVE INQUIRY

Synopsis: Darius Hill was the subject of a child pornography investigation. On January 28, 2008, a federal search warrant was served at Hill's residence in Perkasie, Pennsylvania. The search team was composed of six Agents and four uniformed police officers. The subject's wife opened the kitchen door to allow the team to enter. As the team was clearing the second floor, the subject was observed with a pistol. The subject began to point the pistol at himself. The Agents, from behind concealment, ordered the subject to drop the weapon. The Agents negotiated with the subject for approximately 15 to 20 minutes and threatened suicide. The subject made a threatening movement by lowering the weapon towards the Agents. The Agents, feeling their lives were in danger, fired at the subject. After the initial Agent fired and hit Hill, the subject was still able to place his weapon into his mouth and fire one shot while also being struck four additional times by the Agents' rounds. Agents attempted to render aid to the subject. Paramedics pronounced the subject dead at the scene.

**DETAILS:**

On January 2, 2008, the Philadelphia Division (PH), Ft. Washington Resident Agency (RA), received a lead from the Innocent Images National Initiative (IINI) Unit in Calverton, Maryland. The lead reported an Internet Crimes Against Children (ICAC) Task Force in Utah, working in an undercover capacity, determined a computer registered to 836 Callowhill Road, Perkasie, Pennsylvania, was engaged in criminal activity relating to child pornography. Darius Theodore Hill resided at the residence and was believed to be the individual communicating with the undercover Utah officer. The lead was assigned to SA [redacted] who worked with the United States Attorney's Office to obtain a search warrant to seize computers located in the residence.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] spent several days to freshen the probable cause for the search warrant. SA [redacted] obtained up to date computer logs from JINI in reference to current conversations from the undercover Utah officer. SA [redacted] also conducted criminal background checks on the subject. The subject had a felony criminal record from his time in the military for selling stolen military weapons and also had a complaint filed with the Hilltown Township Police Department (HTPD) for improper sexual contact with a minor.

b6
b7C

The search warrant affidavit was prepared and presented to the Assistant United States Attorney (AUSA) on Wednesday, 1/23/2008. On Friday, 1/25/2008, a federal search was authorized by a Federal Magistrate Judge, Eastern District of Pennsylvania. Also on Friday, 1/25/2008, SA [redacted] contacted Ft. Washington RA Agents to request assistance on serving the search warrant on Monday, 1/28/2008.

At 3:00 pm, 1/28/2008, the search team assembled at the HTPD for a briefing. Present were FBI SAs [redacted] and [redacted] as well as Hilltown Township Police Lieutenant (Lt.) [redacted] The briefing was led by SA [redacted] which included providing copies of the warrant and affidavit; description and photograph of Hill; Hill's criminal history; search/entry team roles and assignments; notification of potential children in the residence; description of items to be seized; and a contingency plan on breaching the residence if needed to preserve evidence. There was no written operation plan for the search warrant, nor was there a specific briefing on the FBI's Deadly Force Policy. SA [redacted] arrived late to the briefing, due to being in court, and received a briefing from SA [redacted] prior to the execution of the warrant.

The plan was to execute the warrant when the subject was at his residence in an attempt to interview him regarding his involvement in child pornography. There were no locations for a static surveillance near the residence, so the team conducted drive-by surveillances every twenty to thirty minutes to determine if the subject was home. The initial drive-by was conducted by SA [redacted] just prior to his search warrant briefing.

At 6:00 pm, SA [redacted] received information from the undercover Utah officer that Hill's computer was online. This was an indication that Hill was at the residence.

The team re-assembled at the HTPD. SA [redacted] briefed three additional uniformed police officers who joined the team to assist. The additional officers were [redacted] and [redacted] The team lined up the vehicles consisting of two FBI vehicles and three marked Hilltown Township cruisers, and proceeded to the location which was a short distance from the HTPD.

b6
b7C

At 6:30 pm, the team arrived at the location. SA [redacted] SA [redacted] SA [redacted] SA [redacted] Lt. [redacted] and Officer [redacted] approached the front door, while SA [redacted] and Officers [redacted] and [redacted] went to the side door. SA [redacted] was on the northwest corner of the house. As the team approached the front door, the subject was observed through a window and motioned the team to go to the side door.

The team at the side door then made contact with the subject's [redacted] and entered the residence. As the team entered [redacted] and [redacted] were in the kitchen area and were advised the FBI had a search warrant for the residence. Agents asked [redacted] where Darius was, and she indicated she thought he was in the front of the residence.

As the team proceeded to the front of the residence, Hill was heard upstairs. Officer [redacted] was at the base of the stairs, located in the center of the home, and yelled up to Hill telling him it was the police/FBI serving a search warrant and ordered him to come downstairs.

Hill did not respond to the verbal commands, so Officer [redacted] and SA [redacted] ascended the stairs. Upon arrival on the upstairs landing, they cleared a bedroom to their left. Then, both law enforcement officers looked down a hallway to their right and observed Hill standing in the master bedroom doorway with a pistol pointed under his chin. He was threatening to shoot himself, and SA [redacted] began to negotiate with him to put the gun down. Officer [redacted] went down the stairs to get [redacted] and [redacted] out of the house. Officer [redacted] placed [redacted] and [redacted] in a cruiser, then took them to the HTPD. b6 b7C

SA [redacted] continued to negotiate with Hill, advising him to put the gun down and show his hands. Hill stated, "I've been through this before. I'm not going back to jail. I might as well just end it now." During the negotiations, SA [redacted] came up the stairs to provide backup for SA [redacted] Hill was standing in the doorway of the bedroom which was located approximately 12 to 14 feet from where the Agents were located.

Although only SAs [redacted] and [redacted] were on the second floor with Hill, other Agents and officers on-scene and located at the base of the stairwell overheard Hill's statements. The Agents and officers heard the following:

- SA [redacted] heard SA [redacted] talking to Hill telling him, "we can't talk to you when you have a gun. Take your finger off the trigger. No one is going to be arrested, this is strictly a search warrant. Put the gun down." SA [redacted] could barely hear Hill, but heard Hill say, "being arrested and suicide."
- SA [redacted] heard Hill and he sounded agitated. Hill was speaking as if he had an object in his mouth. Hill said, "don't rush me man... don't come in here... I know you guys don't want suicide by cop."
- SA [redacted] heard Hill say, "no, I won't drop it."
- Officer [redacted] heard Hill say, "suicide by cop."

SA [redacted] continued to negotiate with Hill for approximately 15 to 20 minutes. Throughout the negotiations, Hill continued to put the weapon in his mouth and point it under his chin. Hill was facing the Agents during most of the negotiations, but did occasionally move around the room. SA [redacted] was originally at the top of the stairs peering around a corner wall to view Hill. SA [redacted] moved across the hall into the laundry room to obtain a better view of Hill. SA [redacted] then moved up the steps into the position vacated by SA [redacted]

SA [redacted] continued to give Hill commands to drop the weapon, and Hill continued to say he was not going back (to jail). He stated, "NCIS screwed me" [the Naval Criminal Investigative Service (NCIS) conducted the investigation resulting in Hill's felony conviction and four years incarceration sentence]. At one point Hill said, "what is this going to be, suicide by cop?" After the dialogue continued for several more minutes, Hill said, "I'm going to blow my brains out by this window because I don't want to make a mess." SA [redacted] b6 b7C

told Hill they were only there to seize his computers and not arrest him. At this point, there was a noticeable change in Hill's demeanor. Hill became very quiet and began to back up towards the bedroom window.

Around this time, SA [redacted] who was on the upstairs landing lost sight of Hill. To improve his tactical position, SA [redacted] crossed the hallway into the laundry room doorway with SA [redacted]. SA [redacted] was in a low kneel position while SA [redacted] was in the standing high position.

According to SA [redacted], Hill's comments conveyed he felt there was no way out of the situation. SA [redacted] reminded SA [redacted] that they could not "out react this guy." SA [redacted] reminded himself of training exercises demonstrating law enforcement officers can't react fast enough if an armed subject makes the first move to shoot, which included scenarios with suicidal subjects. b6 b7C

As Hill backed towards the window, he faced the Agents in what SA [redacted] perceived as a combat stance. Although Hill was clearly making suicidal comments and pointing his weapon to his head, SA [redacted] felt Hill was preparing for a gun battle with the Agents. SA [redacted] based this on Hill's repeated suicidal comments were becoming suspect because he had plenty of opportunity to actually commit suicide; Hill moved to close proximity of an egress point, the window; and Hill held the weapon in a combat grip.

Hill lowered the weapon from his chin towards the Agents. This caused both SA [redacted] and SA [redacted] to fear for their lives. SA [redacted] fired the first round striking Hill in the chest. Hill was able to place his weapon back in his mouth and fire one round. SAs [redacted] and [redacted] thought Hill was returning fire, and SA [redacted] fired one additional round and SA [redacted] fired five rounds. All rounds were fired in approximately two seconds. Hill was struck a total of five times by Agents' rounds.

Hill had six wounds located as follows: intra-oral (mouth) close contact entry wound with exit wound out of the back of his head; right thumb with re-entry into right chest; left chest; left ear/neck/chest; left neck/chest; and right thigh. The intra-oral wound was Hill's self-inflicted shot, and the bullet exited hitting the window frame and splintered. A bullet was recovered in each of the other five wounds: two rounds were from SA [redacted] weapon and three rounds from SA [redacted] weapon. SA [redacted] other two rounds cleanly pierced the bedroom window to the exterior of the house and were not recovered. Recovery of shell casings confirmed eight shots were fired (Hill - one; SA [redacted] - five; and SA [redacted] - two). b6 b7C

SA [redacted] and [redacted] approached Hill, kicked his weapon away, and began to render aid. SA [redacted] called for a medic, checked Hill's pulse, but was not able to locate any signs of life from Hill. SA [redacted] then told Lt. [redacted] who had come up the stairs, to take control of the scene. Paramedics arrived a short time later and pronounced Hill dead.

The Bucks County District Attorney's Office Investigators responded, as is protocol for all law enforcement involved shootings in Bucks County. The investigators conducted the crime scene and interviews of Hill's wife and all of the HTPD officers at the scene.

The toxicology report was negative for drugs or alcohol in Hill's system.

Based on investigation subsequent to the shooting incident, the SIRT identified potential factors which may provide indicators as to why Hill reacted so violently to law enforcement during the execution of a lawful search warrant, which included:

- A forensic computer exam of Hill's computer seized during the search warrant revealed 300,000 graphic images of child pornography and 5000 videos of child pornography, incest, and bestiality.
- [redacted] revealed Hill threatened suicide during their marriage, to include placing a handgun to his head.
- Hill was suspected of molesting [redacted] who is the [redacted] of his [redacted]
- Hill was suspected of molesting [redacted] from [redacted]
- According to a family member, Hill's wife sent him cell phone text messages on the day of the shooting about getting a divorce.

b6
b7C

On 02/15/2008, the Bucks County Attorney's Office, Bucks County, Pennsylvania, declined local prosecution. On 04/07/2008, the Department of Justice declined federal prosecution.

In summary, subject Hill fled to a bedroom as Agents executed a lawful federal search warrant at his residence. Hill obtained a weapon and threatened to kill himself. After 15-20 minutes of negotiations, Hill began to point the weapon in the direction of the Agents. Agents, in fear of their lives, fired striking Hill. After being shot, Hill was able to place his weapon in his mouth and fire one round. Agents, thinking they were being shot at, fired six additional rounds at Hill.

**INSPECTOR'S OBSERVATIONS:**

The SIRT identified the following issue:

**Issue #1: The search warrant plan was not converted into a written operation plan, nor did the plan require Agents to wear body armor or marked law enforcement clothing and did not provide a FBI Deadly Force Policy brief.**

The case Agent and all team members conducted an oral brief prior to the search warrant. The case Agent personally briefed one Agent who missed the brief due to a court appearance, as well as three local officers assisting. The plan was thorough and complete, with three exceptions. The plan did not require Agents to wear body armor or marked law enforcement clothing and did not provide a FBI Deadly Force Policy brief. None of the six Agents participating wore body armor or marked law enforcement clothing. Additionally, the plan was not converted to a written format. A written plan could have added value by: 1) stimulating rigorous thought by the case Agent working through a standardized format which could lead to plan improvements/refinements; and 2) allows for independent review by more experienced managers; and 3) facilitates a complete and thorough oral pre-operation brief.

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/07/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

b2
b6
b7C

**Approved By:** [redacted]mens Michael S

**Drafted By:** [redacted]lrr

**Case ID #:** 297-HQ-A1271786-D

**Title:** SHOOTING INCIDENT
NEW HAVEN DIVISION
10/01/2007

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/01/2007, involving Special Agent (SA) [redacted]. During the attempted arrest of two subjects, SA [redacted] fired six rounds from his Glock Model 22, .40 caliber pistol at a second subject who was firing at law enforcement personnel from inside a business establishment. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference New Haven Division Electronic Communications of Supervisory Special Agent (SSA) [redacted] dated 10/02/2007 and 10/11/2007, and subsequent Connecticut State Police report.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

In September 2007, three local Police Departments (PDs) requested the assistance of two SAs assigned to the Bridgeport Resident Agency regarding an interview of the subject of a local investigation involving illegal gambling. The Bridgeport Agents had an extensive background in conducting Organized Crime

investigations, and it was believed the subject was associated with Organized Crime members in another county.

A second request was received from the Branford PD requesting the assistance of personnel for general manpower needed to search two locations. The requests resulted in six SAs attending a briefing of the operation at the Trumbull PD during the evening of 10/01/2007. At approximately 6:30 p.m., a briefing of the operation was conducted and a summary assignment sheet was drafted and discussed. Five of the six Agents were assigned to the subject's Trumbull residence search location to assist with the search after the residence was secured and conduct interviews. SA [redacted] a Probationary Agent, was assigned to the team responsible for searching a Mobil gas station in Bridgeport.

Upon arrival at the gas station, two Trumbull Police officers attempted to secure the individuals located inside the business. While the first subject who was standing in the doorway raised his hands over his head to surrender, the second subject began firing on law enforcement personnel. SA [redacted] along with other local officers located outside, returned fire injuring the shooter in the hand and arm.

Since the incident was not related to a pending FBI or FBI task force investigation, the crime scene was processed by the Connecticut State Police (CSP) Major Crimes Unit and the investigation was conducted by the CSP. b6 b7C

According to SA [redacted] at approximately 8:30 p.m., on 10/01/2007, an Agent located at the subject's residence advised him team members were walking up to the primary search location and that SA [redacted] team should execute the search warrant at the second location. The group drove to the location in three unmarked police vehicles and one marked Bridgeport Police Department vehicle. SA [redacted] wearing a blue protective vest with large yellow letters "FBI," exited the unmarked van and followed a local officer toward the front door of the business. The local officer had his service weapon drawn from its holster holding it against his leg pointed toward the ground. SA [redacted] drew his weapon and held it in a similar manner as they walked toward the open door of the gas station. SA [redacted] heard someone say, "Police Officers; search warrant," and an individual standing in the doorway raised his hands over his head to surrender. He also observed a second person moving in a back room; however, stayed focused on the individual who was surrendering.

As the local officer reached the man in the doorway, he passed him to other officers. At that point, SA [redacted] saw a muzzle flash from the interior of the room and knew someone was shooting at law enforcement personnel. He moved to his left for cover and fired six shots through the glass window into the interior of the room. A local officer instructed SA [redacted] to move back and he moved behind a police vehicle to insert a new magazine into his weapon.

b6
b7C

SA [redacted] observed a local officer handcuff the man in the doorway. Additional officers were yelling, "police, police" and instructing the shooter to drop the gun and come out. At that point, SA [redacted] was instructed to get behind a civilian vehicle parked on an adjoining street to ensure the shooter did not attempt to flee out the back door. Within moments, the individual inside the gas station was arrested. As officers were attempting to handcuff the subject, it was determined he had been shot in the arm.

A ballistics examination did not make a conclusive match between the bullet extracted from the victim's wrist and SA [redacted] weapon.

On 05/19/2009, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted]

b6
b7C

On 05/28/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Attorney, Criminal Division, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted], Practical Applications Unit, TD; UC [redacted], Defensive Systems Unit, TD; SSA [redacted], Evidence Response Team Unit, Laboratory Division; SSA [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Investigative Law Unit, Office of General Counsel; and SSA [redacted], CR-17, Washington Field Office. UC [redacted], Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted], IMU, OI, INSD, non-voting members, were also in attendance.

To: Inspection From: Inspection
Re: 297-HQ-A1271786-D, 08/07/2009

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

Members made several observations regarding the incident including the fact that although a clear threat existed, SA [redacted] fired six rounds toward a muzzle flash he saw through a window without acquiring target identification.

The second observation pertained to the fact that New Haven Executive Management was not aware FBI personnel were on the scene when the incident occurred. Both observations will be discussed with the Special Agent in Charge of the New Haven Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271786-D, 08/07/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
(Attention: Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/24/2009

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L 3/25
Clemens Michael
Maley Patrick James

b2
b6
b7C

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
07/10/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/10/2008, involving Special Agent (SA) [redacted] During the forced entry of a residence in an attempt to locate a kidnaping victim, SA [redacted] and two local law enforcement officers shot and killed two aggressive dogs. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 07/16/2008.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 07/10/2008, an unknown number of armed subjects abducted the fiancé of a bank employee and threatened to kill the victim unless the bank employee removed all of the money from the vault of the bank where she was employed.

An arranged drop was executed where money, along with a tracking device, was placed in a bag and dropped in a

predesignated area. After the subjects retrieved the money, they were followed to a residence in Chicago where a number of individuals were observed entering the residence. Due to exigent circumstances related to recent threats made to the victim's fiancé, and fear the tracking device would be located by the assailants, forcible entry was made into the residence. Law enforcement officers located the kidnaping victim bound to a chair with duct tape wrapped around his head and covering his eyes.

During the clearing of the residence, Agents and local officers encountered two large pit bull dogs upon entry into an upstairs bedroom where one of the assailants was hiding. Fearing for their safety when the dogs lunged toward them, SA [redacted] and two local officers shot and killed the dogs. Law enforcement personnel continued to clear the residence and ultimately located and arrested five subjects hiding in various locations on the second floor. Additionally, a sixth subject was arrested during a traffic stop as he attempted to flee the scene.

On 01/30/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Attorney, Criminal Division, USDOJ; Chief Inspector Patrick James Maley, Office of Inspections (OI), INSD; Section Chief (SC) Jill Marie Eulitz, CD-1, Eurasian Section, Counterintelligence Division; A/SC Ronald J. Koziol, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted], Defensive Systems Unit, TD; UC [redacted] Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. UC [redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 03/24/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
(Attention: Ms. Eulitz)
1 - Mr. Koziol, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspections
Date: 09/17/2008

Case ID #: 297-HQ-A1271748-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
MIAMI DIVISION
07/01/2008

Character: SHOOTING INCIDENT REVIEW

Synopsis: On February 19, 2008, a Gang/Criminal Enterprise investigation was initiated by the West Palm Beach Resident Agency (WPBRA), Miami Division. The investigation targeted a violent criminal enterprise associated with drug trafficking activities in the area of West Palm Beach, Florida. The investigation was conducted by Agents and officers of the WPBRA Safe Streets Task Force.

[redacted]

b6
b7C
b7D

[redacted]

[redacted]

[redacted] During these contacts, [redacted] purported he had "**goons with guns, AK-47's, Uzi's, big pistols, guns,**" who would carry out the CHS's robbery plan of the drug dealer. These facts, coupled with intelligence on the day of the operation of the subjects carrying large caliber weapons, created an extremely high threat level in the minds of the SWAT team at the time of the confrontation with subjects on July 01, 2008.

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] Earlier in the evening, the FBI Miami SWAT team had deployed operators onto the roof tops of the two warehouse buildings and an adjacent building.

[redacted] drove [redacted] Caldwell, and [redacted] to the warehouse complex of the fictitious drug dealer. [redacted] remained in his vehicle outside the warehouse while [redacted] and [redacted] both armed with handguns, and Caldwell, armed with a rifle, entered into the fenced parking lot of the warehouse complex. As the subjects neared one of the warehouse building doors, a FBI SWAT operator yelled to the men, "FBI, don't move," at which time [redacted] dropped to the ground. Caldwell, still carrying a rifle, and [redacted] still armed with a pistol, disregarded the warnings and ran towards the operators on the opposite building, which was also in the direction of the gate opening.

b6
b7C
b7D

FBI SWAT operators observed two non-compliant, armed individuals, who intelligence described as having high powered weapons, attempting to gain a position of tactical advantage. This caused concern for the imminent threat to the safety of law enforcement personnel in the outer perimeter and the danger these men posed to the civilian population in the immediate area, as well as the threat posed to SWAT operators. To eliminate this threat, FBI SWAT operators fired a total of fifty six (56) rounds at the two men who posed the greatest threat. [redacted] received numerous bullet wounds, to include leg wounds requiring the amputation of his left leg below the knee. Caldwell received numerous bullet wounds and was pronounced dead at the scene. [redacted], who dropped to the ground after FBI commands, was hit with one .223 caliber bullet, likely a ricochet, that penetrated one leg then lodged in his other leg. [redacted] attempted to flee the location in his vehicle, but his vehicle was struck and disabled by another motorist. He was then arrested by the West Palm Beach Police Department SWAT team which secured the operation's outer perimeter.

**DETAILS:**

On February 19, 2008, a Gang/Criminal Enterprise investigation (281D-MM-110766) was initiated targeting a violent gang/criminal enterprise associated with drug trafficking activities in and around West Palm Beach, Florida. The investigation was assigned to SA [redacted] and SA [redacted] of the WPBRA, who were assigned to the FBI WPBRA Safe Street Task Force (SSTF). The identified gangs, "Ace Click" and "44 Live", had an aggregate membership of sixty four individuals suspected of being involved in drug trafficking, robberies, shootings, burglaries, and weapons offenses. This investigation was approved as an Organized Crime Drug Enforcement Task Force (OCDETF) investigation (# FCFLS1604) on May 05, 2008, and the case classification changed requiring a new case file number of 245D-MM-110766.

b2
b6
b7C
b7D

[redacted]

[redacted]

[redacted]

b6
b7C
b7D

On June 25, 2008, A/SSA [redacted] SA [redacted] and Detective [redacted] WPBPD, provided a briefing to AUSA [redacted] United States Attorney's Office (USAO), Southern District of Florida. Based upon the presentation, AUSA [redacted] opined he foresaw no issues of entrapment.

On June 25, 2008, SA [redacted] prepared an Operations Plan (OP) for the proposed arrest of [redacted] and his unidentified accomplices while committing the purported robbery. A/SSA [redacted] submitted the OP for review to A/ASAC [redacted] inasmuch as ASAC Parlave was on travel at the time. A/ASAC [redacted] submitted the OP to SAC Jonathan L. Solomon for his review and approval.

b6
b7C

On June 25, 2008, [redacted] was fully identified as [redacted] Pompano Beach, Florida, with a date of birth of [redacted] had an extensive drug criminal history.

[redacted] was identified on the day the OP was prepared. At that time, there was no specific intelligence connecting [redacted] to a known drug trafficking organization (DTO) or an armed robbery crew. The basis for the operation was to arrest [redacted] and his unidentified **"gangsters"** based on [redacted] representation he had **"AK-47's, Uzi's, guns, and big pistols"** [redacted] According to the SAC and other division personnel, South Florida had experienced an increased frequency of violence with high powered weapons, thus the division felt compelled to address the potential public safety threat from [redacted] and his unknown accomplices in an expeditious manner.

b6
b7C
b7D

On June 26, 2008, SWAT Senior Team Leader (STL) [redacted] began preparing a plan to effect the arrest o[redacted] and his unidentified accomplices. SA [redacted], SA [redacted] and Detective [redacted] met with WPBPD SWAT leadership, discussed the tactical operation, and delineated assignments and responsibilities for the respective SWAT teams. It was determined during the meeting FBI SWAT would be responsible for the inner perimeter of the arrest location and WPBPD SWAT would be responsible for the outer perimeter of the arrest location. In furtherance of the planned operation, STL [redacted] and SA [redacted] conducted a site survey of the arrest location.

On June 27, 2008, STL [redacted] prepared an FBI SWAT OP which documented areas of responsibility for both the FBI and WPBPD tactical components. The OP was submitted by SSA [redacted] to Administrative A/ASA[redacted] and then forwarded to SAC Jonathan I. Solomon. The OP review group, comprised of STL [redacted] A/ASAC [redacted] and A/ASAC [redacted] briefed SAC Solomon regarding the tactical considerations of the OP. After consultation with the group, SAC Solomon concurred and approved the OP.

On June 30, 2008, a detailed OP briefing was conducted at the Miami Division Field Office; in attendance were SA [redacted] STL [redacted] and SSA [redacted] STL [redacted] met and briefed ASAC Parlave, who was assigned as the On Scene Commander for the operation. ASAC Parlave also conducted a conference call with A/SSA [redacted] nd SA [redacted] to discuss the OP.

[redacted]

On the same day at 8:00 p.m., an OP briefing was conducted by STL [redacted] for the SWAT team at the WPBPD [redacted] West Palm Beach, Florida. The OP briefing was conducted at the approximate time of the planned robbery to allow SWAT operators to observe the lighting conditions at the location as it would potentially appear at the time of the operation. The SWAT OP briefing and rehearsals were conducted for approximately two hours. As previously discussed, FBI SWAT would be responsible for activities within the inner perimeter, and WPBPD SWAT team would be responsible for the outer perimeter. During the briefing, STL [redacted] advised FBI SWAT operators to be familiar with and to further review the FBI Deadly Force Policy.

b6
b7C
b7D

The FBI SWAT Blue Team would take positions on the rooftops of the North and South buildings in the warehouse complex, 1118 Old Okeechobee Road, West Palm Beach, as well as on the rooftop of a one story warehouse building west of the warehouse complex, 1109 Old Okeechobee Road. The FBI SWAT Gold Team would be responsible for securing the subjects upon completion of the operation. The Gold Team would be staged in a room inside the South building. A decision was made to partially close the western gate of warehouse complex and secure it with a lock and chain to prevent entry by a vehicle and require the subjects to slip through a small opening. [redacted] which would be provided to [redacted] for his use in committing the planned robbery.

[redacted]

b6
b7C
b7D

At 5:00 p.m., STL [redacted] ASAC Parlave, and Agents of the WPBRA arrived at the WPBPD to attend an OP briefing. During this briefing, SA [redacted] and Detective [redacted] provided an overview of the investigation to the Agents of WPBRA, WPBPD SWAT, WPBPD surveillance, and WPBPD command staff. The CHS and UCE were introduced to the Agents and officers to minimize the potential for misidentification during the operation.

[redacted]

At 8:00 p.m., the FBI SWAT team staged at the WPBPD garage and were provided an additional briefing on the SWAT OP, as well as provided updated intelligence information. STL [redacted] again briefed the FBI Deadly Force Policy. Upon completion of the briefing, FBI SWAT members proceeded to the WPBPD undercover warehouse complex. FBI SWAT was split into two teams, the Gold Team and Blue Team. The Gold Team was comprised of SAs [redacted] and [redacted] The Gold Team was divided into four, three operator arrest teams. The Gold Team was deployed inside the South building and would respond when directed to secure the subjects. SA [redacted] was also staged with the Gold Team as a communication link to the Tactical Operations Center (TOC).

Blue Team members deployed on the South building were SAs [redacted] and [redacted] WPBPD SWAT snipers [redacted] and [redacted] were deployed on the rooftop of the South building to cover the rear of the South building overlooking Old Okeechobee Road. STL [redacted] and ASAC Parlave also took positions on the South building where they monitored a Remington Ball camera covering the warehouse complex interior parking lot. The actions of the subjects as viewed through the Remington Ball camera were not recorded. STL [redacted] and ASAC Parlave monitored the main FBI and WPBPD operations radio channels, then STL [redacted] relayed relevant information to FBI SWAT operators via the FBI SWAT simplex channel.

b6
b7C

Blue Team SWAT members deployed on the roof of the North building were SAs [redacted] and [redacted] Blue Team SWAT members deployed on the roof of a warehouse building west of the warehouse complex, 1109 Old Okeechobee Road, were SAs [redacted] and [redacted]

SAs [redacted] and [redacted] were located in the TOC vehicle located in the vicinity of Clare Avenue, West Palm Beach, Florida. Also in the vehicle were A/SSA [redacted] and SA [redacted] WPBRA. b6 b7C

WPBPD SWAT operators were staged in two WPBPD vehicles. One located on Clare Avenue and the other on Frederick Street, both within close proximity to the warehouse complex.

The WPBPD SWAT Command Staff was located in a WPBPD vehicle located at the Holiday Inn on Belvedere Road, West Palm Beach. The vehicle was occupied by WPBPD Captain [redacted] Captain [redacted] Sergeant [redacted] and Sergeant [redacted] WPBPD Command Staff would monitor the communications being received through a transmitter worn by the UCE. The monitored communications would then be relayed to all personnel monitoring the WPBPD operations radio channels. Additionally, approximately fifteen unmarked WPBPD units had established stationary surveillance along the anticipated route of [redacted] and his accomplices from the Holiday Inn to the warehouse complex.

At 10:15 p.m., the Broward County Sheriff's Office (BCSO) surveillance, which had been surveilling [redacted] since 4:40 p.m., reported [redacted] and other subjects traveling northbound on Interstate 95 North in a gold Hyundai approaching West Palm Beach. At 10:17 p.m., [redacted] and other subjects arrived at the Holiday Inn, Belvedere Road, West Palm Beach, [redacted] Upon their arrival at the Holiday Inn, the BCSO terminated their surveillance.

[redacted] b6 b7C b7D

At 10:43 p.m., the FBI TOC broadcasted and logged the vehicle with all four subjects was anticipated to arrive at the warehouse complex within three minutes and they were armed with long guns. This was relayed to the SWAT team by STL

b6
b7C
b7D

At 10:46 p.m., Caldwell, and exited the vehicle, while remained in the vehicle. They entered the warehouse complex parking lot through a gate locked with a chain, but the chain had sufficient slack to let a person slip through a small opening. The order of entry was carrying a set of bolt cutters and a concealed handgun, carrying a handgun, and Caldwell carrying a long rifle. followed by Caldwell and walked towards the door of the North building. All three were observed entering the parking lot by both STL and ASAC Parlave, who monitored their movements with the use of a Remington Ball camera. Both ASAC Parlave and STL observed all three subjects enter into the parking lot with what they believed to be weapons.

At 10:47 p.m., after and Caldwell got near the North building door and was halfway from the gate opening and the North building, ASAC Parlave gave the execution order to STL who then communicated the order to FBI SWAT operators. The SWAT operators had been advised via radio by STL all three subjects were armed, inasmuch as all operators were secreted to prevent silhouetting which also prevented operators from directly observing the subjects entering the warehouse complex.

SA stood up from his position on the South building and in a loud clear voice stated, "FBI, get down." At this point, was at the North building door and Caldwell was several feet behind was 25 feet from the same door, which was about halfway between the gate opening and the door. All three subjects turned towards the South building, dropped to the ground while Caldwell and ran in the direction of the Agents located on the South building which was also in the direction of the gate opening. Caldwell and disobeyed SA commands and continued to run towards the South building and the opening in the gate with **guns in hand.** Agents believed the non-compliant, armed Caldwell and were moving to a **position of tactical advantage and/or presented a grave danger to the public and other law enforcement officers.** Eight Agents from the roof tops of the North and South buildings discharged their weapons at Caldwell and and one Agent from the West building discharged his weapon at after he exited the warehouse complex and moved towards concealment of a truck parked on Old Okeechobee Road.

b6
b7C

was able to get through the gate opening and was reaching for the passenger side rear door handle of the gold Hyundai when it pulled away. He then proceeded to move towards a truck parked on Old Okeechobee Road when he succumbed to his wounds and collapsed next to the truck. received numerous bullet wounds, to include legs wounds requiring his left leg to be amputated below the knee. Caldwell received numerous bullet wounds, collapsed in the gate opening, and was pronounced dead at the scene. who dropped to the ground after FBI commands, was hit with one .223 caliber bullet, likely a

ricochet, that penetrated one leg then lodged in his other leg [redacted] attempted to flee the location in his vehicle, but his vehicle was struck and disabled by another motorist. He was then arrested by the WPBPD SWAT which secured the operation's outer perimeter.

A total of 56 .223 caliber rounds were fired, and there was no evidence the subjects discharged their weapons. The shooting lasted less than five seconds. Streetlight illumination created good lighting conditions in the warehouse complex and on Old Okeechobee Road outside the warehouse complex's gate. SWAT operators had mounted lights on their weapons, but did not use light enhancing scopes. b6 b7C

There were 15 FBI Agents and two WPBPD SWAT operators on top of the three building rooftops during the incident. Ten FBI Agents provided voluntary statements, as did both WPBPD SWAT operators. Of the 10 FBI voluntary statements, four were from Agents who discharged their weapons. Five Agents, all of whom discharged their weapons, did not elect to provide voluntary statements.

Each of the four witnesses providing voluntary statements and discharging their weapons will be summarized in detailed. Unique information from the other eight witnesses providing voluntary statements but did not discharge their weapons will be set forth, as well as a voluntary observations made by subject Anthony Jackson subsequent to the shooting incident.

Agents Discharging Their Weapon

- SA [redacted] discharged his weapon and was located on the South building. He clearly heard SA [redacted] commands. When SA [redacted] stood up from his position, he observed the subject closest to the North building door, presumably [redacted] but was unable to determine if he had a weapon. The second subject, presumably Caldwell, was holding what appeared to be a long gun, and the third subject, presumably [redacted] was closest to the gate opening holding a pistol. SA [redacted] observed a gold vehicle on Old Okeechobee Road parked by the gate opening with no one outside the vehicle. After hearing SA [redacted] commands, he observed all three subjects turn towards the South building and run in the direction of the Agents. SA [redacted] heard gunfire from FBI SWAT operators to his right on the rooftop as [redacted] holding a pistol, ran towards the opening of the parking lot gate. SA [redacted] shouted numerous times for the subject to stop and drop his weapon, but [redacted] left through the front gate opening and attempted to enter the gold Hyundai but it pulled away heading northbound. [redacted] then ran towards a parked truck, which caused SA [redacted] to fire two or three rounds from his M-4 rifle. SA [redacted] felt these shots incapacitated the subject because he fell in the street. SA [redacted] discharged his weapon because [redacted] attempted to run to a stationary vehicle would have given him tactical advantage, exposing the SWAT operators who were without cover or concealment. SA [redacted] believed other SWAT operators on the roof top of the North building were in imminent danger due to the lack of cover and concealment caused by the angle of the roof. The subject presented an imminent threat to the WPBPD SWAT members responsible for the outer perimeter, as well as the community at large had the subject escaped. b6 b7C

- SA [redacted] discharged his weapon and was located on the South building. As the three subjects entered the warehouse complex, STL [redacted] radioed the

subjects were armed. SA [redacted] gave the FBI's initial commands by stating, "FBI, get down." The subjects spun around and ran directly towards the South building which was also towards the gate opening. He observed one subject with a long gun. He had been trained that anyone moving aggressively with a weapon could gain a position of tactical advantage. The subjects also presented a grave danger to the public and other law enforcement officers if they fled from the confined area of the warehouse complex. He fired two to four rounds from his M-4 rifle. He aimed at the subject with the long gun, presumably Caldwell, and he may have shifted to a second subject. The gold Hyundai drove northbound; he covered it but did not shoot.

- SA [redacted] discharged his weapon and was located on the South building. When SA [redacted] stood up, he observed three subjects. One subject, presumably [redacted] had a bolt cutter and possibly something in his other hand. He then heard SA [redacted] commands, and the other two subjects, presumably Caldwell and [redacted] turned and sprinted towards the SWAT team on the South building. SA [redacted] observed one individual as he turned with a long gun in his hand and the other appeared to have a pistol in his hand. SA [redacted] believed that the subjects were running to gain a tactical advantage of either cover or concealment and felt an imminent danger and threat from the subjects. SA [redacted] fired two to three rounds from his M-4 rifle at the subject, presumably Caldwell, who was carrying the long gun. He did not fire at the subject with the handgun inasmuch as the subject left SA [redacted] area of responsibility (AOR).

b6
b7C

- SA [redacted] discharged his weapon and was located on the North building. He heard SA [redacted] commands to the three subjects. SA [redacted] began to hear gunfire when he observed the subject, presumably [redacted] armed with a handgun moving towards the gate, then through the gate, eventually reaching [redacted] gold Hyundai parked on Old Okeechobee Road. SA [redacted] believed [redacted] was moving towards a position of tactical advantage, or retrieving more weapons from the vehicle. At that time he had only been able to account for two subjects and was expecting four. SA [redacted] believed there was an imminent threat if the subject had reached the vehicle. SA [redacted] fired two to three rounds from his M-4 rifle at the subject, presumably [redacted] as he approached the passenger side door of [redacted] vehicle.

b6
b7C

Agents Not Discharging Their Weapons

- SA [redacted] was on the South building and did not fire his weapon. The only subject in his AOR was the subject with the bolt cutters, presumably [redacted] who did not appear to have a weapon.

- SA [redacted] was on the North building and did not fire his weapon. His radio was inadvertently on the wrong channel and he did not hear the "execute" radio signal. He only realized the operation had begun after he heard discharges from M-4 rifles. Due to his radio malfunction, all the weapons firing was complete before he was able to get to the edge of the roof. Upon getting to his assigned position, he saw a subject down just outside the gate opening and the gold Hyundai speeding northbound on Old Okeechobee Road. He saw a subject run on Old Okeechobee Road, just underneath his position and took cover behind

a truck. SA called out commands as did SA on the West building. SA maintained cover on this area until four WPBPD SWAT operators secured the subject.

- SA was on the West building and did not fire his weapon. He was new to the SWAT team, and was positioned behind the other two SWAT operators on the West building. When he reached the edge of the rooftop to observe the warehouse complex and Old Okeechobee Road, SA observed one subject, presumably Caldwell, down in the gate opening, and a second subject, presumably down next to a truck on Old Okeechobee Road.

- STL and ASAC Parlave were on the South building and did not fire their weapons. Both were next to each other behind the SWAT operators. They both only moved forward to view the warehouse complex and Old Okeechobee Road after the firing had ceased and all subjects were down and not moving.

- SA was on the West building and did not fire his weapon. After SA shouted out commands, he heard gunfire. When SA got to his position, he saw one subject, presumably Caldwell, laying in the gate opening. He saw another subject, presumably fleeing northbound on Old Okeechobee Road, then someone shot him in the leg and he fell to the ground. SA did not fire because he did not see any weapons on the subjects.

- Officer and Officer were on the South building behind the FBI SWAT team which at the roof's edge facing the parking lot. While on the roof prior to the operation, both heard over the WPBPD radio that subjects were armed with large caliber weapons. Both officers reported an FBI Agent giving loud and clear commands to the subjects. Both officers could not observe the subjects from their vantage points. Both did observe the gold Hyundai drive northbound on Old Okeechobee Road. Officer reported seeing a subject down on Old Okeechobee Road, and then he called in perimeter WPBPD officers to secure the subject.

b6
b7C

SA , SA , SA , SA and SA all discharged their weapons and did not provide voluntary statements. All five Agents requested to be compelled to provide a statement, which are not contained in this report.

SA , SA , and SA were on the South building and SA was on the North building. The Agents and officers on the South and North buildings who submitted to voluntary interviews provided consistent statements on non-compliant, armed subjects running towards a **position of tactical advantage and/or presented a grave danger to the public and other law enforcement officers.** An inference can be made that these four Agents had similar observations which predicated them firing their weapons.

SA was on the West building with two other SWAT operators, SA and SA both of whom did not fire their weapons. SA initial observation of the warehouse complex and Old Okeechobee Road was after all the subjects were down. SA saw only one moving subject, presumably and did not shoot because he did not see a weapon. At the time of the initial FBI commands, had a pistol in his hand. The pistol

was found in the parking lot of the warehouse complex, not far from position at the time of commands. did not have a weapon on his person when secured on Old Okeechobee Road near the truck. However, two other SWAT operators, SA (South building) and SA (North building), both observed with a pistol in his hands while inside the warehouse complex and both fired on after he exited the gate opening and ran northbound on Old Okeechobee Road believing was still carrying the pistol. SA even verbally coordinated with SA on the west building because SA could not see as he got near the truck. SA was presumably aware all subjects were armed when entering the warehouse complex based on STL radio traffic and he likely saw two other SWAT operators who observed the shooting inside warehouse complex firing on as he ran northbound. b6 b7C

At the conclusion of the shooting, was laying in close proximity to the North building with a bolt cutter next to him on the ground. who had exited the parking lot area through the open gate, was laying in the street of Old Okeechobee Road adjacent to the warehouse complex. Caldwell was laying partially through the opening in the warehouse complex gate. who fled the scene, became involved in a traffic accident with an uninvolved motorist at the intersection of Okeechobee Road and Parker Avenue. was arrested at the scene of the accident. He and the citizen driver suffered no major injuries.

At approximately 10:49 p.m., the FBI Gold Team exited the South building and secured Caldwell, and with flex cuffs. SA removed a .38 caliber revolver from the right front pants pocket of FBI SWAT Medic provided medical assistance to and Caldwell. WPBPD SWAT provided medical assistance to

At approximately 10:51 p.m., after the location was secure, the West Palm Beach Fire Department (FD) was notified and responded to provide medical assistance to the subjects. and were transported to Saint Mary's Medical Center for further medical treatment. Caldwell was pronounced dead at the scene. was transported to Saint Marys Medical Center after a traffic accident and later placed into custody at the West Palm Beach County Jail.

b6
b7C

The WPBPD Crime Scene Unit, with assistance from the Miami Division ERT, processed the scene for evidentiary purposes which resulted in the recovery of a Hi Point Model 995, 9mm rifle; a Smith and Wesson model 30, .38 caliber revolver; a Lorcin Model L380, .380 caliber pistol; a Halloween mask; and fifty-six (56) .223 caliber shell casings. Based on the results of the recovery of weapons and shell casings, the subjects appeared not to have fired their weapons.

FBI Laboratory ballistic tests determined the 56 shell casings, all .223 caliber were traced to the following Agents weapons: SA (13); SA (2); SA (3); SA (3); SA (6); SA (10); SA (10); SA (4); and unknown (3). Of the bullets/bullet fragments recovered from the subjects, only one bullet from Caldwell was positively identified by the FBI Laboratory with an FBI weapon, which belonged to SA

On July 02, 2008, a complaint was filed in United States District Court, Southern District of Florida, charging and with

Violation of Title 18 U.S.C. 841 (a)(1) and 846, conspiracy to possess with the intent to distribute cocaine.

On July 04, 2008, [redacted] was contacted at the Saint Mary's Medical Center, 901 45th Street, West Palm Beach, Florida. [redacted] waived his rights and was interviewed concerning the shooting incident which occurred on July 01, 2008. [redacted] stated that he, along with Caldwell [redacted] and his [redacted] went to the location to commit a robbery of an unknown individual. [redacted] advised the intended victim would have money and between six and eight kilograms of cocaine. [redacted] had placed three weapons in the vehicle for their use, to include a .38 caliber revolver, a black 9mm pistol, and a long black gun. [redacted] was going to be unarmed and remain in the vehicle as a getaway driver. [redacted] further stated there was a Halloween mask in the vehicle for him to wear during the robbery. [redacted] described Caldwell as "crazy" and a "shooter," and [redacted] believed he could "out run bullets." [redacted] stated that prior to the robbery they were told the intended victim may have a dog [redacted] stated Caldwell responded it did not matter, because he (Caldwell) "will shoot anything that moved." b6 b7C

[redacted] stated when he got to the door of the building, he knew something was wrong and then heard someone yell what he thought was "FBI" or "Police," followed by a command to "get down, get down." [redacted] stated as soon as he heard the commands, he saw [redacted] run and realizing it was the police, threw the bolt cutters down to the ground and dropped. [redacted] understood from his prison experience, when he heard the command to "get down," it was law enforcement. [redacted] believed he received adequate time to comply with the commands before he heard any shooting. [redacted] also saw law enforcement looking people in helmets, vests, and guns with lights on the rooftops. [redacted] further stated when he saw the large law enforcement presence he knew his brother must have "talked them up big, they had big guns."

All four subjects had criminal histories. Cory Caldwell, date of birth 08/22/1989, had four arrests, to include aggravated battery, battery, resisting an officer, and trespassing. [redacted] date of birth [redacted] had three arrests, to include cocaine possession, attempted murder, and failure to appear. [redacted] date of birth [redacted], had eight arrests, to include resisting an officer (2), cocaine trafficking (2), gambling, concealed weapon, aggravated fleeing and eluding, and disorderly conduct. [redacted] date of birth [redacted] had thirteen arrests, to include drug trafficking (3), drug possession (8), burglary/aggravated assault, and resisting an officer. b6 b7C

**INSPECTOR'S OBSERVATION:**

The Inspector did not identify any issues with this shooting incident. The Miami Division developed an outstanding OP and executed the plan in a highly effective and efficient manner.

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/23/2009

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L
Clemens Michael
Maley Patrick James

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1271749-D

**Title:** SHOOTING INCIDENT
MILWAUKEE DIVISION
06/18/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/18/2008, involving Special Agent (SA) [redacted]. While executing a Federal search warrant, SA [redacted] shot and killed an aggressive Rottweiler dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b2
b6
b7C

**Administrative:** Reference Electronic Communication of Principal Relief Supervisor [redacted] dated 06/18/2008.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/18/2008, members of the Milwaukee Division Special Weapons and Tactics (SWAT) team executed a Federal search warrant in Racine, Wisconsin. SA [redacted] knocked on the door of the residence and announced the presence of the search team. After a short time with no response from inside the residence, forced entry was made utilizing a breaching tool. After the initial entry, a pit bull dog was encountered and moved to a cage by SWAT team members. As SWAT team members cleared the

basement of the residence, they encountered a large Rottweiler dog. A diversionary device was deployed, however, the dog did not retreat and advanced on SWAT team members. The dog eventually exited the basement and ran toward SA [redacted] location. SA [redacted] yelled at the dog to stop and the dog stopped approximately ten feet away. A few seconds later, the dog advanced toward SA [redacted] who had turned and retreated to stairs leading to a porch at the front of the target residence. As the dog began to climb the stairs toward law enforcement personnel, SA [redacted] fired five rounds from his Springfield Armory 1911 Professional, .45 gauge pistol instantly killing the dog.

The Countrywide Humane Society responded to the scene and removed the dog.

On 01/30/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Attorney, Criminal Division, USDOJ; Chief Inspector Patrick James Maley, Office of Inspections (OI), INSD; Section Chief (SC) Jill Marie Eulitz, CD-1, Eurasian Section, Counterintelligence Division; A/SC [redacted], Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted], Defensive Systems Unit, TD; UC [redacted], Practical Applications Unit, TD; UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Investigative Law Unit, Office of General Counsel; SSA [redacted], Evidence Response Team Unit, Laboratory Division; and SSA [redacted], CR-2, Washington Field Office. UC [redacted], Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted], IMU, OI, INSD, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations

concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271749-D, 03/23/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
(Attention: Ms. Eulitz)
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/27/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1271970-D

**Title:** SHOOTING INCIDENT
WASHINGTON FIELD OFFICE
05/08/2008

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/08/2008, involving Special Agents (SAs) [redacted] and [redacted] During the execution of a search warrant, SA [redacted] fired two shots and SA [redacted] fired one shot at an aggressive pitbull dog. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of Supervisory Special Agent (SSA) [redacted] dated 05/12/2008.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/08/2008, at 6:39 a.m., Agents and task force officers (TFOs) executed a search warrant at a residence in Brandywine, Maryland, targeting a cocaine distribution enterprise operating in the Washington, D.C., metropolitan area.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 08/27/2008

At 6:00 a.m., on 05/08/2008, SA [redacted] a designated Team Leader, conducted a tactical briefing with participants. During the briefing, SA [redacted] reviewed the operations order, specifically discussed entry team assignments, and ensured members of the search team received and understood their assignments.

At approximately 6:20 a.m., the operational team departed the staging area and traveled to stage near the target residence. Team members approached the residence on foot and established a tactical formation in front of the house as well as perimeter security around the house. At 6:39 a.m., SA [redacted] gave the command to execute the warrant. He knocked on the door and announced, "FBI...Search Warrant." Within minutes a female resident answered the door. The team entered and began clearing the residence. While in the kitchen area, SA [redacted] saw a shed that needed to be secured before a detailed search of the residence could be safely conducted. SAs [redacted] and [redacted] proceeded to the rear of the residence to clear the shed. After clearing the shed, the Agents discussed the fact that source information indicated a makeshift firing range may be located on the property or at a nearby residence belonging to [redacted] which was searched the previous day with no firing range located. SA [redacted] was also aware of intelligence indicating the targets of the search warrant investigation were firing their weapons in the rear of a residence.

b6
b7C

SA [redacted] returned to the residence to assist with the search while SAs [redacted] and [redacted] remained toward the rear of the house where they discovered a gravel road leading into a wooded area. They began a perimeter sweep of the gravel road for additional potentially hazardous buildings, and as they walked into the wooded lot, it became apparent there was enough room in the back for a small firearms-type range. As the Agents continued down the road, they heard rustling and the clanking sound of chains. As they rounded the corner, the Agents observed a white pitbull on top of another dog playing in a pit. The Agents stopped and without warning, the pitbull looked up and ran straight toward SAs [redacted] and [redacted] The Agents drew their weapons and as the dog got approximately ten to twelve yards from SAs [redacted] and [redacted] SA [redacted] fired one shot from his Springfield Model 1911, .45 caliber pistol. The dog changed course but continued toward the Agents from a different direction. Fearing for their safety, SA [redacted] fired one round from his Glock Model

b6
b7C

21, .45 caliber pistol and SA [redacted] fired a second shot at the dog. The pitbull stopped and retreated back to the tree line.

It was later determined one of the expended rounds wounded the dog's front paw. The Prince George's County Humane Society responded to the scene and removed the injured dog, as well as three additional pitbulls.

On 08/19/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: Adriana Vieco, Trial Attorney, Civil Rights Division, USDOJ; Laura Gwinn, Trial Attorney, Gang Squad, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC Thomas A. Nunemaker, Violent Crimes Section, Criminal Investigative Division (CID); Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Acting UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. Management Program Analyst [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against the Agents as a result of their involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 08/27/2008

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Anderson, Room 4825
1 - Mr. Nunemaker, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Room 3043

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspections
Date: 04/10/2009

Case ID #: 297-HQ-A1271659-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
KANSAS CITY DIVISION
12/17/2008

Character: SHOOTING INCIDENT REVIEW

Synopsis: The Kansas City Division Violent Crimes/Fugitive Task Force initiated a fugitive investigation to locate and apprehend Terry G. Gordon, Jr., wanted by Wyandotte County, Kansas police for rape and aggravated indecent liberties with a child. A vehicle associated with the subject was located and, on 12/17/2008, agents and task force officers assembled at the residence where the vehicle was parked. The six law enforcement agents and officers knocked on doors and windows of the residence while calling out to the subject. After approximately 30 minutes, task force personnel forced entry to the residence and encountered an adult female who denied the subject's presence; however the female's child indicated the subject was hiding upstairs. b6 b7C

Several task force personnel ascended the narrow stairs to a second floor landing and observed Gordon sitting on the floor of an adjacent bedroom with a revolver pointed to his head. Task force personnel engaged Gordon in dialogue in an attempt to disarm him. After noticing his grip on the weapon and demeanor change, one FBI agent fired two rounds at Gordon almost simultaneously with Gordon shooting himself in the right temple. A Missouri State Highway Patrol trooper also fired a single round at Gordon. The subject's self-inflicted wound was fatal. He was struck in the throat and lower neck by law enforcement gunfire.

**DETAILS:**

On 12/16/2008, the Kansas City Division Violent Crimes/Fugitive Task Force (VC/FTF) supervisor opened a fugitive investigation to locate and apprehend Terry G. Gordon, Jr., white male, date of birth 07/05/1977, who was wanted by Wyandotte County, Kansas authorities for felony rape and felony aggravated indecent liberties with a child. The same day, Task Force Officer (TFO) [redacted] a Kansas

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

City, Kansas Police Department (KCKPD) detective who had referred the local warrant to the VC/FTF and was assigned to the investigation, identified a potential location for the subject in that city. Personnel assigned to the VC/FTF worked throughout the day in support of another FBI task force and late that evening agreed to meet nearby the location the next morning in anticipation of a potential arrest.

On 12/17/2008 at approximately 6:00 a.m., as other VC/FTF personnel were heading toward the pre-arrest meeting site, TFO contacted the FBI radio operator to confirm the active warrant for Gordon. He again traveled to the suspect location, a two story wood framed single family residence located at 480 Shawnee Road, Kansas City, Kansas and observed what he believed was the subject's vehicle parked in the driveway. TFO maintained surveillance on the residence and kept the VC/FTF Coordinator, FBI Special Agent updated on his observations.

Before 6:30 a.m., SA drove to the target location and replaced TFO in maintaining surveillance so TFO could brief other VC/FTF personnel at the meeting site. By that time, Kansas City, Missouri Police Department Detectives and both VC/FTF TFOs, and FBI SA had arrived at the staging location. An additional TFO, Missouri State Highway Patrol Trooper was enroute but his arrival was delayed by weather-related road conditions.

TFO conducted a pre-arrest briefing with TFOs and and SA He circulated booking photographs of Terry Gordon from prior arrests, displayed a copy of an NCIC wanted person printout, described the target residence, indicated the possible presence of a female and child in the residence, and indicated vehicles in the driveway were registered to the female and Gordon. Collectively, the assembled personnel checked their equipment.

b6
b7C

Out of concern that neighbors in the area might alert Gordon to the law enforcement presence, at about 7:20 a.m., SA radioed instructions to the assembled VC/FTF personnel to move to the residence to effect Gordon's arrest. SA drove from his surveillance location to the residence and activated his vehicle's emergency lights, then taking up a position to the rear of the single family, wood frame structure. As the other VC/FTF personnel arrived, TFOs initially went to the rear of the house and replaced SA who proceeded to the front. TFO took up a position on the front right of the house, while TFO and SA went to the front porch. TFO began knocking on the front door and announcing, "police." Shortly after the team's arrival at the residence, they were joined by TFO .

After knocking on the front door and announcing the police presence multiple times, TFO and others began loudly knocking on all doors and windows of the residence, announcing, "police" and calling for Gordon by name. With no response from inside the residence, TFO observed a female neighbor entering her vehicle two houses to the west of the target residence. He approached the neighbor who confirmed the likelihood of Gordon's presence at the residence, which TFO related to others on the arrest team.

SA heard movement within the house and SA heard noises

coming from the front right. The Agents advised the others of their perceptions. Based upon information in his possession at the time, SA [redacted] assessed that the target location was likely to be [redacted] residence and decided to make forced entry. SA [redacted] returned to his vehicle, retrieved a battering ram and proceeded to the back door. Prior to utilizing the ram, TFO [redacted] checked the back door and was able to open it without force. TFO [redacted] yelled into the house before the law enforcement entry, instructing that it was the police and for Gordon to come out. With no response, TFO [redacted] announced that the police were coming in.

b6
b7C

Within moments of the entire arrest team making entry, an adult female, later identified as [redacted] was observed near a bed in the rear of the house, attempting to conceal herself between a bed and nearby television set. As TFO [redacted] instructed [redacted] to stand up and show her hands, which were concealed, he observed a male child, later identified as her son, [redacted] with her. When [redacted] was fully visible, TFO [redacted] noticed she was holding her hand over the child's mouth. [redacted] said she didn't answer the door as she didn't know who they (the police) were. She then asked TFO [redacted] for a display of credentials or badges. TFO [redacted] pointed to his outer garment chest, revealing his KCKPD badge emblem and opened his jacket revealing further police markings on his vest. He then proceeded to display his badge.

When questioned about Gordon's presence in the residence [redacted] provided vague and deceptive responses. Upon further questioning and with a search of the first floor yielding no subject, the child [redacted] indicated Gordon was upstairs or "hiding upstairs." TFO [redacted] then inquired of [redacted] whether Gordon had a gun, and she indicated he did not. When asked again, [redacted] said Gordon sold his gun to make bond or pay for a lawyer. Prior to conducting a search of 2nd floor, SA [redacted] asked TFO [redacted] to handcuff [redacted] to eliminate her as a potential threat to the law enforcement personnel.

Prior to moving up the stairs, at least one of the TFOs heard movement from the second floor of the residence. The arrest team continued to call up the stairs in attempting to secure Gordon's surrender. SA [redacted] led the search of the second floor. He initially surveyed the upstairs from the lower level, noting closed doors directly in front of the top of the stairs and to the left of the stairs, with an open door to the right. He announced his observations to the other officers. Still receiving no response from their calls to Gordon, SA [redacted] climbed the stairs followed by TFOs [redacted] and [redacted] and SA [redacted]

b6
b7C

At the top of the stairs, SA [redacted] immediately observed Terry Gordon sitting cross-legged on the floor, about 10 feet into the bedroom, holding a revolver pointed at his right temple. SA [redacted] moved to the right door jamb while instructing Gordon to drop his weapon. SA [redacted] was carrying his issued .45 caliber Springfield pistol, serial number CRG 2711, equipped with an issued TLR-2 laser sight and tactical light. SA [redacted] activated the laser and initially aimed the laser indicator on Gordon's chest but moved it to his chin after thinking a chest shot might not fully incapacitate Gordon. He also focused on Gordon's revolver and assessed that it was not a toy gun. SA [redacted] was joined at the top of the stairs by Trooper [redacted] who positioned himself behind the left door jamb, and TFO [redacted] who was to SA [redacted] lower left.

Gordon was again instructed by SA [redacted] to drop his gun and responded, "I am

not going to prison for 25 years." Within seconds of this exchange, SA [redacted] noticed Gordon grimace and move his finger, which had been resting on the trigger guard, to the trigger. He dropped his elbow, which had been upraised, and tightened his grip on the gun, leading SA [redacted] to believe Gordon might be turning the gun toward the law enforcement personnel. Similarly, TFO [redacted] noticed the motion of Gordon's right arm and believed Gordon was about to shoot. TFO [redacted] assessed Gordon's manner as one of defiance, rather than resignation and anticipated Gordon was about to turn his weapon on the law enforcement personnel. SA [redacted] fired two rounds and heard Gordon's weapon fire as well. A fourth shot, by Trooper [redacted] from his .40 caliber Glock 22, serial number KTW401, was fired at approximately the same time.

b6
b7C

TFO [redacted] recalled Gordon's weapon firing first and he saw a spray of blood exiting the left side of Gordon's head. He recalled the law enforcement volley was fired just after Gordon's round.

Gordon slumped backward with his hand still on the pistol which was now lying on his chest. The law enforcement personnel observed blood from both a head wound and one on Gordon's neck. SA [redacted] instructed the others to hold their positions while he continued to call for Gordon to drop the weapon. With no response, he then closed the distance to disarm and handcuff the subject. SA [redacted] took Gordon's revolver and laid it on floor away from Gordon and TFO [redacted] handcuffed him to eliminate any further threat. SA [redacted] then moved Gordon to a supine position to facilitate his labored breathing.

TFO [redacted] immediately radioed the Kansas City Police dispatch, at 7:53 a.m., and requested a response to the location by additional personnel. KCKPD dispatch records indicated a "shots fired" entry at 7:53 a.m. followed by an "officer involved shooting" entry one minute later. Fire unit EMS 10 was dispatched to the scene at 7:54 a.m., arriving about six minutes later. EMS 10 was enroute with Gordon to the University of Kansas Medical Center (UKMC) at 8:21 a.m. and arrived there at 8:26 a.m. A Fire Department Prehospital Care Report indicated Gordon was supine and unresponsive when EMS arrived. He had a pulse with his breathing described as "agonal."

Terry Gordon was pronounced dead shortly after arrival at the UKMC.

An autopsy of Terry Gordon was conducted in Topeka, Kansas by [redacted] M.D. on 12/17/2008. Gordon's death was preliminarily determined to be a suicide. The cause of death was multiple gunshot wounds (GSWs). Gordon had a contact GSW, entering just forward and above his right ear and exiting above and slightly behind his left ear. A second round struck Gordon in the throat, traveled downward and rearward, passing across multiple vertebrae and through the upper and lower lobes of his lung before coming to rest after the jacket and core separated. A third GSW struck Gordon in the left base of his neck, passing through flesh from front to back. This round exited the residence and was not recovered.

The final autopsy report, dated February 13, 2009, found Gordon had: 1) a contact perforating gunshot of the right temple, 2) a penetrating gunshot of the neck and chest, 3) a perforating gunshot of the left base of the neck, 4) a presumptively positive urine drug screen, and 5) a left frontal subarachnoid cyst (regarded as a structural anomaly of the left frontal lobe of the brain). Autopsy results yielded a toxicological examination that was negative for alcohol and screened drugs.

Recovered at the scene was a .38 caliber Smith and Wesson model 36 five-shot revolver, serial number 1J07171. Forensic analysis by the Johnson County, Kansas Criminalistics Laboratory determined the spent round recovered from a roof stud behind the north wall of the second floor bedroom was fired by the .38 caliber revolver. Forensic analysis of the expended round recovered from Gordon's body determined the bullet jacket was fired by SA [redacted] .45 Springfield Armory pistol. The lead bullet core was determined to be unsuitable for comparison as it lacked identifiable characteristics. b6 b7C

**INSPECTOR OBSERVATIONS:**

**Issue 1:** There was little indicia of flight by subject Terry Gordon, and little indicia significant investigative skill or resources had to be expended in his apprehension, leading to the concern that the Kansas City VC/FTF was setting a low threshold for fugitive preliminary inquiry status.

The fugitive investigation involving Terry Gordon was limited and brief. Gordon had multiple prior contacts with local law enforcement in the Kansas City area, many of which involved or were linked to the address where this incident occurred, making it evident that this was Gordon's primary residence. In effect, Gordon was a fugitive in name only as he was essentially hiding in plain sight. In light of the relatively obvious nature of Gordon's location, the indicators of flight appeared to consist of standardized fugitive vernacular rather than true descriptors particular to this subject. Among the indicators were that the jurisdiction where Gordon was wanted was close to the border of another state. This statement was accurate but would also be true of every Kansas City, Kansas or Kansas City, Missouri wanted person. The relative ease by which the VC/FTF located Gordon raised questions about the potential waste of highly trained task force resources on cases where there were few indicators of suspected or actual flight. The Criminal Investigative Division has, in the past, made clear its intention not to have Violent Crimes or Fugitive Task Forces become "warrant squads." Kansas City should ensure that does not become the case.

Additionally and tied to the foregoing, with the very limited effort required to locate Terry Gordon, it was evident that little thought was given to obtaining for review his many prior law enforcement contacts. Had the VC/FTF engaged in such a review, it would have been apparent that he had prior law enforcement contacts involving the possession or use of a firearm. Armed with this knowledge, the VC/FTF investigators might have engaged in a different course of action to secure his arrest. At a minimum, armed with knowledge of Gordon's past possession or use of firearms, TFO [redacted] would likely have donned his ballistic vest prior to engaging his colleagues at the Gordon residence.

**Recommendation 1:** That the Kansas City Division ensure its VC/FTF is following documented protocols for adopting fugitive investigations to ensure theirs does not become a warrant squad.

**Recommendation 1a:** That the Kansas City VC/FTF ensure thorough fugitive investigation is conducted to ensure a robust knowledge and understanding of the subject's capabilities and propensity for a violent encounter.

**Issue 2:** Adherence to VC/FTF standard operating procedures.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SAC David A. Thomas Office: Columbia
Date: 12/19/2008

Case ID #: 297-HQ-A1271462-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
COLUMBIA DIVISION
11/28/2008

Character: ADMINISTRATIVE INQUIRY

Synopsis: [redacted] was shot by SA [redacted] on November 28, 2008 after being caught peeping into SA [redacted] residence window and, when confronted, making a physical contact with SA [redacted] gun shot injury was not life threatening.

**DETAILS:**

On November 28, 2008, at approximately 9:15 PM, SA [redacted] was at home with [redacted] After hearing her dog, which is locked up in a pen just outside of her house, barking continuously, she went outside and let the dog out of the pen. SA [redacted] then returned inside. Few moments later, SA [redacted] heard her dog barking and growling again, so she and [redacted] went back outside with a flash light.

Her dog thereafter led them to the bushes on the side of her house near a window. Both SA [redacted] and Ms [redacted] heard rustling noise in the bushes which appeared to indicate a large moving object. They immediately went back inside the house and SA [redacted] returned outside to the area with her Bureau issued SIG Sauer 228 9mm handgun. Ms. [redacted] also returned with her cellular phone. Using her flash light, SA [redacted] found a man in a dark clothing in the bushes. SA [redacted] gave several verbal commands to come out with his hands visible. However, he came out continuing to walk toward SA [redacted] At this point, SA [redacted] could not see the man's hands and he was just a few feet from her. SA [redacted] then reached to grab the man's hand but he pulled away, struggling with her. He then lifted his hand up toward SA [redacted] Fearing for her life and danger to her family, SA [redacted] fired one round, striking the man in his right buttocks. While this was going on, Ms. [redacted] alled 911 from her cellular phone. She was also able to observe the incident

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

and hear the struggle.

After being shot, the man tried to walk away as SA [redacted] continued to command the man to get down on the ground. He kept walking around. Assisted by Ms. [redacted] SA [redacted] grabbed the man and forced him down on the ground. While Ms. [redacted] had control of the man on the ground, SA [redacted] retrieved her handcuffs and placed it on his wrists. At this point, SA [redacted] realized the man was her neighbor who lived a few houses down. The man was later identified as [redacted] DOB [redacted] tall, 165 lbs, residing at [redacted] Fountain Inn, SC 29644. b6 b7C

Greenville County Sheriff's Office responded to the scene and investigated the incident. CDC Tom O'Neill of the Columbia Division also arrived at the scene. A voluntary written statements were provided by SA [redacted] and Ms. [redacted] a neighbor who resides across the street, also provided a written statement regarding his encounter with a possible trespassing by the same individual that same evening.

Mr. [redacted] was arrested and taken to the local hospital where he was treated for his gun shot injury. He was subsequently charged with Peeping Tom, and Assault and Battery of a High and Aggravated Nature.

Subsequent investigation by the Greenville Sheriff's Office revealed Mr. [redacted] admitted to looking into SA [redacted] residence window that evening and having seen SA [redacted] riding her horses and in her car in the past. He also admitted knowing SA [redacted] as "the lady cop." In addition, struggle between SA [redacted] and Mr. [redacted] can be heard on the 911 audio recording.

On December 11, 2008, State of South Carolina Solicitor, Thirteenth Judicial Circuit, recommended no criminal charges against SA [redacted]

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: Charlotte b6 b7C
Date: 03/11/2009

Case ID #: 297-HQ-A1270968-D
12/03/2008

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CHARLOTTE DIVISION
12/03/2008

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an attempted arrest of Bank Robbery suspect [redacted]

DETAILS:

In November 2008, SA [redacted] hereafter referred to as SA [redacted], had been investigating [redacted] hereafter referred to as [redacted] a black male, date of birth [redacted] approximately 5'8" in height, weighing about 205-210 lbs, having a heavy muscular build. [redacted] was a convicted felon and was suspected in numerous armed bank robberies, in addition to several local armed robberies. According to SA [redacted] appeared much larger and more muscular in person than he had appeared in the latest North Carolina Department of Corrections photographs.

On November 7, 2008, a bank robbery occurred at the Wachovia Bank, 1501 South Cannon Boulevard, Kannapolis, North Carolina. During the robbery, the suspect displayed a silver handgun and forced all the occupants of the bank to the floor. The suspect was given a package of money, including a dye pack, by the victim teller. Based on the investigation by SA [redacted] and the Kannapolis Police Department (KPD), SA [redacted] developed [redacted] as a suspect in this bank robbery. Based on the evidence developed by SA [redacted] a State arrest warrant was obtained for [redacted] for the November 7, 2008 robbery. b6 b7C

SA [redacted] also learned soon after the warrant was

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

issued that [redacted] a girlfriend of [redacted] had bailed [redacted] out of jail on a prior robbery warrant that had already been executed by the Stallings, North Carolina, Police Department. [redacted] had been arrested for an armed robbery of a payroll check cashing business where the victim was duct taped.

On November 21, 2008, the Charlotte-Mecklenburg Police Department (CMPD), utilizing the CMPD Violent Criminal Apprehension Team (VCAT), arrested [redacted] at [redacted] Drive, Apartment [redacted], which is located in the McAlpine Ridge Apartment complex in Charlotte. After [redacted] was apprehended, it was determined that [redacted] lived at the apartment with [redacted] Investigators also learned that [redacted] and [redacted] had a daughter together. [redacted] provided consent for a search and KPD officers and SA [redacted] determined that [redacted] had been living at the apartment. The searching officers found a bag that contained dye stained currency (believed to be proceeds of the bank robbery), a 9mm Taurus handgun, and a .45 caliber Smith and Wesson handgun with red dye located on the weapon (believed to be the weapon used in the bank robbery). Investigators also located numerous rounds of extra ammunition for the handguns. b6 b7C

Following [redacted] arrest, he was transported directly to Kannapolis, North Carolina, where he provided a statement to SA [redacted] admitted that he had committed the November 7, 2008, Wachovia Bank robbery and that he had brought a loaded .45 caliber handgun into the bank. [redacted] stated that he always carries his weapon loaded so that people will take him seriously.

[redacted] was also questioned by SA [redacted] after the November 21, 2008, arrest. During her questioning, she admitted that she assisted [redacted] in staging a Ford Escort in anticipation of the November 7, 2008, bank robbery. [redacted] had general knowledge that [redacted] planned to rob the bank. During this questioning, [redacted] told SA [redacted] that [redacted] "always has a gun." [redacted] also indicated that [redacted] slept with a gun on the night stand and carried the weapon outside the apartment even though he was a convicted felon. b6 b7C

Following the interview on November 21, 2008, SA [redacted] and Detective [redacted] of the Concord Police Department conducted a logical analysis of available information to determine if [redacted] had committed other robberies. SA [redacted] and [redacted] realized that [redacted] had a tattoo on his neck. That tattoo was consistent with another series of armed bank robberies in the Charlotte, North Carolina, area. In total, SA [redacted] and Detective [redacted] believed that [redacted] committed seven armed bank robberies.

SA [redacted] went back to the jail where [redacted] was

being held in an attempt to question [redacted] regarding the other bank robberies [redacted] invoked his right to counsel at some point during the interview. SA [redacted] advised [redacted] that the FBI intended to indict [redacted] for the other bank robberies in the near future.

On December 2, 2008, SA [redacted] traveled to the United States Attorney's Office (USAO) for the Middle District of North Carolina to meet with Assistant United States Attorney (AUSA) [redacted] The AUSA agreed to federally indict [redacted] at the next meeting of the Grand Jury in December for the bank robberies. At the time, SA [redacted] did not expect [redacted] would be able to make the $110,000 bond on the state charges. b6 b7C

On December 3, 2008, Detective [redacted] contacted SA [redacted] and advised SA [redacted] that [redacted] had made bond and had been released from jail in Cabarrus County. SA [redacted] immediately contacted AUSA [redacted] and requested authority to arrest [redacted] based on probable cause for the federal bank robberies. AUSA [redacted] concurred and authorized SA [redacted] to arrest [redacted] for federal bank robbery charges. AUSA [redacted] confirmed this via email at 12:53 PM.

On December 3, 2008, at about the same time AUSA [redacted] had authorized a probable cause arrest, SA [redacted] learned that Detective [redacted] had obtained a new State arrest warrant, authorizing the arrest of [redacted] on bank robbery charges in violation of North Carolina law. b6 b7C

At approximately 1:30 PM, on December 3, 2008, SA [redacted] contacted [redacted] via cell phone [redacted] at Wackenhut Security, [redacted] employer, to inquire as to what time she would get off from work. [redacted] advised SA [redacted] that [redacted] got off work at 3:00 PM. This contact is also corroborated via email.

At the same time, SA [redacted] contacted Supervisory Special Agent [redacted] to advise his supervisor of the situation and determine whether it would be feasible to surveil [redacted] in an attempt to locate [redacted]

At approximately 1:30-1:45 PM, SA [redacted] traveled to the McAlpine Ridge Apartments. SA [redacted] expected to meet Detective [redacted] at the apartment complex. SA [redacted] drove to an area in close proximity to [redacted], the apartment building where [redacted] and [redacted] had resided. SA [redacted] scanned the parking lot for the vehicle that he knew [redacted] to drive, which was a gold Chevrolet Tahoe. SA [redacted] did not see [redacted] vehicle in the parking lot in front of the apartment

building. SA [redacted] then backed his Bureau vehicle into a parking space near the front entrance of the apartment building and waited for Detective [redacted]

While watching the front of the building, SA [redacted] witnessed [redacted] exiting the breeze way of the building where he had lived and been arrested on November 21, 2008. SA [redacted] immediately called Detective [redacted] by phone to advise Detective [redacted] that [redacted] was at the apartment complex. SA [redacted] also needed to determine [redacted]'s proximity to the apartment complex. Detective [redacted] was near the intersection of interstate 485 and Independence Blvd., which was approximately 15 minutes from the McAlpine Apartment complex. After communicating with Detective [redacted] via cell phone, [redacted] lost sight of [redacted] had been making his way on foot towards another set of apartments located directly behind where SA [redacted] was parked. SA [redacted] felt that [redacted] was overdressed for the weather conditions at the time, having on a heavy black p-coat and a black knit hat, along with blue jeans and boots. SA [redacted] was concerned that [redacted] was armed and was possibly in the process of committing another armed robbery. SA [redacted] also felt that [redacted] saw him at that time. SA [redacted] then drove his Bureau vehicle towards the only entrance/exit to the apartment complex in an attempt to stop [redacted] from exiting.

b6
b7C

While driving toward the front of the complex, SA [redacted] located [redacted] driving the Chevrolet Tahoe that SA [redacted] knew belonged to [redacted] At first, SA [redacted] thought that the SUV might not be [redacted]'s because he saw a handicap placard hanging from the rear view mirror. As the vehicle got closer to SA [redacted]'s Bureau vehicle [redacted] was traveling in a direction consistent with exiting the apartment complex), SA [redacted] recognized [redacted] as the driver of the vehicle and started driving towards [redacted]'s vehicle. SA [redacted] drove his Bureau vehicle toward [redacted]'s vehicle, in a head-on position, in an attempt to stop [redacted] from fleeing.

b6
b7C

[redacted] initially stopped his vehicle. SA [redacted] exited his vehicle and gave commands for [redacted] to stop and to turn his ignition off. [redacted] was aware of SA [redacted] identity from a previous lengthy interview. In addition, SA [redacted] had his FBI badge/shield affixed to his belt. [redacted] froze, then reached down with his right hand as though he was reaching for a weapon. SA [redacted] then drew his weapon and stepped out from behind his car door, ordering [redacted] to turn off the ignition of his vehicle two separate times. SA [redacted] was positioned between [redacted] vehicle and his vehicle at this time. [redacted] reached his right hand up and placed the car in

gear. [redacted] initially went backwards for a short distance and then revved his engine and drove his vehicle straight towards SA [redacted] SA [redacted] heard the tires squeal as he fled on foot towards his left, successfully evading being hit by [redacted] vehicle. SA [redacted] positioned himself behind the tail end of a parked vehicle and observed [redacted] vehicle traveling back into the apartment complex at a high rate of speed.

After [redacted] fled in his vehicle, SA [redacted] re-entered his Bureau vehicle and drove directly to the only entrance/exit for the apartment complex. The route that SA [redacted] took to the only entrance/exit was the most direct route and SA [redacted] was fairly certain that he would arrive in time to block the exit. At approximately 2:20 PM, SA [redacted] called 911 and provided the operator with information regarding the situation and also [redacted] description and current location. SA [redacted] became aware that there was a possibility that [redacted] fled on foot. SA [redacted] drove through the exit of the complex and traveled on Krefeld Drive towards the intersection of Krefeld and E. Independence Boulevard.

b6
b7C

As SA [redacted] reached the intersection of Krefeld and E. Independence Boulevard, he saw [redacted] on foot at the base of the embankment, about ten feet from the shoulder of E. Independence Boulevard. SA [redacted] felt he was going to cross E. Independence Boulevard, so he positioned himself where he could drive across E. Independence Boulevard to keep [redacted] in sight until backup arrived. At that time, [redacted] saw SA [redacted] and stopped. SA [redacted] then drove westbound on E. Independence Boulevard (opposite the normal flow of traffic) on the shoulder and turn lane to Krefeld Drive, the entire time keeping an eye on [redacted] As he was driving toward [redacted] he could see [redacted] digging with both hands for something in the outside pockets of his coat. [redacted] was standing so that his right side was pointing toward SA [redacted] SA [redacted] observed something in [redacted] right hand that was slightly lighter in color than the coat. At that time, SA [redacted] believed that the object in his right hand was quite possibly a firearm. As SA [redacted] continued to drive toward [redacted] turned and began climbing back up the embankment toward the apartment complex. [redacted] left side was pointed toward SA [redacted] at this time. SA [redacted] stopped his vehicle short of [redacted] and was positioned where [redacted] was in approximately the ten o'clock position from his location and direction. SA [redacted] then drew his weapon and pointed it at [redacted] At this time SA [redacted] was either sitting in the front drivers' seat of his bureau vehicle, pointing the weapon through the open window, or he had opened the car door and partially exited the vehicle, but SA

b6
b7C

[redacted] cannot remember his exact position. SA [redacted] shouted [redacted] stop," at which time [redacted] stopped and quickly turned his upper torso toward SA [redacted] in an aggressive manner. At that time, based on all the information SA [redacted] had received on [redacted] carrying a loaded firearm, his proclivity for violence, his criminal history, and having seen something previously in his right hand which he now believed to have been a firearm based on his aggressive, non-compliant behavior, SA [redacted] felt [redacted] was turning to shoot him. SA [redacted] then fired his bureau issued Glock .40 caliber handgun at [redacted] twice. SA [redacted] then looked over his weapon and saw [redacted] running over the crest of the hill.

b6
b7C

SA [redacted] continued his call with the 911 operator and advised her that he had just fired shots at [redacted] SA [redacted] then drove to the entrance of the apartment complex, but was unable to gain entry due to same being a gated community. SA [redacted] conducted a vehicle search of a black Chrysler 300 exiting the apartment complex to make sure that [redacted] had not secreted himself in the vehicle in an effort to escape. The search produced negative results. In subsequent interviews, the driver and passenger of this vehicle advised an individual fitting the description of [redacted] told them the Feds were after him and asked them for a ride.

While still in close proximity to the entrance of the apartment complex, a black female, accompanied by a uniformed CMPD police officer, approached SA [redacted]. This black female informed SA [redacted] she had found an undetermined amount of dye stained paper currency in a plastic bag on the ground in front of the apartment building where [redacted] had been seen. SA [redacted] took custody of the currency from the witness, placed the currency in his vehicle and permitted the witness to be interviewed by CMPD police officers.

b6
b7C

Responding CMPD units established a perimeter around the McAlpine Ridge Apartments. CMPD Detectives established visual contact on [redacted] apartment. A CMPD canine unit searched the area [redacted] was last seen with negative results. A neighborhood canvas was also conducted of apartments along [redacted] probable path following the shooting. This canvas yielded negative results.

Agents made contact with [redacted] to determine [redacted] residency at her apartment, along with obtaining a consent to search her apartment. [redacted] was escorted to the McAlpine Ridge Apartments where she eventually gave consent to search her apartment and she confirmed that [redacted] had stayed at her

apartment the previous evening and was at her apartment when she left for work that morning.

Based on [redacted] consent, the CMPD SWAT Team made entry and cleared Malachi's apartment with negative results for [redacted] The Charlotte Division Evidence Response Team (ERT) conducted a search in the general area where [redacted] was last seen, along with the area where SA [redacted] discharged his weapon. Two .40 caliber shell casing were recovered in the area SA [redacted] was positioned when he fired his weapon. ERT recovered an oil filter wrench from the woods in the general area of [redacted] position during his confrontation with SA [redacted] ERT then conducted a search of [redacted] apartment and recovered clothing similar in description to the clothing SA [redacted] reported [redacted] was wearing during his confrontation with SA [redacted] that day. ERT also recovered [redacted] cell phone from the apartment. A visual inspection of [redacted] clothing by ERT members found no indication of the presence of blood or damage consistent with the impact of a bullet. Additionally, an inventory search was conducted of [redacted] Tahoe which yielded negative results.

b6
b7C

At 11:30 PM, CMPD 911 dispatch received a call that [redacted] had been hiding in another apartment in the [redacted] Ridge Apartments and had just fled on foot. Additional searches were conducted which met with negative results. Investigation determined that [redacted] had entered this apartment on a ruse and had held the occupants of the apartment against their will until law enforcement had left the area.

On 1/26/2009, at approximately 11:15pm, the Cheraw, South Carolina (SC) Police Department responded to reports of a shooting at [redacted], Cheraw, SC. The resident of that address, [redacted] advised that [redacted] who is the former boyfriend of her daughter, [redacted], forced his way into their home looking for [redacted] had a pistol and confronted [redacted] and [redacted] in [redacted] bedroom. [redacted] asked [redacted] if he was sleeping with his girlfriend. [redacted] struck [redacted] and then shot [redacted] in the neck. [redacted] made [redacted] lay on the floor and duct taped her hands together. [redacted] made [redacted] leave with him and got the keys to a 1999 burgundy Dodge van. They drove away from the residence in that van.

b6
b7C

Subsequent investigation located the Dodge van nearby and a witness advised that they saw an individual fitting [redacted] description in a white Ford Focus with SC tag [redacted] That license plate is registered to a 2008 Ford Focus owned by PV

Holding Corporation, 141 Industrial Park Road, Suite 11, Greer, SC and was entered into NCIC. A witness advised that [redacted] stated he was a bondsman looking for a fugitive and had parked that vehicle at a nearby vacant house and watched [redacted] residence since the afternoon of 1/26/2009.

Cheraw PD provided South Carolina Law Enforcement Division (SLED) Fugitive Task Force with possible cell phone numbers that [redacted] was using, [redacted] and [redacted] cell phone [redacted] to track them. During the morning of 1/27/2009, SLED advised that they were hitting a cell tower in the Charlotte, NC, area. Investigation determined that [redacted] was talking to her family members and advising them [redacted] wanted to see their three year old daughter. At approximately 11:30 AM, [redacted] released [redacted] at a Walmart parking lot in Union County, NC. [redacted] advised that [redacted] was still driving the stolen car and was in possession of a firearm. She also advised that [redacted] was continuing to commit robberies to support himself. This kidnapping is being investigated by the Columbia Division, 7A-CO-31728.

b6
b7C

On this same date, [redacted] was arrested without incident by the Atlanta Police Department. A subsequent search of the stolen vehicle he was driving yielded a loaded 9 mm handgun. [redacted] was interviewed by FBI Atlanta and gave a full confession to multiple armed bank robberies and the kidnapping. An attempt was made to re-interview [redacted] regarding the confrontation with SA [redacted], through his attorney, [redacted] refused this interview.

b6
b7C

[redacted] has been positively identified by witnesses as having committed a series of GNC store robberies in North Carolina. In the GNC robbery in Lexington, NC, the 18 year old female clerk was raped with a handgun. Investigation continues regarding additional robberies linked to [redacted]

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/24/2009

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L
Clemens Michael
Maley Patrick James

b2
b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
11/14/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/14/2008, involving Special Agent (SA) [redacted] During the execution of an arrest warrant, SA [redacted] shot and killed an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 11/20/2008.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

b6
b7C

On 11/14/2008, at approximately 9:00 a.m., members of the Violent Crimes Task Force executed an arrest warrant at a residence in Chicago where a murder suspect was located.

Team Leader [redacted] knocked on the door of the residence and announced the presence of law enforcement personnel. While awaiting a response, law enforcement officers observed an individual inside the residence running toward the

stairs. Entry was gained to the house and SA [redacted] and SA [redacted] walked up the stairs located approximately four feet inside the front door. SA [redacted] ordered the subject to stop and control his dog. A pit bull dog, with teeth bared, charged down the stairs toward the Agents. SA [redacted] fired one round injuring and slowing the dog's advance. The dog continued toward the Agents in an aggressive manner and SA [redacted] fired a second round striking the dog in the head. The fatally wounded dog fell to the bottom of the stairs. The subject was located and taken into custody without further incident.

Chicago Animal Control was notified and removed the dog from the residence.

On 01/30/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Attorney, Criminal Division, USDOJ; Chief Inspector Patrick James Maley, Office of Inspections (OI), INSD; Section Chief (SC) Jill Marie Eulitz, CD-1, Eurasian Section, Counterintelligence Division; A/SC [redacted], Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted], Defensive Systems Unit, TD; UC [redacted], Practical Applications Unit, TD; UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Investigative Law Unit, Office of General Counsel; SSA [redacted], Evidence Response Team Unit, Laboratory Division; and SSA [redacted], CR-2, Washington Field Office. UC [redacted], Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted], IMU, OI, INSD, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 03/24/2009

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 03/24/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
(Attention: Ms. Eulitz)
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/06/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Clemens Michael S

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1272701-D

**Title:** SHOOTING INCIDENT
BOGOTA LEGAL ATTACHE
11/29/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/29/2008, involving Assistant Legal Attache (ALAT) [redacted]. While hiking in a national park in Bogota, ALAT [redacted] fired eleven rounds from his Glock Model 23, .40 caliber handgun to facilitate the rescue of himself and other members of his group. SIRG members recommended that no administrative action be taken against ALAT [redacted] as a result of his involvement in this incident.

**Administrative:** Reference Electronic Communication of ALAT [redacted] dated 03/20/2009. b6 b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/29/2008, ALAT [redacted], his eight year old son, and Office Assistant [redacted] were hiking in a remote location of the Andean Mountains in Colombia approximately twenty miles from the city of Bogota.

ALAT [redacted] and his party left their vehicle on the one dirt road within the park at approximately 11:00 a.m., and hiked until they reached a mountain peak with an altitude of approximately 12,500 feet.

The hikers began their return trip to the car about 3:00 p.m. ALAT [redacted] son became sick slowing the group's return and darkness set in around 5:30 p.m. The group continued hiking toward the vehicle when clouds moved in and lowered visibility to less than ten feet, completely blocking the outline of the mountains they were using as reference points to guide them safely to the vehicle.

ALAT [redacted] believed he was approximately one mile from the vehicle, but coupled with no visibility due to clouds, no trail to follow, rocks, water obstacles, cliffs, and darkness, decided it was too dangerous to continue walking and risking injury or worsening the situation. The first thought was to spend the night in the forest and wait for daylight to continue to the vehicle. Within a short time, the initial onset of hypothermia was apparent and ALAT [redacted] decided the best course of action was to call for help.

Because of the extremely remote location, no cell phone coverage was available, no people were in the area, and no flashlight was available. Due to the wet conditions, the ground cover was soaked and a fire could not be started. Using a SAT phone, ALAT [redacted] called Marine Post One at the United States Embassy in Bogota and advised of his emergency. He also contacted the United States Military 24/7 watch-standers who in turn contacted the Director for the Personnel Recovery Center. A request was made for the hiking party's location; however, ALAT [redacted] left his hand-held GPS device in the vehicle and could not provide any information. When advised that search personnel could not locate them because of the remoteness, ALAT [redacted] stated he would activate the emergency beacon he had with him that was registered to the personnel recovery center. ALAT [redacted] was unable to locate the emergency beacon within his back pack. He was advised the search parties were in the area but could not locate them. In order to facilitate rescue, ALAT [redacted] fired several rounds at a time so the search teams could triangulate the sound and locate the group.

b6
b7C

The search party arrived and took all hikers to a vehicle where a rescue medic was present. The medic evaluated members of the group and determined no hospitalization was needed.

On 05/28/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in

attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Practical Applications Unit, TD; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Evidence Response Team Unit, Laboratory Division; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-17, Washington Field Office. UC [redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that ALAT [redacted] took appropriate steps to ensure the safety of himself and others in the group. This discussion resulted in the recommendation that no administrative action be taken against ALAT [redacted] as a result of his involvement in this incident.

To: Inspection From: Inspection
Re: 297-HQ-A1272701-D, 08/06/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against ALAT [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
(Attention: , Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/09/2010

**To:** Inspection **Attn:** AD Amy Jo Lyons
CIRG **Attn:** AD Robert A. Blecksmith
Training **Attn:** AD Brian D. Lamkin
General Counsel **Attn:** Valerie Caproni

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Lyons Amy Jo
Galligan Mary E
Hosko Ronald T

b2
b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271970-D

**Title:** SHOOTING INCIDENTS
WASHINGTON FIELD OFFICE
03/10/2008 AND 12/16/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed two shooting incidents that occurred on 03/10/2008 and 12/16/2008, involving Special Agent (SA) [redacted] During the execution of federal search warrants on 03/10/2008, SA [redacted] fired two rounds from his personally owned Glock Model 21, .45 caliber pistol killing a pit bull that had retreated to a position under a table in a second floor bedroom. On 12/16/2008, during the execution of a federal arrest warrant, SA [redacted] fired seven rounds from his Glock Model 21, killing a pit bull dog inside the residence from which the fugitive was extracted. SIRG members recommended no administrative action be taken against SA [redacted] as a result of his involvement in these shooting incidents.

b6
b7C

**Administrative:** Reference Electronic Communications of former WFO Supervisory Special Agent (SSA) [redacted] dated 03/20/2008 and 12/18/2008. Also, reference report of Inspector [redacted] dated 05/15/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shootings.

UNCLASSIFIED

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 03/09/2010

**Details of the 03/10/2008 Shooting Incident**

On 03/10/2008, Agents from the Safe Streets Gang Task Force executed federal search warrants at two locations in the District of Columbia. The warrants sought evidence in connection with a College Park, Maryland, homicide investigation.

Prior to the execution of the search warrants, SA [redacted] briefed the operations order on the searches. Although not listed in the operations order, SA [redacted] was present for the verbal briefing provided by SA [redacted] prior to the execution of the warrants.

b6
b7C

SA [redacted] knocked on the front door and announced "FBI." After approximately one to two minutes and after receiving no response, the front entrance was mechanically breached using a ram. Prior to entry into the residence, Agents heard a dog barking inside the residence. SA [redacted] was the first to enter the residence and provided tactical security for the first floor. SA [redacted] was the second search team member to enter and tactically cleared an adjacent room. The dog continued to bark from an upstairs location and SA [redacted] observed an unrestrained dog at the top of the stairs.

The entry/search team proceeded up the stairs and SA [redacted] observed the dog retreat out of sight. SA [redacted] advised team members he would handle the dog to allow other personnel to safely clear the upstairs rooms.

SA [redacted] approached the room he saw the dog enter. As he entered, he noticed the dog backed into a corner. According to SA [redacted] the dog began to bark and growl at him in such a manner that he feared for his safety. SA [redacted] fired two rounds and saw one round impact above the dog's shoulder but did not see the other round impact. SA [redacted] believed the dog died immediately and he continued to clear the residence.

b6
b7C

Upon completion of the search, the scene was turned over to SSA [redacted] for completion of the shooting investigation. ASAC Stephen E. Vogt arrived at the residence after the search was concluded. As a result of the incident, ASAC Vogt advised SSA [redacted] to instruct Agents on his squad to implement better plans to deal with dogs by using fire extinguishers or some other means other than lethal force. He also told SSA [redacted] to move SA [redacted] to the perimeter during entries. SSA [redacted] advised SA [redacted] not to be involved in

any more dog shootings and, on at least two additional occasions after this incident, instructed SA [redacted] to move back in the line on the entry team.

Following this incident, WFO Criminal Division policy was promulgated requiring all pre-arrest briefings to include specific instructions for the safe and non-lethal handling of dogs at locations where the presence of dogs was suspected. Subsequent to the March 2008 incident, SA [redacted] was personally advised by SSA [redacted] that shooting a dog was a measure of last resort. Additionally, in several discussions at squad meetings, SSA [redacted] directed squad members regarding the need to develop appropriate contingency plans for dogs and that the use of deadly force, even against dogs, had to be within the parameters of the FBI's Deadly Force Policy.

b6
b7C

WFO Criminal Division policy required a written Operations Plan (OP) for all field operations to include arrests, searches, surveillance, and all other coordinated tactical squad operations. The written plan was required to be specific in nature detailing suspect information, personnel assignments, and security concerns associated with the arrest. The plans were to be approved by the SSA and ASAC and a copy left on file with WFO Command Tactical Operations Center.

**Details of the 12/16/2008 Shooting Incident**

On 11/21/2008, SA [redacted] obtained a federal arrest warrant for [redacted] an associate of a street level drug distribution organization operating in the southeast D.C. area. SA [redacted] drafted and approved an OP for [redacted] arrest and forwarded it to ASAC Vogt for review and approval. The date of the planned operation was on or about 11/24/2008, and the OP was approved by ASAC Vogt.

b6
b7C

On 12/16/2008, when a federal indictment was returned on [redacted], SAs [redacted] and [redacted] advised SSA [redacted] the squad would attempt to arrest the subject using the 11/24/2008 OP. SSA [redacted] verbally approved the arrest.

At approximately 10:30 a.m., on 12/16/2008, SAs [redacted] and [redacted] conducted a pre-arrest briefing; however, they did not utilize the previously approved OP in the briefing nor was any other written OP generated. A picture of the subject was shown to members present for the briefing, personnel were made aware of [redacted] criminal history, and SA [redacted] verbally briefed that

dogs would likely be present at the residences associated with [redacted] No plan was discussed regarding how to deal with dogs should they pose a danger to arrest team members. [redacted] was not located at the first location; therefore, arrest team personnel proceeded to a second location frequented by him.

Members of the arrest team approached the front and rear of the residence and SA [redacted] knocked on the front door and announced police. When [redacted] opened the door, SA [redacted] pulled him from the doorway threshold and passed him to SA [redacted] who restrained him. Seconds later, SA [redacted] fired his Glock Model 21, .45 caliber handgun several times (later determined to be seven rounds).

According to SA [redacted] as he pulled the subject out of the front door, he observed a pit bull inside the residence crouched, growling, and showing its teeth. He also saw a stairway leading to the second floor of the residence. Concerned an attack from the dog was imminent and seeing the area behind the dog was clear of individuals, SA [redacted] fired his weapon. The dog began retreating up the stairs; however, SA [redacted] feared a wounded dog roaming through the house would be dangerous so he continued to shoot the dog as it retreated up the stairs. The dog succumbed to its injuries and collapsed at the base of the stairs. At that time, SA [redacted] observed a female occupant standing on the far side of the room with a small child, away from his direct line of fire. SA [redacted] proceeded to the second floor of the residence where he discovered a second child in a bedroom.

b6
b7C

Subsequent to the 12/16/2008 dog shooting incident by SA [redacted], the Washington Field Office (WFO) requested that the Inspection Division conduct an administrative inquiry into the circumstances surrounding this shooting, as well as a series of dog shootings which occurred during the execution of arrest and search warrants. All of the incidents involved SA [redacted] C. [redacted] who was assigned to Squad CR-6.

On 09/09/2009, the SIRG met to discuss the above-captioned shooting incidents. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Attorney, Criminal Division, USDOJ; Chief Inspector Mary E. Galligan, Office of Inspections, INSD; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson,

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 03/09/2010

Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); SSA [redacted], Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: SC Ellen B. Icochea, Strategic Analysis Section (SAS), INSD; UC [redacted] Inspection Management Unit (IMU), SAS, INSD; SSA [redacted] Inspection Analysis Unit (IAU), SAS, INSD; Management and Program Analyst (MAPA) [redacted] IAU, SAS, INSD; MAPA [redacted] IMU, SAS, INSD; MAPA [redacted], IAU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incidents with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The administrative inquiry, led by Inspector Ronald T. Hosko, determined SA [redacted] shot and killed six dogs since 2001, with two additional dogs potentially being shot had a supervisor not intervened. Three of the shooting incidents were previously discussed by the SIRG and determined to be justified.

Inspector [redacted] presented the results of his administrative inquiry to SIRG members. Discussions with the Training Division's Practical Applications Unit and Firearms Training Unit, as well as the Special Weapons and Tactics (SWAT) Operations Unit, Critical Incident Response Group, determined no current policy exists regarding the handling of dangerous animals or when deadly force should be used against dogs, outside the Deadly Force Policy. However, techniques have evolved which are taught at Quantico to include the use of ballistic shields and these training doctrines are applied in field offices via 194 tactical instructors.

After a lengthy discussion regarding the shooting incidents, SIRG members unanimously agreed that the use of deadly

force in the 03/10/2008, incident was justified and in conformance with the deadly force policy. It was also determined the use of deadly force in the 12/16/2008 incident was justified, by a majority of the vote.

It was noted that SA [redacted] fired his weapon seven times into a residence occupied by a female and several minor children to neutralize the perceived threat to his arrest team. Two metal bullet fragments were located in the vicinity of the couch where the female and two of her children were located. SA [redacted] exercised questionable judgement in planning this arrest knowing, before his arrival at the target location, a probability existed both children and dogs would be present. b6 b7C

Discussion revolved around the fact that a deadly force threat must exist before the trigger is pulled. According to the Practical Applications Unit representative, New Agent Trainees are trained to arrest and control suspects with hands and voice. It was also noted that [redacted] put others at risk by removing the suspect from the doorway and focusing his attention on the dog. One member opined [redacted] had the option of neutralizing the threat posed by the dog by closing the door after he obtained control of the subject. Members agreed with the concept of "gathering good intelligence and good planning results in sound decisions."

It is entirely foreseeable that anyone entering an inner city residence occupied by a pit bull would encounter an animal that barks or growls in an agitated manner, postures itself in a threatening way, or even attacks. SIRG members emphasized that an animal should be neutralized if it is a threat to individuals on the scene; however, shooting a dog because it is believed to be an impediment to the execution of an arrest or search warrant is not an acceptable practice.

Since no written policy currently exists, either in the FBI or the WFO, directly addressing the use of force when confronting dogs during the execution of an arrest or search warrant, SIRG members adopted the following recommendations of the Shooting Incident Review Team:

**RECOMMENDATION:** That the Training Division develop and promulgate, in conjunction with the CIRG and OGC, a policy addressing the use of deadly force with respect to animals.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 03/09/2010

**RECOMMENDATION:** That the Training Division develop training scenarios to support the new policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 03/09/2010

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in these shooting incidents. b6 b7C

**Set Lead 2: (Action)**

TRAINING

AT QUANTICO, VA

That the Training Division develop and promulgate, in conjunction with the CIRG and OGC, a policy addressing the use of deadly force with respect to animals. Additionally, training scenarios should be developed to support the new policy.

**Set Lead 3: (Information Only)**

CIRG

AT QUANTICO, VA

For information.

**Set Lead 4: (Information Only)**

GENERAL COUNSEL

AT WASHINGTON, DC

For information.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 03/09/2010

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 6387
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

b6
b7C

# 2008

Savage-2076

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/12/2008

**To:** Inspection
CIRG

**Attn:** AD Kevin L. Perkins
AD Robert A. Blecksmith

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L
Clemens Michael [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271895-D

b2
b6
b7C

**Title:** SHOOTING INCIDENT
PHILADELPHIA DIVISION
01/28/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/28/2008, involving Special Agents (SAs) [redacted] and [redacted] During the execution of a federal search warrant, Darius Hill was shot by SAs [redacted] and [redacted] In addition to being struck multiple times by rounds fired by the Agents, Hill placed his weapon inside his mouth and fired one round. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Charge [redacted] dated 02/18/2008.

**Enclosure:** Enclosed for CIRG is one copy of the FD-204 Shooting Incident Report narrative and recommendations re captioned matter.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

UNCLASSIFIED

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 11/12/2008

**Details of the Shooting Incident**

On 01/02/2008, the Philadelphia Division received information that an Internet Crimes Against Children Task Force determined a computer registered to an address in Perkasie, Pennsylvania, was engaged in criminal activity relating to child pornography. Investigation determined Darius Theodore Hill resided at the address and was believed to be the individual communicating with an undercover officer.

SA [redacted], who was assigned the lead, obtained a search warrant to seize computers located inside the suspect's residence. He also determined Hill had a felony criminal record for selling stolen military weapons and also had a complaint filed with a local police department for improper sexual contact with a minor. b6 b7C

On 01/25/2008, a federal search warrant was authorized and SA [redacted] contacted the Fort Washington Resident Agency (FWRA) for assistance on serving the warrant on 01/28/2008.

At 3:00 p.m., on 01/28/2008, the search team assembled at the Hilltown Township Police Department (HTPD) for a briefing. Participants included SA [redacted], four additional FBI Agents, and one Lieutenant from the HTPD. SA [redacted] led a briefing which included providing copies of the warrant and affidavit, a description and photograph of Hill, his criminal history, search/entry team roles and assignments, notification of potential children in the residence, a description of items to be seized, and a contingency plan on breaching the residence, if needed. During the briefing, SA [redacted] provided no written operations plan for the search warrant nor did he provide a specific briefing on the FBI's Deadly Force Policy. SA [redacted], who arrived late due to a court appearance, received a briefing from SA [redacted] prior to the execution of the search warrant.

The plan was to execute the search warrant while Hill was at his residence. Law enforcement personnel conducted drive-by surveillances approximately every thirty minutes during the afternoon in an effort to determine if Hill was home. At 6:00 p.m., information was received that Hill's computer was online, indicating he was inside his residence. b6 b7C

The team reconvened at the HTPD where SA [redacted] briefed three additional uniformed officers who were assisting with the search warrant. The team, consisting of two FBI

vehicles and three marked HTPD cruisers, proceeded to the subject's residence. At 6:30 p.m., the team arrived at the subject's residence with four Agents and two HTPD officers approaching the front door, one SA and two HTPD officers approaching the side door, and one SA on the northwest corner of the house. As the team approached the front door, they saw Hill through a window and he motioned the team to go to the side door.

As the team at the side door made contact with Hill's wife and entered the residence, they observed two children in the kitchen area with her. [redacted] was advised the FBI had a search warrant for the residence and when asked where Darius was, she indicated she thought he was in the front of the residence.

b6
b7C

As the team proceeded to the front of the house, Hill was heard upstairs. An HTPD officer located at the base of the stairs yelled to Hill telling him the police/FBI were serving a search warrant and ordered him to come downstairs. SA [redacted] and the HTPD officer ascended the stairs due to Hill not responding to the command to come downstairs. As they arrived on the upstairs landing, they cleared one bedroom, looked down the hallway to their right and observed Hill standing in the master bedroom doorway with a pistol pointed under his chin. Hill was threatening to shoot himself and as SA [redacted] began to negotiate with him to put the gun down, the HTPD officer returned downstairs to remove Hill's wife and children from the residence.

As SA [redacted] continued negotiations with the subject, SA [redacted] came up the stairs to provide backup. Hill stated, "I've been through this before. I'm not going back to jail. I might as well just end it now." Throughout SA [redacted] fifteen to twenty minute negotiation with Hill, he continued to put his weapon inside his mouth and point it under his chin. SA [redacted] continued to give commands to Hill to drop his weapon. After several moments of conversation between [redacted] and Hill, he said, "I'm going to blow my brains out by this window because I don't want to make a mess." SA [redacted] explained to Hill they were only there to seize his computers and not arrest him. Hill became very quiet and began to back toward the bedroom window facing the Agents in what SA [redacted] believed to be a combat stance. Although Hill was making suicidal comments and pointing his weapon to his head, SA [redacted] believed Hill was preparing for a gun battle with SA [redacted] and himself. At that point, Hill lowered the weapon from his chin toward SAs [redacted] and [redacted] causing both Agents to fear for their lives. SA [redacted] fired the first round striking Hill in the chest. Hill was able

b6
b7C

to place his weapon in his mouth and fire one round. Believing Hill was returning fire, SA [redacted] fired one additional round and SA [redacted] fired five rounds.

SAs [redacted] and [redacted] approached the subject, kicked his weapon away, and began to render first aid. SA [redacted] called for a medic who arrived a short time later and pronounced Hill dead.

b6
b7C

It was determined that in addition to the round fired by Hill, both rounds fired by SA [redacted] struck the subject as well as three of the five rounds fired by SA [redacted]

On 02/15/2008, the Bucks County Attorney's Office declined local prosecution. On 08/07/2008, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SAs [redacted] and [redacted] in this shooting incident.

On 08/19/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Gang Squad, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC Thomas A. Nunemaker, Violent Crimes Section, Criminal Investigative Division (CID); Unit Chief (UC) [redacted], Firearms Training Unit, Training Division (TD); UC [redacted], Defensive Systems Unit, TD; Acting UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Investigative Law Unit, Office of General Counsel; and SSA [redacted], CR-2, Washington Field Office. Management Program Analyst [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against either Agent as a result of their involvement in this shooting incident. b6 b7C

SIRG members thoroughly discussed the fact that the search warrant plan was not converted into a written operations plan. Additionally, the plan did not require Agents to wear body armor or marked law enforcement clothing. Although thorough and complete, a written plan could have added value by stimulating thought by the Case Agent that could possibly lead to plan improvements; allows for an independent review by more experienced managers; and facilitates a complete and thorough oral pre-operation brief. Members noted the Philadelphia Division policy requiring a written operations plan, including a Deadly Force Policy brief as well as body armor for all arrests and search warrants. Although the Case Agent was aware of the division's policy, he considered the Innocent Images National Initiative search warrant for computers as a low risk search warrant and decided a written operations plan was not needed. Although the consequences for violating division policy did not impact the ultimate outcome, the potential for catastrophic operational failure and law enforcement injuries was high. Members opined a simple Bureau-wide documented policy on written operation plans is needed. This discussion resulted in adoption of the INSD recommendation #1a contained in the FD-204 Shooting Incident Report that the AD, CIRG, in collaboration with experienced field managers, develop and promulgate to all offices clear policy regarding the necessity and use of written operation plans.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 11/12/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Set Lead 2: (Action)**

CIRG

AT QUANTICO, VA

That AD, CIRG, in collaboration with experienced field managers, develop and promulgate a simple Bureau-wide policy regarding the use of written operation plans.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Anderson, Room 4825
1 - Mr. Nunemaker, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted], WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/23/2009

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L
Clemens Michael [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271748-D

b2
b6
b7C

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
07/01/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/01/2008, involving Special Agents(SAs) [redacted] and [redacted] During the planned arrest of members of a violent criminal enterprise associated with drug trafficking activities, Agents shot and killed one subject and wounded two others. SIRG members recommended that no administrative action be taken against the Agents as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Chief Inspector [redacted] dated 09/17/2008.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 02/19/2008, a Gang/Criminal Enterprise investigation was initiated by the West Palm Beach Resident Agency (WPBRA). The investigation, conducted by Agents and officers of the WPBRA Safe Streets Task Force, targeted a violent criminal enterprise

associated with drug trafficking activities in the area of West Palm Beach.

[redacted] b6 b7C b7D

[redacted] purported he had "**goons with guns, AK-47's, Uzi's, big pistols, guns,**" who would carry out [redacted] robbery plan of the drug dealer.

On 06/25/2008, [redacted] LNU was fully identified as [redacted], date of birth [redacted] of Pompano Beach. Investigation revealed [redacted] had an extensive drug criminal history. SA [redacted] prepared an Operations Plan (OP) for the proposed arrest of [redacted] and his unidentified accomplices while committing the purported robbery. At that time, there was no specific intelligence connecting [redacted] to a known drug trafficking organization (DTO) or an armed robbery crew. The basis for the operation was to arrest [redacted] and his unidentified "**gangsters**" based on [redacted] representation he had "**AK-47's, Uzi's, guns, and big pistols**" in six meetings, four telephonic and two in-person, with [redacted] UCE. According to the Special Agent in Charge (SAC) and other division personnel, South Florida had experienced an increased frequency of violence with high-powered weapons, thus the division felt compelled to address the potential public safety threat from [redacted] and his unknown accomplices in an expeditious manner.

On 06/26/2008, SWAT Senior Team Leader (STL) [redacted] began preparing a plan to effect the arrest of [redacted] and his unidentified accomplices. SA [redacted] SA [redacted] and Detective [redacted] met with WPBPD SWAT leadership, discussed the tactical operation, and delineated assignments and responsibilities for the respective SWAT teams. It was determined during the meeting FBI SWAT would be responsible for the inner perimeter of the arrest location and WPBPD SWAT would be responsible for the outer perimeter of the arrest location. b6 b7C b7D

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 03/23/2009

In furtherance of the planned operation, STL [redacted] and SA [redacted] conducted a site survey of the arrest location.

On 06/27/2008, STL [redacted] prepared an FBI SWAT OP which documented areas of responsibility for both the FBI and WPBPD tactical components. b6 b7C b7D

On 06/30/2008, a detailed OP briefing was conducted at the Miami Field Office with SA [redacted] STL [redacted] and SSA [redacted] Additionally, [redacted]

At 8:00 p.m., an OP briefing was conducted by STL [redacted] for the SWAT team at the WPBPD undercover warehouse. The OP briefing was conducted at the approximate time of the planned robbery to allow SWAT operators to observe the lighting conditions at the location as it would potentially appear at the time of the operation. The SWAT OP briefing and rehearsals were conducted for approximately two hours. As previously discussed, FBI SWAT would be responsible for activities within the inner perimeter, and WPBPD SWAT team would be responsible for the outer perimeter. During the briefing, STL [redacted] advised FBI SWAT operators to be familiar with and to further review the FBI Deadly Force Policy.

The FBI SWAT Blue Team would take positions on the rooftops of the North and South buildings in the warehouse complex, as well as on the rooftop of a one story warehouse building located west of the warehouse complex. The FBI SWAT Gold Team would be responsible for securing the subjects upon completion of the operation. The Gold Team would be staged in a room inside the South building. A decision was made to partially close the western gate of the warehouse complex and secure it with a lock and chain to prevent entry by a vehicle and require the subjects to slip through a small opening. [redacted] which would be provided to [redacted] for his use in committing the planned robbery. b6 b7C b7E

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 03/23/2009

[redacted]

At 5:00 p.m., STL [redacted], ASAC Parlave, and Agents of the WPBRA arrived at the WPBPD to attend an OP briefing. During this briefing, SA [redacted] and Detective [redacted] provided an overview of the investigation to the Agents of WPBRA, WPBPD SWAT, WPBPD surveillance, and WPBPD command staff. [redacted] UCE were introduced to the Agents and officers to minimize the potential for misidentification during the operation. b6 b7C b7D

[redacted]

At 8:00 p.m., the FBI SWAT team staged at the WPBPD garage and were provided an additional briefing on the SWAT OP, as well as updated intelligence information. STL [redacted] again briefed the FBI Deadly Force Policy. Upon completion of the briefing, FBI SWAT members proceeded to the WPBPD undercover warehouse complex. FBI SWAT was split into two teams, the Gold Team and Blue Team. The Gold Team was comprised of SAs [redacted] and [redacted] The Gold Team was divided into four, three operator arrest teams. The Gold Team was deployed inside the South building and would respond when directed to secure the subjects. SA [redacted] was also staged with the Gold Team as a communication link to the Tactical Operations Center (TOC).

Blue Team members deployed on the South building were SAs [redacted] and [redacted] WPBPD SWAT snipers [redacted] and [redacted] were deployed on the rooftop of the South building to cover the rear of the South building overlooking Old Okeechobee Road. STL [redacted] and ASAC Parlave also took positions on the South building where they monitored a Remington Ball camera covering the warehouse complex interior parking lot. The actions of the subjects as viewed through the Remington Ball camera were not recorded. STL [redacted] and ASAC Parlave monitored the main FBI and WPBPD operations radio channels, then STL [redacted] relayed relevant b6 b7C

information to FBI SWAT operators via the FBI SWAT simplex channel.

Blue Team SWAT members deployed on the roof of the North building were SAs [redacted] and [redacted] Blue Team SWAT members deployed on the roof of a warehouse building west of the warehouse complex were SAs [redacted] and [redacted]

SAs [redacted] and [redacted] were located in the TOC vehicle located in the vicinity of Clare Avenue with A/SSA [redacted] and SA [redacted] WPBRA. b6 b7C

WPBPD SWAT operators were staged in two WPBPD vehicles. One located on Clare Avenue and the other on Frederick Street, both within close proximity to the warehouse complex. The WPBPD SWAT Command Staff was located in a WPBPD vehicle located at the Holiday Inn. The vehicle was occupied by WPBPD Captain [redacted] Captain [redacted] Sergeant [redacted] and Sergeant [redacted] WPBPD Command Staff would monitor the communications being received through a transmitter worn by the UCE. The monitored communications would then be relayed to all personnel monitoring the WPBPD operations radio channels. Additionally, approximately 15 unmarked WPBPD units established stationary surveillance along the anticipated route of [redacted] and his accomplices from the Holiday Inn to the warehouse complex.

At 10:15 p.m., the Broward County Sheriff's Office (BCSO) surveillance, which had been surveilling [redacted] since 4:40 p.m., reported [redacted] and other subjects were traveling northbound on Interstate 95 North in a gold Hyundai approaching West Palm Beach. At 10:17 p.m., [redacted] and his associates arrived at the Holiday Inn in West Palm Beach, to meet with the [redacted] UCE. Upon their arrival at the Holiday Inn, the BCSO terminated their surveillance. b6 b7C b7D

[redacted]

[redacted]

b6
b7C
b7D

At 10:43 p.m., the FBI TOC broadcasted and logged the vehicle with all four subjects was anticipated to arrive at the warehouse complex within three minutes and they were armed with long guns. This was relayed to the SWAT team by STL [redacted]

At 10:46 p.m. [redacted] Caldwell, and [redacted] exited the vehicle, while [redacted] remained inside. They entered the warehouse complex parking lot through a gate locked with a chain, but the chain had sufficient slack to allow a person to slip through a small opening. The order of entry was [redacted] carrying a set of bolt cutters and a concealed handgun, [redacted] carrying a handgun, and Caldwell carrying a long rifle. [redacted] followed by Caldwell and [redacted] walked toward the door of the North building. All three were observed entering the parking lot by both STL [redacted] and ASAC Parlave, who monitored their movements. ASAC Parlave and STL [redacted] observed the three subjects enter into the parking lot with what they believed to be weapons.

b6
b7C
b7D

At 10:47 p.m., after [redacted] and Caldwell got near the North building door and [redacted] was halfway from the gate opening and the North building, ASAC Parlave gave the execution order to STL Swinerton who then communicated the order to FBI SWAT operators. The SWAT operators had been advised via radio by STL [redacted] all three subjects were armed, inasmuch as all operators were secreted to prevent silhouetting which also prevented operators from directly observing the subjects entering the warehouse complex.

SA [redacted] stood up from his position on the South building and in a loud clear voice stated, "FBI, get down." At this point, [redacted] was at the North building door and Caldwell was several feet behind [redacted] was 25 feet from the same door, which was about halfway between the gate opening and the door. All three subjects turned toward the South building, [redacted] dropped to the ground while Caldwell and [redacted] ran in the direction of the Agents located on the South building which was also in the direction of the gate opening. Caldwell and [redacted] disobeyed SA [redacted] commands and continued to run toward the South building and the opening in the gate with **guns in hand.** Agents believed the non-compliant, armed Caldwell and [redacted] were moving to a **position of tactical advantage and/or presented a grave danger to the public and other law enforcement officers.** Eight Agents from the roof tops of the North and South buildings discharged their weapons at Caldwell and [redacted] and one Agent from the West building discharged his weapon at [redacted] after he exited the warehouse complex and moved toward concealment of a parked truck.

[redacted] was able to get through the gate opening and was reaching for the passenger side rear door handle of the gold Hyundai when it pulled away. He then proceeded to move toward the parked truck when he succumbed to his wounds and collapsed next to the truck. [redacted] received numerous bullet wounds, to include leg wounds, requiring his left leg to be amputated below the knee. Caldwell received numerous bullet wounds, collapsed in the gate opening, and was pronounced dead at the scene. [redacted] who dropped to the ground after FBI commands, was hit with one .223 caliber bullet, likely a ricochet, that penetrated one leg then lodged in his other leg. [redacted] attempted to flee the location, however his vehicle was struck and disabled by another motorist. He was then arrested by the WPBPD SWAT which secured the operation's outer perimeter. A total of 56 .223 caliber rounds were fired with no evidence indicating the subjects discharged their weapons. FBI Laboratory ballistic tests determined the 56 shell casings, all

b6
b7C

b6
b7C

.223 caliber, were traced to the following Agents weapons: SA [redacted] (13); SA [redacted] (2); SA [redacted] (3); SA [redacted] (5); SA [redacted] (6); SA [redacted] (10); SA [redacted] (10); SA [redacted] (4); and unknown (3). Of the bullets/bullet fragments recovered from the subjects, only one bullet from Caldwell was positively identified by the FBI Laboratory with an FBI weapon, which belonged to SA [redacted]

b6
b7C

At approximately 10:51 p.m., after the location was secure, the West Palm Beach Fire Department (FD) was notified and responded to provide medical assistance to the subjects. [redacted] and [redacted] were transported to Saint Mary's Medical Center for further medical treatment. Caldwell was pronounced dead at the scene. [redacted] was transported to Saint Mary's Medical Center after a traffic accident and later placed into custody at the West Palm Beach County Jail.

The West Palm Beach State Attorney opined his office would not review the shooting because it was a federal matter.

On 12/18/2008, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of the Agents involved in this shooting incident.

01/30/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Chief Inspector [redacted], Office of Inspections (OI), INSD; Section Chief (SC) Jill Marie Eulitz, CD-1, Eurasian Section, Counterintelligence Division; A/SC [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. UC [redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 03/23/2009

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Prior to the discussion of this shooting incident, SIRG members were provided an overview by Chief Inspector [redacted] b6 b7C

After a lengthy discussion of the incident, SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against any of the Agents involved in this shooting incident.

SIRG members positively commented on the Miami Division's Operations Plan as well as the execution of the plan.

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 03/23/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident. b6 b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted], USDOJ b6 b7C
1 - Mr. Anderson, Room 4825
(Attention: Ms. Eulitz)
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/19/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons
Kansas City **Attn:** SAC Brian A. Truchon

**From:** Inspection
Office of Inspections
Contact: [redacted]

**Approved By:** Lyons Amy J[redacted]
Clemens Mich[redacted]
[redacted]

b2
b6
b7C

**Drafted By:** [redacted] rr

**Case ID #:** 297-HQ-A1271659-D

**Title:** SHOOTING INCIDENT
KANSAS CITY DIVISION
12/17/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/17/2008, involving Special Agent (SA) [redacted] During the attempted arrest of a fugitive, SA [redacted] fired two rounds from his Bureau-issued .45 caliber Springfield pistol. In addition to being struck by one of the rounds fired by SA [redacted] the subject shot himself in the right temple. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 04/10/2009.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 12/16/2008, the Kansas City Division Violent Crimes Fugitive Task Force (VCFTF) initiated a fugitive investigation to locate and apprehend Terry G. Gordon, Jr., who was wanted by local Kansas authorities for rape and aggravated indecent liberties with a child. Task Force Officer (TFO) [redacted]

UNCLASSIFIED

[redacted] a Kansas City, Kansas Police Department (KCKPD) detective, identified a potential location for the subject. Personnel assigned to the VCFTF agreed to meet near the identified location the next morning in anticipation of Gordon's potential arrest.

b6
b7C

On 12/17/2008, at approximately 6:00 a.m., as VCFTF personnel were traveling toward the pre-arrest meeting site, TFO [redacted] contacted the FBI radio operator to confirm the active warrant for Gordon. He traveled to the suspect location and observed what he believed to be the subject's vehicle parked in the driveway. TFO [redacted] maintained surveillance on the residence and advised the VCFTF Coordinator, SA [redacted] of his observations.

SA [redacted] drove to the target location and replaced TFO [redacted] in maintaining surveillance to allow TFO [redacted] time to brief other task force personnel at the meeting site. TFO [redacted] conducted a pre-arrest briefing with TFOs [redacted] and [redacted] as well as FBI SA [redacted] He circulated photographs of Gordon, displayed a copy of an NCIC wanted person printout, described the target residence, indicated the possible presence of a female and a child inside the residence, and indicated vehicles in the driveway were registered to the female and Gordon. An additional TFO, Missouri State Highway Patrol Trooper [redacted] was en route but his arrival was delayed by weather-related road conditions.

Concerned that neighbors in the area might alert Gordon to the presence of law enforcement personnel, SA [redacted] radioed instructions to the assembled personnel to move to the residence to effect Gordon's arrest. SA [redacted] drove from his surveillance location to the residence, activated his vehicle's emergency lights, and assumed a position to the rear of the residence. As other task force personnel arrived, TFO [redacted] replaced SA [redacted] at the rear of the residence. SA [redacted] proceeded to the front of the residence and TFO [redacted] assumed a position on the front right of the house, while TFO [redacted] and SA [redacted] went to the front porch. TFO [redacted] knocked on the front door and announced, "police."

b6
b7C

After knocking on the front door and announcing police presence multiple times, TFO [redacted] and other personnel began loudly knocking on all of the doors and windows of the residence, announcing, "police," and calling for Gordon. After receiving no response, TFO [redacted] observed a female neighbor entering her

vehicle. He approached the neighbor who confirmed the likelihood of Gordon's presence inside the residence.

SA [redacted] heard movement inside the house and SA [redacted] heard noises emitting from the front right area of the residence. Based upon information in his possession at the time, SA [redacted] assessed that the target location was likely to be Gordon's residence and decided to make forced entry. SA [redacted] obtained a battering ram from his vehicle and proceeded to the back door. Prior to utilizing the ram, TFO [redacted] checked the back door and was able to open it without force. TFO [redacted] yelled into the house before entering, advising it was the police and for Gordon to come out. Receiving no response from inside, TFO [redacted] announced police were entering the residence.

b6
b7C

Within moments of the arrest team making entry, an adult female, later identified as [redacted] was observed near a bed in the rear of the house, attempting to conceal herself between a bed and nearby television set. As TFO [redacted] instructed [redacted] to stand up and show her hands, he observed a male child with her. TFO [redacted] observed the female holding her hand over the child's mouth. [redacted] advised she did not answer the door because she did not know who they were. At that point, [redacted] requested a display of credentials or badges. TFO [redacted] pointed to his outer garment chest which revealed his KCKPD badge emblem and opened his jacket revealing additional police markings on his vest. He then proceeded to display his badge.

When asked if Gordon was present in the residence, [redacted] provided vague and deceptive responses. During further questioning and after a search of the first floor failed to locate Gordon, the child indicated he was upstairs. TFO [redacted] asked [redacted] if Gordon had a gun and she indicated he did not. To ensure the safety of law enforcement personnel, [redacted] was handcuffed prior to a search of the second floor.

b6
b7C

Prior to proceeding upstairs, movement was heard from the second floor. The arrest team called up the stairs attempting to convince Gordon to surrender. SA [redacted] led the search of the second floor, followed by TFOs [redacted] and [redacted] and SA [redacted]

At the top of the stairs, SA [redacted] observed Terry Gordon sitting on the floor of the bedroom, holding a revolver pointed at his right temple. As SA [redacted] moved to the right door jamb, he instructed Gordon to drop his weapon. SA [redacted]

activated the laser of his pistol and aimed the laser indicator first on Gordon's chest and then on his chin. SA [redacted] again instructed Gordon to drop his gun. Gordon responded, "I am not going to prison for 25 years." Within seconds of the verbal exchange, SA [redacted] observed Gordon grimace and move his finger, which had been resting on the trigger guard, to the trigger. Gordon dropped his elbow and tightened his grip on the gun, leading SA [redacted] to believe Gordon might be turning the gun toward law enforcement personnel. TFO [redacted] also noticed the motion of Gordon's right arm and believed Gordon was about to shoot. TFO [redacted] assessed Gordon's manner as one of defiance instead of resignation and anticipated Gordon was about to turn his weapon on law enforcement personnel. SA [redacted] fired two rounds and also heard Gordon's weapon fire. A fourth shot was fired by Trooper [redacted] at approximately the same time.

b6
b7C

Gordon slumped backward with his hand still on the pistol lying on his chest. SA [redacted] instructed participants to hold their positions while he continued to call for Gordon to drop his weapon. With no response, he proceeded to disarm and handcuff Gordon. SA [redacted] took Gordon's revolver, laid it on the floor, and moved Gordon to a position to facilitate his labored breathing.

Additional law enforcement personnel were requested as well as Emergency Medical Services. The subject was transported to the University of Kansas Medical Center and pronounced dead shortly after his arrival.

By letter dated 03/16/2009, [redacted] District Attorney for the Twenty-Ninth Judicial District of Kansas, documented his investigation into the matter as well as his determination that no criminal liability existed against any law enforcement officers involved in the attempt to arrest Terry Gordon, at which time Gordon committed suicide. On 04/10/2009, DOJ Civil Rights Division telephonically advised there was no cause for a criminal investigation into the shooting incident.

b6
b7C

On 09/09/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Attorney, Criminal Division, USDOJ; Chief Inspector [redacted], Office of Inspections, INSD; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson,

To: Inspection From: Inspection
Re: 297-HQ-A1271659-D, 10/19/2009

Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted], Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. The following non-voting members were also in attendance: SC Ellen B. Icochea, Strategic Analysis Section (SAS), INSD; UC [redacted] Inspection Management Unit (IMU), SAS, INSD; SSA [redacted] Inspection Analysis Unit (IAU), SAS, INSD; Management and Program Analyst (MAPA) [redacted] IAU, SAS, INSD; MAPA [redacted] IMU, SAS, INSD; MAPA [redacted] IAU, SAS, INSD; and MAPA [redacted] IMU, SAS, INSD. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Subsequent to an overview of the incident provided by Inspector [redacted] SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

The only comment made regarding the incident was the fact that officers spent one-half hour attempting to obtain entry into the residence which created a greater risk for them being injured. SIRG members unanimously agreed to adopt the following observations of the Shooting Incident Review Team which will be forwarded to the Special Agent in Charge of the Kansas City Division:

ISSUE #1: There was little indicia of flight by subject Terry Gordon, and little indicia significant investigative skill or resources had to be expended in his apprehension, leading to the

concern that the Kansas City VCFTF was setting a low threshold for fugitive preliminary inquiry status.

**RECOMMENDATION #1a:** That the Kansas City Division ensure its VCFTF is following documented protocols for adopting fugitive investigations to ensure it does not become a warrant squad.

**RECOMMENDATION #1b:** That the Kansas City VCFTF ensure thorough fugitive investigation is conducted to ensure a robust knowledge and understanding of the subject's capabilities and propensity for a violent encounter.

**ISSUE #2:** Adherence to VCFTF standard operating procedures. The overall planning for the arrest of the subject was found to be typical of an FTF where participants consistently work as a team in a fairly standard manner. In the case of the Kansas City VCFTF, division Executive Management did not require a formally documented arrest plan for such daily arrest opportunities by a team with effective tactical training and known capabilities. Rather Kansas City employed standard operating procedures (SOPs) involving a pre-arrest meeting where the subject's description, photograph, and related intelligence is shared, an approach is developed, and standard equipment and clothing is used. Such can reasonably be utilized in cases involving violent crimes and fugitive task forces, particularly where adherence to the SOPs is rigorous. In this case, the Kansas City VCFTF followed the SOPs to effect what should have been a somewhat standard subject apprehension.

One feature changed and affected both the SOP and the result. Due to weather and traffic, TFO [redacted] arrived late to the subject's residence. Rather than meet with other Agents and TFOs at the rally point, TFO [redacted] drove directly to the target location to join the rest of his team, who were already surrounding the residence. In his

b6
b7C

haste to support his colleagues, TFO [redacted] failed to wear his body armor. Nor did he have extra magazines, his baton, or OC spray that might have been employed if less than deadly force was needed.

The SIRT noted that at one point during the attempted arrest of Gordon, all of the VCFTF members were inside the residence, leaving no law enforcement perimeter to intercept a fugitive who could have attempted to flee from his hiding spot. Again, rigorous adherence to SOPs should prevent a situation where the law enforcement perimeter breaks down.

The SIRT also noted if TFO [redacted] was further delayed, the remaining VCFTF consisted of only five personnel. Such a limited force increases the prospects for success by a fleeing or resisting subject as well as the physical jeopardy to those chasing or working to apprehend him. In light of limited personnel resources, Kansas City should consider the use of local, marked police units as force multipliers and to enhance identification of the law enforcement team. b6 b7C

**RECOMMENDATION #2a:** That the Kansas City Division review and, as appropriate, redocument/ repromulgate VCFTF SOPs with respect to having a minimum number of law enforcement personnel on each planned operation and to ensuring a perimeter around a target location.

**RECOMMENDATION #2b:** That the Kansas City Division review, and as appropriate, redocument/ repromulgate VCFTF SOPs with respect to the use of state or local marked units and personnel to support fugitive apprehension efforts.

To: Inspection From: Inspection
Re: 297-HQ-A1271659-D, 10/19/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/07/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
Contact: [redacted]

**Approved By:** Clemens Michael S

**Drafted By:** [redacted] :lrr

b2
b6
b7C

**Case ID #:** 297-HQ-A1271462-D

**Title:** SHOOTING INCIDENT
COLUMBIA DIVISION
11/28/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/28/2008, involving Special Agent (SA) [redacted] During a confrontation with a peeping tom at her residence while off duty, SA [redacted] fired one round from her Bureau-issued Sig Sauer P228 pistol, injuring the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 12/19/2008.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/28/2008, at approximately 9:15 p.m., SA [redacted] was at home with her two children and an adult niece. Hearing her dog who was locked in a pen outside of her residence barking continuously, SA [redacted] went outside to release the dog and returned inside. As her dog continued barking and growling, SA [redacted] and her niece went outside with a flashlight.

The dog led SA [redacted] to bushes on the side of her house near a window where she and her niece heard a rustling

UNCLASSIFIED

noise. Both individuals went inside the house and SA [redacted] returned to the outside area with her handgun where she discovered a man in dark clothing in the bushes. SA [redacted] issued verbal commands for the individual to come out with his hands visible; however, the subject came out and walked toward her. SA [redacted] could not see the subject's hands and as he stepped close to her she reached to grab his hands but he pulled away and began struggling with her. Fearing for her safety, as well as the safety of her family, SA [redacted] fired one round striking the subject in his right buttock. As he attempted to walk away, SA [redacted] continued to issue commands for the man to get on the ground. As he continued walking around the area, SA [redacted] and her niece grabbed the subject and forced him to the ground where he was handcuffed. At this point, SA [redacted] recognized the subject as a neighbor who lived a few houses down the street.

b6
b7C

The Greenville County Sheriff's Office responded to the scene and the subject was arrested and transported to a local hospital for medical treatment for his gun shot wound.

On 12/11/2008, the State of South Carolina Solicitor recommended no criminal charges against SA [redacted] On 05/18/2009, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted]

On 05/28/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Practical Applications Unit, TD; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Evidence Response Team Unit, Laboratory Division; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-17, Washington Field Office. UC [redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271462-D, 08/07/2009

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271462-D, 08/07/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/05/2009

**To:** Inspection **Attn:** AD Amy Jo Lyons

**From:** Inspection
Office of Inspections
Contact: [redacted]

**Approved By:** [redacted]Michael S

**Drafted By:** [redacted]:lrr

b2
b6
b7C

**Case ID #:** 297-HQ-A1270968-D

**Title:** SHOOTING INCIDENT
CHARLOTTE DIVISION
12/03/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/03/2008, involving Special Agent (SA) [redacted] During the attempted arrest of a fleeing fugitive, SA [redacted] fired two rounds from his Bureau-issued Glock, .40 caliber handgun. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 03/11/2009.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

In November 2008, SA [redacted] was investigating [redacted], a convicted felon who was a suspect in numerous armed bank robberies as well as local armed robberies.

b6
b7C

On 11/07/2008, a bank robbery occurred at a Wachovia Bank in Kannapolis, North Carolina. During the robbery, the suspect displayed a silver handgun and forced all bank occupants to the floor. Investigation by SA [redacted] and the local Police

UNCLASSIFIED

Department developed [redacted] as a suspect in the Kannapolis bank robbery and a state arrest warrant was obtained for [redacted]

On 11/21/2008, [redacted] was arrested in an apartment complex in Charlotte. Subsequent to [redacted] arrest, it was determined that [redacted] lived at the apartment with him and provided consent for a search of the residence. Officers located a bag containing dye-stained currency, a nine millimeter handgun, a .45 caliber Smith and Wesson handgun with red dye located on the weapon, and numerous rounds of ammunition for the handguns. During his statement, [redacted] admitted he committed the 11/07/2008, bank robbery and advised law enforcement personnel he always carried his weapon loaded so people would take him seriously. b6 b7C

When questioned by SA [redacted] admitted she assisted [redacted] in staging a Ford Escort in anticipation of the bank robbery. [redacted] admitted she had general knowledge that [redacted] planned to rob the Wachovia Bank, advised [redacted] "always has a gun," and indicated he slept with a gun on the night stand and carried the weapon outside of the apartment.

Following [redacted] interview, SA [redacted] and a Concord Police Department Detective realized [redacted] had a tattoo on his neck which was consistent with a series of armed bank robberies in the Charlotte area. SA [redacted] returned to the jail in an attempt to question [redacted] about the Charlotte armed robberies; however, at some point during the interview, [redacted] invoked his right to counsel. At that time, SA [redacted] told [redacted] the FBI intended to indict him for the other bank robberies.

On 12/02/2008, SA [redacted] met with an Assistant United States Attorney (AUSA) for the Middle District of North Carolina who agreed to federally indict [redacted] for the bank robberies at the December Grand Jury. b6 b7C

On 12/03/2008, a local detective advised SA [redacted] that [redacted] made bond and was released from jail. SA [redacted] immediately contacted the AUSA requesting concurrence and authority to arrest [redacted] based on probable cause for the federal bank robberies. The AUSA authorized SA [redacted] to arrest [redacted] for federal bank robbery charges and he also learned local authorities obtained a new State arrest warrant authorizing the arrest of [redacted] on bank robbery charges.

At approximately 1:30 p.m., SA [redacted] contacted [redacted] girlfriend's [redacted] employer to obtain her working hours for the day. SA [redacted] learned [redacted] would end her shift at 3:00 p.m., and at that time he notified his supervisor of the situation to determine if it was feasible to surveil [redacted] in an attempt to locate [redacted]. b6 b7C

At approximately 1:45 p.m., SA [redacted] traveled to the apartment where [redacted] and [redacted] resided. Upon his arrival, and while waiting for a local detective, SA [redacted] scanned the parking lot for [redacted] vehicle, identified as a gold Chevrolet Tahoe. SA [redacted] did not observe the subject's vehicle in the parking lot in front of the apartment building and backed his Bureau vehicle into a parking space near the front entrance of the building awaiting the arrival of the detective.

While watching the front of the building, SA [redacted] observed [redacted] exiting the breeze way of the building. He immediately contacted the detective to advise him of [redacted] presence at the apartment complex and determined the detective was approximately 15 minutes away from his location. While on the phone, SA [redacted] lost sight of [redacted] who had been making his way on foot toward another set of apartments located directly behind SA [redacted] location. SA [redacted] believed [redacted] saw him and due to [redacted] apparel was concerned that [redacted] was armed and possibly in the process of committing another armed robbery. SA [redacted] drove his Bureau vehicle toward the only entrance/exit to the apartment complex in an attempt to prevent [redacted] from exiting. While driving toward the front of the complex, SA [redacted] located the subject driving his vehicle toward the complex exit. SA [redacted] drove his vehicle toward the subject vehicle, in a head-on position, in an attempt to stop [redacted] from fleeing. b6 b7C

[redacted] initially stopped his vehicle and SA [redacted] exited his vehicle giving commands for [redacted] to stop and turn his ignition off. [redacted] froze, then reached down with his right hand as though he was reaching for a weapon. SA [redacted] drew his weapon and stepped out from behind his car door, ordering [redacted] to turn off the ignition. SA [redacted] was positioned between his vehicle and the subject vehicle when [redacted] reached up and placed his car in gear and drove backwards for a short distance before revving his engine and driving toward SA [redacted] SA [redacted] heard the vehicle tires squeal as he fled on foot evading being hit by [redacted] vehicle. SA [redacted] positioned himself behind the end of a parked vehicle and

observed [redacted] traveling back into the apartment complex at a high rate of speed.

SA [redacted] re-entered his vehicle and drove to the only entrance/exit of the apartment complex believing he would arrive in time to block the subject vehicle. At approximately 2:20 p.m., SA [redacted] called 911 and provided information regarding the situation as well as the description and location of [redacted]. Believing the possibility existed that [redacted] fled on foot, SA [redacted] drove through the apartment complex exit and traveled toward an intersection. As he reached the intersection, SA [redacted] saw [redacted] on foot at the base of an embankment located approximately ten feet from the shoulder of the road. SA [redacted] positioned himself where he could drive across the street to keep [redacted] in sight until additional law enforcement personnel arrived. [redacted] saw SA [redacted] and stopped. SA [redacted] observed [redacted] with both hands inside his coat pockets and later saw something in [redacted] right hand. Believing the object could be a firearm, SA [redacted] continued to drive toward [redacted] who turned and began climbing up the embankment toward the apartment complex with this left side pointed toward SA [redacted] SA [redacted] stopped his vehicle, drew his weapon, pointed it at [redacted] and shouted, [redacted] stop," at which time [redacted] stopped and quickly turned his upper torso toward SA [redacted] in an aggressive manner. Believing that [redacted] was turning to shoot him, SA [redacted] fired two rounds from his Bureau-issued Glock, .40 caliber handgun. SA [redacted] saw [redacted] running over the crest of the hill.

At 11:30 p.m., local police received a call that [redacted] had been hiding in another apartment in the complex and had just fled on foot. Investigation determined [redacted] had fled from SA [redacted] entered an apartment on a ruse, and held the occupants of the apartment against their will until law enforcement personnel left the area.

On 01/27/2009, after being involved in a shooting and kidnaping incident, [redacted] was arrested without incident by the Atlanta, Georgia, Police Department.

On 05/28/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage

To: Inspection From: Inspection
Re: 297-HQ-A1270968-D, 08/05/2009

Section, Counterintelligence Division; SC David J. Johnson, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Practical Applications Unit, TD; UC [redacted] Defensive Systems Unit, TD; SSA [redacted] Evidence Response Team Unit, Laboratory Division; SSA [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-17, Washington Field Office. UC [redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1270968-D, 08/05/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
1 - Mr. Johnson, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/19/2009

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin
Clemens Michael
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271462-D

**Title:** SHOOTING INCIDENT
COLUMBIA DIVISION
04/27/2008

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/27/2008, involving Special Agent (SA) [redacted]. After being robbed by two individuals, SA [redacted] fired one round from her Bureau-issued Glock, Model 27, .40 caliber pistol, resulting in the death of one of the subjects. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Senior Resident Agent [redacted] dated 08/18/2008.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 04/27/2008, at approximately 9:28 p.m., SA [redacted] who is assigned to the Los Angeles Field Office (LAFO), was on vacation in Greenville, South Carolina. While standing outside a cultural center, SA [redacted] and two associates were approached by two armed men. The subjects demanded SA [redacted] purse as well as the money and wallets of her two associates. One of the subjects fired one round at the ground directly in

UNCLASSIFIED

front of the victims. After obtaining the victims' property, the subjects turned and moved to a vehicle identified as a Honda Passport. SA [redacted] pursued the subjects and attempted to stop them. Using both hands, SA [redacted] pointed her pistol at the subject who entered the passenger side of the vehicle who was saying something and turned to look at SA [redacted] According to SA [redacted] she was able to see the right side of the subject's body, but could not see his hands. Believing the subject was not complying with her demand to stop as he was turning toward her, and fearing he was attempting to gain access to a weapon in his pocket, SA [redacted] fired one round in the direction of the passenger through the open vehicle window. SA [redacted] attempted a second shot, however the weapon did not fire when she pulled the trigger. As SA [redacted] was attempting to get her weapon to function, the driver of the subject vehicle drove away from the area.

b6
b7C

SA [redacted] ensured the safety of her associates and placed a 911 call to local authorities. She provided the responding officers with a description of the vehicle, the tag number, and a description of the subjects.

Investigation revealed SA [redacted] lost her FBI badge, credentials, credit card, handcuffs, and Blackberry, as well as a personal cell phone, credit cards, and money.

On 04/27/2008, investigation determined SA [redacted] FBI-issued cell phone was located in Laurens County; however, the phone was no longer in operation a short time later. Law enforcement authorities also determined the subject vehicle was registered to [redacted] who resided with [redacted] a hair salon operator in Laurens. Local authorities obtained a search warrant for [redacted] residence and hair salon. Documents were obtained at both locations providing cellular telephone numbers for [redacted] and [redacted] Information also revealed [redacted] and [redacted] had lived at several addresses in North Carolina.

b6
b7C

On 05/05/2008, the Laurens County Sheriff's Office discovered a badly decomposed body on a remote path in the woods. The unidentified body appeared to have suffered a gunshot wound that grazed the arm and entered one side of the torso and exited the other.

On 05/07/2008, local authorities and Agents of the Greensboro, North Carolina, Resident Agency located, interviewed, and arrested [redacted] During the interview, [redacted] admitted

that he took part in the armed robbery of SA [redacted] placed the body of his associate, identified as Luis Sanchez Santos, in the woods in South Carolina; had the vehicle used in the robbery crushed at an impound lot in North Carolina; and he burned SA [redacted] purse and its contents in North Carolina. [redacted] also advised he threw SA [redacted] badge into a ravine and disposed of his weapon on the side of a highway between North and South Carolina.

b6
b7C

[redacted] was charged with three counts of armed robbery, one count of possessing a firearm during a violent act, and one count of pointing a firearm at an individual.

On 11/24/2008, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 01/30/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Chief Inspector [redacted] Office of Inspections (OI), INSD; Section Chief (SC) Jill Marie Bulitz, CD-1, Eurasian Section, Counterintelligence Division; A/SC [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. UC [redacted], Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

The only observation made by SIRG members pertained to the fact that SA [redacted] weapon was not forwarded to the Weapons Management Facility for examination to ensure the weapon was properly functioning. This observation will be added to a "lessons learned" document and appropriately disseminated.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271462-D, 03/19/2009

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
(Attention: Ms. Eulitz)
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

# FBI
# Shooting Incident Report Summaries

# 2007

(Rev. 06-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/20/2007

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael
Rodriguez Michael

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271788-D

**Title:** SHOOTING INCIDENT
NEW YORK FIELD OFFICE
05/04/2007

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/04/2007, involving Special Agent (SA) [redacted] SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol killing a severely injured deer he struck with his Bureau vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of SA [redacted] dated 05/08/2007.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/04/2007, at approximately 11:30 p.m., SA [redacted] was returning to his residence after completing an evening shift in the New York Field Office (NYFO). As he was traveling on a road in Tewksbury Township, New Jersey, SA [redacted] struck a deer attempting to run across the highway. SA [redacted] exited his vehicle and observed the severely injured deer lying approximately fifteen feet off of the highway. Recognizing the animal was in extreme pain and unlikely to survive, SA [redacted] fired one round into the deer's head instantly killing the deer.

SA [redacted] telephonically contacted local law enforcement personnel to report the incident. Police Department personnel advised they would not respond to the scene since the dead animal was not blocking the roadway and there was no apparent damage to SA [redacted] Bureau vehicle.

On 12/03/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Gang Squad, Criminal Division, United States Department of Justice (USDOJ); [redacted] b6 b7C Special Legal Counsel, Civil Rights Division, USDOJ; Michael A. Rodriguez, Chief Inspector, Office of Inspections (OI), INSD; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Defensive Systems Unit, TDD; UC [redacted] Indian Country/Special Crimes Unit, Violent Crimes Section, Criminal Investigative Division; UC [redacted] Practical Applications Unit, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, TDD; and SSA [redacted] Investigative Law Unit, Office of General Counsel. SSA [redacted] and Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, non-voting members, were also in attendance.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident. However, members opined that although SA [redacted] actions were humane, the shooting of the injured deer was not within the current deadly force policy. This matter will be brought to the attention of the Assistant Director in Charge (ADIC) of the NYFO to ensure future compliance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 12/20/2007

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Ms. Leonard, Room 3999
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 3043

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspection
Date: 05/20/2007

Case ID #: 297-HQ-A1271286-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CINCINNATI DIVISION
04/26/2007

Character: ADMINISTRATIVE INQUIRY

Synopsis: Gerald Mulato was the subject of a Mexican Drug Trafficking Organization investigation. On March 13, 2007, administrative approval was obtain to place Global Positioning Satellite (GPS) tracking devices on two of Mulato's vehicles. On April 26, 2007, a team composed of a Technically Trained Agent (TTA), four Agents, and two Task Force Officers, were in the process of installing a tracking device on Mulato's Mercedes-Benz, which was in the subject's apartment building parking lot. The subject emerged from his apartment building armed with a semi-automatic pistol. The TTA and a cover Agent retreated from the subject's vehicle towards a nearby trash dumpster for cover, while the subject pursued them in an aggressive manner believing they were tampering with his car. The subject pointed his weapon directly at the retreating Agents. Law enforcement commands were made to Mulato by Agents. As the subject was closing in on the Agents behind the dumpster, SA [redacted] who was a perimeter/cover Agent, called out "gun" and illuminated Mulato with his flashlight. Mulato pointed his weapon at [redacted] who was 10-12 yards away without cover. SA [redacted] who feared for his life, fired one round striking the subject in the abdomen. The subject died en route to the hospital.

b6
b7C

**DETAILS:**

On November 6, 2006, the Cincinnati Division (CI) initiated a Racketeering Enterprise Investigation (REI) on a possible Mexican Drug Trafficking Organization (92C-CI-76049). On April 19, 2007, information from the REI was used to initiate a full drug investigation on Mulato (281C-CI-76576). Mulato's drug organization was suspected of being the largest black tar heroin distributor in the Cincinnati, Ohio, area.

Case Agent [redacted] obtained approval to install two GPS tracking devices on two of Geraldo Mulato's vehicles; a Mercedes-Benz and a Chevrolet Caprice. The installation was scheduled for April 26, 2007. Prior to the scheduled installation, TTA

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

b6
b7C

and Case Agent met to develop a plan. Pre-operational planning included TTA conducting reconnaissance on similar make and model vehicles to facilitate deployment of the tracking devices on Mulato's vehicles.

On April 26, 2007, at 4:00 a.m., SA TTA SA SA SA , TFO and TFO met for an operational briefing at the McDonalds Restaurant parking lot, Forest Park, Ohio. SA and SA led the briefing. The mission was to install a battery operated GPS tracking device on two of Mulato's vehicles, starting with Mulato's Mercedes-Benz. The Mercedes-Benz was in Mulato's apartment complex parking lot, 1995 Waycross Drive, approximately 40-50 feet from the building's entrance. Mulato's apartment building was three stories. Mulato had a rear, ground level apartment, which was on the opposite side of the building from where the Mercedes-Benz was parked. Mulato did not have a window from his apartment with vision on the parking lot containing the Mercedes-Benz.

TTA was responsible for the actual GPS installation. SA would be TTA immediate proximity cover Agent, and he was positioned near the Mercedes-Benz during the SA would be positioned behind a trash dumpster approximately 25 feet from the Mercedes-Benz. SA SA TFO and TFO would be inside their cars and serve as perimeter surveillance/cover. SA was stationed south of Mulato's apartment parking lot in the adjacent Quail Court parking lot; SA was stationed west in the adjacent 2025 Waycross Drive parking; and, TFOs and were in the same car stationed north in a parking lot near the intersection of Waycross and Sebring Drives.

Everyone on the team, with the exception of SAs and were wearing soft body armor. Everyone was casually dressed without any law enforcement identification on their clothing. Each team member was armed with their service pistol. No team member had covert clothing with the capability to quickly convert to "law enforcement" marked clothing.

At 4:15 a.m., the entire team left the McDonalds. TTA and SAs and were driven into the area in SA Chevrolet Suburban. At 4:20 a.m., everyone was in position, and the GPS installation team walked from SA vehicle in Quail Court to the subject's Mercedes-Benz.

b6
b7C

Shortly after TTA initiated the GPS installation from under the Mercedes-Benz, a person, later identified as exited an adjoining apartment building, 1997 Waycross Drive, and went to his car in the same parking lot. SA radioed the signal "clear", which then required TTA and his cover team to clear the area. TTA and SA retreated to the south side of Mulato's apartment building, and SA totally concealed himself behind the trash dumpster. noticed the suspicious individuals in dark clothing, the GPS installation team, and suspected they were burglarizing a car. He called police using "911" to report the suspicious activity. He then sat in his car for several minutes, drove towards the parking lot area containing the Mercedes-Benz and trash dumpster, and then left the lot to go to work.

Shortly after car left the parking lot, Officer Forest Park Police Department (FPPD), approached SA vehicle and requested identification. The officer was responding to the "911" call at 1995 Waycross Drive parking lot by approaching

from an adjacent lot, Quail Court, south of the location. The officer became suspicious of SA [redacted] and his vehicle parked in Quail Court. SA [redacted] discretely identified himself, and the officer left the area. Officer [redacted] supervisor, Sergeant [redacted] was planning on approaching the Mercedes-Benz from north of 1995 Waycross Drive, but Officer [redacted] waived him off. However, Sergeant [redacted] and Officer [redacted] remained in the area in case they were needed. Sergeant [redacted] took up a position north of 1995 Waycross Drive, which was the same general location as TFOs [redacted] and [redacted], and Officer [redacted] parked ½ mile further away.

b6
b7C

At approximately 4:30 a.m., the GPS installation team resumed their positions. Within several minutes, Mulato was observed by SA [redacted] coming up the interior apartment building stairwell towards the front door. SA [redacted] radioed "clear", which was just prior to Mulato throwing open the door to the apartment building. SA [redacted] heard the slide of Mulato's gun being racked. SA [redacted] observed Mulato aggressively coming out of the door pointing a silver handgun in the direction of the Mercedes-Benz. According to SA [redacted] SA [redacted] said, "he's got a gun," and SA [redacted] recalled someone, possibly SA [redacted] calling out "gun." TTA [redacted] was on his back near the Mercedes-Benz and saw Mulato with a pistol; he grabbed his tech bags and ran past the east side of the dumpster directly towards SA [redacted] vehicle.

SA [redacted] quickly shuffled towards the west side of the dumpster without turning his back on the subject for fear of being shot in the back. SA [redacted] was on the west side of the dumpster, and he saw Mulato in the parking lot moving towards his position as SA [redacted] came around the west side of the dumpster. SA [redacted] saw Mulato with a gun in his hand, his arm extended straight, and pointing the gun in the direction of SAs [redacted] and [redacted] SA [redacted] curled further behind the dumpster, and both he and SA [redacted] lost sight of Mulato who was advancing quickly on the dumpster.

Mulato was yelling in English to the GPS installation team. SA [redacted] heard Mulato say in English, "you trying to steal my shit;" SA [redacted] heard, "you messing with my shit;" and SA [redacted] heard, "that's my car." SA [redacted] heard, "that's my car, mother fucker, that's my fucking car."

As soon as SA [redacted] had cover behind the dumpster, he called out "police" or "FBI" and to "get your hands up." SA [redacted] heard loud voices but was unable to discern what was said. He did hear SA [redacted] shout "drop it" more than once, but was unsure if it was before or after the single gun shot. SA [redacted] heard voices yelling, "FBI" and "gun." SA [redacted] who was running towards the dumpster, heard people yelling, but could not make out what was being said.

b6
b7C

SA [redacted] approach from his cover position west of the parking lot, then stood up between two cars 10-12 yards from Mulato. Mulato's weapon was pointed in the direction of the Agents behind the dumpster. SA [redacted] pointed his weapon at Mulato, illuminated Mulato with his flashlight, and called out, "gun" to warn his fellow Agents. Mulato responded by pointing his weapon at SA [redacted] who had no cover between himself and Mulato. SA [redacted] fired one round, hitting Mulato in the stomach, then SA [redacted] yelled again, "FBI, drop the gun." Mulato fell back against his Mercedes Benz, then slid to the ground. He kept the gun in his hand until his buttocks hit the ground, then the gun fell out. SA [redacted] repeated his commands several times until Mulato released the gun. SA [redacted] only fired one round due to the first round immobilizing Mulato, and SA [redacted] was able to move to a position of cover until Mulato dropped the gun.

TFOs [redacted] and [redacted] were approximately 100 yards north of the Mercedes-Benz. They observed the installation team scrambling and someone, later identified as Mulato, chasing them. They were too far away to discern if Mulato had a weapon, but they drove their car to the scene as fast as they could to support the scrambling installation team. En route to the Mercedes-Benz, [redacted] heard one gun shot, but [redacted] did not hear a gunshot.

Sergeant [redacted] FPPD, observed through his night vision scope Agents moving around the parking lot, then an individual ran from the area of 2025 Waycross Drive towards the 1995 Waycross Drive parking lot. SA [redacted]'s perimeter cover assignment was in the vicinity of 2025 Waycross Drive. A second or two later, Sergeant [redacted] saw a muzzle flash and heard one shot. Sergeant [redacted] turned on his emergency lights and drove to the scene. A white car with tinted windows parked near Sergeant [redacted] also started its engine and rushed towards the scene. Upon arrival, Sergeant [redacted] drew his weapon thinking the individuals in this car were attempting to engage the FBI. He ordered them to halt, and TFOs [redacted] and [redacted] identified themselves as FBI.

SA [redacted] began administering chest compressions to Mulato. Sergeant [redacted] provided a medic bag. [redacted], a local fireman and an apartment building resident, assisted with cardio pulmonary resuscitation (CPR) and first aid. The subject was transported by the Forest Park Fire Department and died en route to the hospital.

The time frame from Mulato exiting his apartment building until being shot was estimated at approximately 20 seconds. Given the stressful situation, interviewees measured the time based on their actions, rather than in seconds and minutes. SA [redacted] was able to shuffle at a quick rate approximately 25 feet, then make several law enforcement commands prior to the shot. SA [redacted] was able to run approximately 100 feet before hearing the shot. SA [redacted] was able to put his car in reverse, realize the installation team was not retreating to his car, and then get out of his car to run approximately 50 feet prior to the shot. By the time TFOs [redacted] and [redacted] were able to start their car and drive 100 yards, Mulato was already on the ground shot. [redacted], Mulato's wife, estimated Mulato had just enough time to walk up the apartment's interior steps and into the parking lot before she heard the shot. Sergeant [redacted] observed Agents moving around the parking lot, then someone ran from the area of 2025 Waycross Drive and, within a second or two, fired one shot. SA [redacted] placed the time at 20 seconds. Based on the totality of witness descriptions, the best estimate of the time frame from Mulato exiting his apartment building to being shot was approximately 20 seconds.

Subsequent investigation determined Mulato recently installed a small audio/video camera on the corner of his apartment building. The audio/video camera was near the location where TTA [redacted] and SA [redacted] took cover on the south side of the apartment building due to [redacted] lingering in his car in the parking lot, as well as the FPPD officer approaching SA [redacted] car. Mulato installed the audio/video camera due to frequent break-ins of his multiple vehicles in the parking lot. The camera was targeted on the Mercedes-Benz, and the monitor was in Mulato's bedroom.

b6
b7C

According to [redacted], Mulato's wife. Mulato was awaken by a noise from the monitor and observed individuals on the video monitor. He then jumped out of bed, got dressed, grabbed his pistol from under his pillow, and rushed out of the apartment. [redacted] heard who she thought was Mulato, but she was not certain, saying, "It's okay man", then she heard a

single gun shot. During the same interview, [redacted] made a conflicting statement saying she heard the shot first, then Mulato saying, "it's okay man", once or twice. She did not hear anything else through the audio monitor. The audio/video system did not have the capability to record.

. A neighborhood canvas was conducted. Residen[redacted] advised he walked to the dumpster prior to the shooting and observed someone in a uniform talking to someone in a white vehicle in the adjacent Quail Court parking lot. [redacted] dumped his trash, and returned to his apartment building, 1997 Waycross Drive, which was attached to Mulato's building, 1995 Waycross Drive. As he neared the entrance to his building, he heard someone yell, "don't... stop..FBI!" He then heard a single gun shot. [redacted] observation of the white vehicle, presumably SA [redacted] vehicle, with a person in uniform, presumably Officer [redacted], adds credibility to [redacted] statement. However, the seven Agents and TFOs who provided statements were all either in or observing the lot which contained the dumpster, yet not one of them saw [redacted] empty his trash in the dumpster, to include SA [redacted] who was using the dumpster as cover and concealment. b6 b7C

Another neighbor, [redacted] advised he has witnessed Mulato and his friends shooting firearms into the air at night on many occasions. Mulato told [redacted] he shot at someone trying to break into his vehicles on a previous occasion.

On the same day after the shooting, the FPPD obtained state search warrants for Mulato's apartment and his 11 vehicles in the parking lot. The search warrants' probable cause was drug related. The search warrants did not locate drugs or weapons.

Immediately following the shooting incident, the Cincinnati Evidence Response Team (ERT) processed the crime scene. One .40 caliber shell casing was recovered on the west side of the parking lot. One bullet projectile was recovered from the victim at the time of the post mortem examination. The Hamilton County Crime Lab determined the projectile had projectile markings similar to test rounds fired from SA [redacted] 40 caliber Glock, but not sufficient for a full identification. The autopsy report determined the cause of death from internal hemorrhaging caused by a gunshot wound to the stomach, which lacerated the right external iliac artery. Mulato's toxicology report identified cocaine in his system.

In summary, subject Mulato brandished a weapon and was moving towards Agents in an aggressive manner. Agents called out a variety of law enforcement commands, as they moved away from the threat. It was possible, maybe even likely, Mulato never comprehended the installation team dressed in casual clothes were law enforcement. Nevertheless, Mulato posed an imminent threat of serious bodily injury to at least SAs [redacted] and [redacted] Additionally, when SA [redacted] onfronted Mulato to interrupt his threat to the Agents behind the dumpster, Mulato pointed his weapon at SA [redacted] SA [redacted] had no cover between Mulato and himself, and Mulato posed an imminent threat of serious bodily injury to SA [redacted] SA [redacted] announced, "gun", then found one round. SA [redacted] continued to call out law enforcement commands until Mulato dropped the weapon. b6 b7C

(Rev. 01-31-2003)

#6244

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 02/05/2008

**To:** Director's Office **Attn:** AD Candice M. Will, OPR

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271781-D

**Title:** SHOOTING INCIDENT
NEWARK DIVISION
04/05/2007

OIG/DOJ Review: Vera Date: 2/8/08
FBI INVEST: [redacted] OIG/DOJ INVEST: _____

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/05/2007. Special Agents (SAs) assigned to the Newark Division Special Weapons and Tactics (SWAT) Team and the Special Operations Group (SOG) initiated a surveillance on a group of violent bank robbers. During the attempted arrest of one of the suspects, SA [redacted] fired three rounds from his M-4 carbine, killing SA Barry Lee Bush. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. AD Perkins however, chose to addend SIRG's findings and refer this matter to OPR for consideration of imposing administrative sanctions.

**Administrative:** Reference report of Inspector [redacted] dated 08/01/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

Newark Division Agents conducted an investigation for approximately two months into violent bank robberies committed by a gang of Hispanic males. Investigation identified six males who had committed a series of armed bank robberies in Central New Jersey and further revealed the subjects used stolen vehicles while committing the robberies and were heavily armed with a .380 handgun, AK-47 and SKS-type

OAA to ITU 2 2/8/08

ITU-II (ZARFOSS) 2/8/08

263-HQ-1575679-1

assault rifles. The suspects fired shots while inside the last three banks being robbed.

On 03/22/2007, the New Jersey Regional Operations Intelligence Center produced an "Alert" which detailed the activity of the bank robbery group and provided information regarding previous bank robberies, suspects with their photographs, as well as weapons and vehicles used during the robberies. The "Alert" was provided to Newark SOG personnel.

Once the subjects were identified by the Newark Division, a written Operations Order (OP Order) was prepared and approved to conduct surveillance on the subjects in order to develop probable cause for their arrest. Physical surveillance was initiated on the main subject, identified as [redacted] Based on the knowledge that the group was most active on Thursdays and Fridays, physical surveillance was established during the week of 03/30/2007, and plans called for the surveillance to continue the Thursday and Friday of the following week of 04/02/2007. The SWAT team was involved in a support role to effect an arrest of the subjects "at the location of the switch car to the stolen car, prior to the commission of the next bank robbery."

b6
b7C

Separate written OP Orders were prepared and approved for the SWAT Team, the squad, and the SWAT medics, and the SOG had a written surveillance request. The "Overall Summary of Primary Plan" Section of the squad OP Order specifically stated, "To surveil subject [redacted] and others utilizing aerial and ground units in an effort to develop sufficient probable cause that subjects are attempting and/or conspiring to commit armed bank robbery. To effect safe arrest of subjects by tactical units subsequent to sufficient probable cause and prior to entry into a commercial bank." The contingency section of the OP Order stated, **NOTE: - SOG/OR OTHER FBI PERSONNEL (NON-TACTICAL) SHOULD NOT ATTEMPT TO ARREST SUBJECTS UNLESS IN A LIFE THREATENING SITUATION."**

The squad OP Order did not specifically instruct Agents to wear ballistic vests; however, the SOG supervisor counseled SOG members to wear their ballistic vests during this operation.

Although OP Orders were prepared and approved, the Newark Division did not hold a joint briefing to include the SOG, SWAT, as well as state and local law enforcement agencies involved in the operation.

The SWAT OP Order instructed team members to wear full tactical gear and indicated the SWAT teams would be split into two vehicles. Although the SWAT OP Order did not include

a contingency for the arrest of the subjects if they split into two vehicles which were not together at the time of the arrest, the contingency was discussed and practiced in the early morning hours of 04/05/2007. The SWAT Team OP Order also indicated, "Newark SWAT will maintain a presence in the Command Post (CP) with 1 SSA and another SSA in the Tactical Operations Center (TOC)." It should be noted that on the day of the incident, no SWAT SSA was in the CP or the TOC.

A CP was established at the Franklin Township Resident Agency (FTRA) in Somerset, New Jersey, and was staffed by state and local law enforcement officers involved in the previous bank robbery investigations. The CP was also staffed by the Case Agent, the SOG SSA, SSA [redacted] SA [redacted] of the Red Bank RA (RBRA); SSA [redacted] Acting ASAC (A/ASAC) [redacted] (SSRA of the FTRA), and in the early morning hours, A/ASAC [redacted] A/ASAC [redacted] deployed to the area of the surveillance as the On-Scene Commander (OSC) prior to the shooting incident. Newark established a TOC inside a mobile home located in the parking lot of the FTRA to relay tactical information to the CP. A/ASAC [redacted] (OSC), SSA [redacted] (SWAT Coordinator), and Electronic Technician (ET) [redacted] were in a vehicle in the area of the surveillance and arrest and acted as a mobile CP. Although A/ASAC [redacted] was the OSC, he believed he was "co-commander" with A/ASAC [redacted] who was located in the CP at the FTRA.

b6
b7C

Newark Agents conducted physical surveillance as well as cellular phone monitoring of subject [redacted] On 04/04/2007, a physical surveillance was established in the area of [redacted] residence from 7:00 p.m. until 3:00 a.m. on 04/05/2007. Due to unusual activity at the residence, as well as [redacted] cellular phone activity, law enforcement personnel believed the group was planning to commit a robbery on 04/05/2007, resulting in a SOG team re-establishing physical surveillance at 5:00 a.m., on 04/05/2007.

At approximately 9:00 a.m. on 04/05/2007, a second subject, identified as [redacted] arrived at the [redacted] residence in a white Acura vehicle. [redacted] and [redacted] exited the residence, entered the white Acura, and traveled to another residence in New Brunswick, New Jersey, where they spoke to an unidentified individual. [redacted] and [redacted] then proceeded to another location in New Brunswick where another subject, identified as [redacted] loaded what appeared to be a large bag into the rear of the vehicle. The bag appeared to be one in which skis would normally be transported and Newark Agents believed the bag contained long weapons because the group had previously used that type of

weapon during robberies. [redacted] entered the vehicle and the three subjects drove to the Bridgewater Commons Mall where they entered a parking garage and shortly thereafter, exited the parking structure. The subjects drove to another area of the mall parking lot near a department store. One of the subjects approached a small black Honda and a short time later left in the black Honda while the remaining two subjects left the area in the white Acura. Law enforcement personnel were aware the subjects were known to steal pre-2001 model Honda vehicles and use them in the commission of the bank robberies. b6 b7C

At 11:00 a.m., a second surveillance team (known as SOG Team 40) arrived in the area to assist the first SOG Team (known as SOG Team 30). SA Barry Lee Bush was part of SOG Team 40. The SOG teams were communicating on the FBI radio system, channel H-3, a narrow-band, simplex, (car-to-car) channel which allowed for a further range of reception. The SWAT Teams were also communicating on the FBI radio system on channel A-3, which was also a simplex, but not narrow-band. The CP was communicating on channel C-1. ET [redacted] had earlier verified communications were established, SWAT radios were properly coded, and ensured each SWAT vehicle had access to each channel.

The SWAT teams started at the FTRA at approximately 6:30 a.m., on 04/05/2007. They briefed at the RA and rehearsed vehicle stops due to the presence of new operators, including SA [redacted] The SWAT teams arrived in the area of the surveillance at approximately 8:00 a.m., and were "shadowing" the SOG teams as they surveilled the subjects. The SWAT teams were to remain close enough to the surveillance activity to be able to respond and effect the arrest of the subjects as they were switching vehicles prior to committing a bank robbery.

The subjects, in two vehicles, arrived at a Shop-Rite store parking lot at approximately 10:40 a.m., and the SWAT Team Leader requested permission from the OSC to "take" the subjects at that time. The SWAT Team Leader was advised that A/ASAC Turkington was seeking telephonic permission from A/ASAC Fuller. According to A/ASAC Turkington, he was reluctant to effect the arrest of the subjects in the parking lot due to the number of citizens in the area and his concern for their safety. The subject in the black Honda exited his vehicle and entered the white Acura which departed the parking lot and traveled west on Route 22. The suspect's vehicle stopped at a bagel store located on Route 22 across from a shopping center where a Commerce Bank was located. The subjects were observed standing in front of the bagel store

watching the bank and members of the SOG believed the subjects were casing the Commerce Bank.

A SWAT team remained at the Shop-Rite parking lot and was instructed to identify a lane to facilitate the arrest of the subjects when they returned. While attempting to locate an area to facilitate the arrest, SWAT personnel drove by the empty black Honda and observed the steering column had been broken, an indicator the vehicle was stolen.

The subjects drove to the area of the PNC Bank on Route 22 in Readington Township and began "casing" the PNC Bank. The SWAT van was shadowing the SOG team following the white Acura; however, the SWAT van got stuck in the soft ground of the median while attempting a u-turn.

The subjects drove back to the Shop-Rite shopping center where surveillance observed the white Acura parked next to the black Honda with both vehicle trunks open, but did not observe an exchange between the vehicles. Two of the subjects exited the white Acura, entered the black Honda, and departed the shopping center. Both subject vehicles stopped at a traffic light and the SWAT team again requested permission to "take them down." Before receiving a response, the traffic light turned green and the two subject vehicles proceeded through the light toward the PNC Bank. The subjects drove past the PNC Bank, made a u-turn in order to travel eastbound, pulled into the Arvins Farm and Garden Center, and met in the parking lot. At that time, the CP requested to take the subjects down at that location. Realizing a bank robbery was imminent, A/ASAC Turkington gave SWAT authority to arrest the subjects. As the SWAT team began to move toward the location, the black Honda proceeded east-bound on Route 22 toward the PNC Bank. Prior to the SWAT teams' arrival at the Arvin Farms and Garden Center, SA [redacted] instructed participants to abort the arrest. The SWAT vans passed by the location and made u-turns further down the road. b6 b7C

The subject in the white Acura exited his vehicle and was sitting on the hood of the car talking on his cell phone. The black Honda pulled into a parking lot on Route 22 east, almost directly across from the bank. A few minutes later, the black Honda pulled out of the parking lot onto a side road that intersected with Route 22 and turned left on Route 22. As the black Honda traveled westbound on Route 22, SOG SA [redacted] was behind it followed by Senior SWAT team Leader SA [redacted] Believing he was not involved in the arrest of the subjects, SA [redacted] continued past the PNC bank while SA [redacted] followed the black Honda into the PNC bank parking lot and pulled his Suburban directly behind the

black Honda where he and SA [redacted] attempted the arrest of the two subjects inside the Honda.

SOG SSA [redacted], who was in the CP and believed all SWAT personnel were fully engaged with the black Honda, asked SOG personnel over radio channel H-3, "we still have the white Acura out there, who has the white Acura?" SSA [redacted] asked A/ASAC [redacted] "do you want SOG to take the white Acura?" According to SSA [redacted] he recalled A/ASAC [redacted] responded that the SOG team was to "take the white Acura" or effect the arrest of the white Acura." SSA [redacted], over channel H-3, advised SOG to "effect the arrest of the white Acura. SOG has the responsibility for the white Acura." SA [redacted], the SOG Team Leader, responded and asked SSA [redacted] if they wanted the SOG team to "take the white Acura" and SSA [redacted] responded, "yes." b6 b7C

According to A/ASAC [redacted] he heard an SOG radio indicating the black Honda was entering the PNC bank parking lot. Seconds later he heard, [redacted] is right on them" and "the white Acura is across the street." Believing the white Acura to be a threat to the SWAT team arresting the subjects in the black Honda, A/ASAC [redacted] recalled telling SSA [redacted] "if you can take it, take it."

The radio traffic directed at the SOG to "take the subject" occurred over the frequency utilized exclusively by the SOG (H-3) and did not go over the SWAT channel (A-3). According to SSA [redacted] he did not recall hearing the instruction to the SOG to "take the white car." One SWAT team passed the Arvins Farm and Garden Center traveling west on Route 22, made a u-turn, and pulled into the parking lot of the garden center to arrest the subject in the white Acura. The subject, who was standing outside Acura entered the car. One SWAT team van pulled into the parking lot in a position behind the Acura. At the same time, the second SWAT team Suburban pulled directly in front of the Acura. ET [redacted] was located in a vehicle with SSA [redacted] b6 b7C

According to ET [redacted] SSA [redacted] positioned his vehicle to block the street entrance to the PNC bank. In that position ET [redacted] could not see the black subject vehicle; however, he looked across the street and saw the white Acura parked at an angle facing Highway 22 and the Newark Division's gray SWAT van enter the area where the white Acura was parked and loop around to the back. Almost simultaneously, he observed a blue or black SWAT Suburban driving east on Highway 22 and approaching the white Acura. Suddenly, a black Impala passed the SWAT Suburban on the left and turned into the parking lot where the white Acura was located. As the SWAT van struck the white Acura, the black Impala pulled up to the

passenger side of the white Acura at a slight angle and at the mid-point of the vehicle.

The white SWAT team van bumped the suspect vehicle into the red SWAT team Suburban, trapping the white Acura. SWAT personnel in the SWAT van were positioned so team members responsible for the passenger side of the Acura exited through the side passenger door of the van and team members responsible for the driver's side of the subject vehicle exited from the rear doors of the van.

According to SA [redacted] he was sitting on a crate facing the side doors of the van having limited vision through the windshield. As SWAT team members were exiting the van, Team Leader SA [redacted] who was sitting in the front passenger seat, leaned out of the window and threw a flash bang over the hood of the van near the driver's door of the subject vehicle. SA [redacted], possessing an M-4 rifle, was the first SWAT member out of the passenger door and was responsible for covering the rear passenger window of the Acura. SA [redacted] also in possession of an M-4, was the second SWAT member to exit the van and was responsible for addressing any threat in a 45 degree angle of the SWAT van and then returning his focus on the front passenger area of the Acura. SA [redacted] was the third SWAT member to exit, also in possession of an M-4, and was responsible for breaking the rear passenger window of the subject vehicle. SA [redacted] had difficulty breaking the vehicle window resulting in Team Leader [redacted] exiting the van and breaking the window of the vehicle with the muzzle of his long gun. As SA [redacted] broke the vehicle window, the magazine fell from his weapon.

b6
b7C

As the SWAT team exited their vehicle and at approximately the same time as the flash bang was thrown, a black Chevrolet Impala, driven by SA Bush, was observed almost perpendicular to the passenger side of the white Acura. SA [redacted] who was approximately 11 ½ feet from the black Impala, observed SA Bush exiting the black Impala. SA [redacted] advised radio traffic throughout the day referred to a white car and a black car without stating the make or model of the vehicles used by the subjects and he believed SA Bush's black Impala was the second subject car. SA [redacted] heard what he believed were two gunshots and believed SWAT team personnel were being fired upon. SA [redacted] observed SA Bush pushing open the driver's door with his left hand but could not see his right hand and also observed a dark object at SA Bush's right side. Focusing on SA Bush's right side and not his face, and perceiving a deadly threat combined with his concern that he and his teammates were exposed to a member of the robbery crew, SA [redacted] fired one round at SA Bush. The expended round struck the window glass of the driver's door of

b6
b7C

SA Bush's vehicle and shattered the window. Believing SA Bush had returned fire, SA [redacted] stepped to his right to gain distance between himself and his target and fired two additional rounds at SA Bush. SA [redacted] continued to slide to his right, away from the white Acura toward the rear of the black Impala. SA Bush moved to the rear of his vehicle and fell to the ground. Continuing to believe SA Bush was one of the subjects, SA [redacted] yelled commands for SA Bush to get on the ground. SA Bush fell to the ground and as SA [redacted] moved toward him, he observed SA [redacted] with a shotgun trained on SA Bush. Although SA [redacted] had never seen or met either SA Bush or [redacted] based on SA [redacted] movements and actions SA [redacted] knew he was a member of law enforcement. According to SA [redacted] he was wearing an FBI raid jacket and had been in a perimeter covering position before approaching the SA Bush's vehicle.

b6
b7C

Although impossible to determine which shot struck and killed SA [redacted] FBI Laboratory results concluded the bullets removed from SA [redacted] body, as well as his vehicle, were fired from SA [redacted] weapon.

Investigation revealed that SA Bush's black Impala was equipped with strobe lights in the headlight and tail light assemblies; however, based on the position of the switches for the strobe lights, it appeared that only the strobe lights in the tail lights were possibly activated. Photographs reflecting the position of the LED switches immediately following the incident determined the switch for the front strobe lights was in the "off" position and the switch for the rear strobe lights was in the "on" position. No witness observed the activated strobe lights on SA Bush's vehicle. One of the rounds fired by SA [redacted] passed through the door of SA Bush's vehicle, entered the dashboard area to the left of the steering wheel and severed the wiring harness of the strobe light switches.

SA Bush was dressed in a gray sweatshirt with no identifying markings indicating he was law enforcement, nor was he wearing a ballistic vest. SA Bush was the only SOG member who pulled directly up to the scene of the arrest. Although other SOG members heard the radio transmission to effect the arrest of the subject in the white Acura, they observed SWAT members making the arrest and did not approach the vehicle. SOG members supported SWAT by covering the perimeter.

Witnesses stated they were not aware SA Bush had been shot but observed him stumble to the rear of his vehicle and fall to the ground. SA Bush's weapon was secured in its holster when he was shot. On scene medical personnel provided

immediate medical assistance to SA Bush until a medi-flight helicopter and local ambulance arrived on the scene. SA Bush was transported to the University Medical and Dental of New Jersey where he was pronounced dead.

On 09/28/2007, the SIRG met to discuss the shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Acting Assistant Section Chief [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TDD; Acting UC [redacted] Intellini, Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Acting UC [redacted] Practical Applications Unit, TDD; UC [redacted] Investigative Law Unit (ILU), Office of General Counsel (OGC); [redacted] Assistant General Counsel, ILU, OGC; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. Team Leader [redacted] Office of Inspections (OI), Inspection Division (INSD) and Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective action from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Prior to the discussion of this incident by SIRG members, Chairman Clemens provided a brief synopsis of the incident as well as the subsequent investigation. Team Leader [redacted] a member of the Shooting Incident Review Team, was also present in the meeting to provide answers and/or clarification to questions posed by members of the board regarding the shooting investigation. General discussion of the incident elicited questions, comments, and concerns by SIRG members. One DOJ representative advised the shooter (SA [redacted] did not see a weapon and questioned the presence of imminent danger. Additionally, he questioned the

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IC [redacted] Office: Inspections
Date: 05/24/2007

Case ID #: 297-HQ-A1270951-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BALTIMORE DIVISION
03/22/2007

b6
b7C
b7E

Character: ADMINISTRATIVE INQUIRY

Synopsis: Subject Michael Terry Smith was a suspect in an armed bank robbery and made threats to shoot Capital Hill Police Officers, as well as innocent bystanders, on Capital Hill, Washington, D.C. As a result, on 03/22/2007, Baltimore SWAT served a federal search warrant on the subject's residence, a third floor apartment, in Suitland, Maryland. The team knocked and announced their presence. After no reply, the team executed a forced entry into the one bedroom apartment. After proceeding approximately 15 feet into the living room, the subject fired three rounds from a revolver at the Agents. Agents, not in a position of cover, returned fire with four rounds and exited the apartment. The subject then proceeded to the rear of the third floor apartment and seeing SWAT operators in the rear parking lot, fired two more rounds at the operators. SWAT operators from the rear parking lot returned fire with four rounds. Neither the Agents or the subject were injured during this exchange of gunfire. A nine hour stand-off ensued in which negotiations were established with the subject who continually indicated he would not be taken alive. After nine hours and unsuccessful negotiations, CS gas was deployed into the residence in an attempt to force the subject to exit; this was unsuccessful. The subject was waiting to ambush the SWAT entry team at the only point of entry in the third floor apartment, the front door. To enhance SWAT's tactical advantage, [redacted] were utilized to create four portals for limited penetrations into the subject's apartment in the common wall with an adjoining apartment. This created a view for operators to cover the apartment when SWAT entered through the front door to arrest the subject. The subject moved towards one of the limited penetration portals with his .357 revolver in his hand above his waist, out in front of him. A SWAT operator yelled out, "FBI, get down," but Smith disregarded this command and kept coming toward the operator. The SWAT operator was only protected by the concealment of dry wall and he feared for his life, so he fired four rounds from his MP-5 at the subject to eliminate the threat. Smith was struck by three of the rounds; two rounds hit Smith in the chest and one round struck him in the back of the head as he dropped to the floor from the first two shots.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**DETAILS:**

On January 26, 2006, SA [redacted] Bank Robbery Coordinator, Washington Field Office (WFO), initiated a bank robbery investigation (91A-WF-235694) pertaining to the robbery of the Virginia Commerce Bank, Alexandria, Virginia. The bank was robbed by a white male wearing a suit, fedora hat, black gloves, dark colored trench coat, and armed with a black semi-automatic gun. During the robbery, $89,000.00 was taken.

On February 27, 2007, Capital Hill Tour Guide [redacted] provided the FBI and United States Capital Police (USCP) information on Michael Terry Smith threatening her over their romantic breakup, as well as her suspicions about Smith being involved in bank robberies. [redacted] met Smith on the Internet in June 2006 and began dating him. Smith subsequently relocated from Henderson, North Carolina to apartment #203, Rena Road, Suitland, Maryland. During the course of her relationship with Smith, he told her he had been previously arrested on drug charges, as well as served four years on a federal bank robbery conviction. During his robberies, he wore suits and was known as the pinstriped bank bandit. In addition, Smith always had large sums of money and was in possession of a black semi-automatic gun. [redacted] was shown a photograph from the robbery of the Virginia Commerce Bank on January 26, 2007. She advised the person in the photograph resembled Smith, particularly the clothing and black bag carried by the subject.

b6
b7C

On March 6, 2007 [redacted] reported to SA [redacted] that Smith's threats were escalating. On March 4, 2007, Smith told [redacted] if he did not kill himself, he would spend most of his time in jail. He said, "I want to go out," referring to suicide. He followed with, **"my first thought is to drive up to the (Capital Hill) barricade and take out as many cops as I can, then kill myself. If not, then somewhere else like Wal-Mart or Target, just to make national news."**

During the week after the March 6, 2006 interview, Smith continued to call and send threatening e-mails to [redacted] On March 15, 2007, SA [redacted] learned [redacted] reported to the USCP that Smith's threats towards Capital Hill were increasing in specificity. Smith planned to give a note to an innocent bystander on Capital Hill and request this person give the note to an USCP officer. The note would state, **"the person that is handing you this letter is unaware of its contents and is in no way involved in what is about to happen. I am going to initiate gunfire so that the police will be forced to kill me."** Smith further told [redacted] **"I am going to give them no choice - that way my mother can collect the insurance money because it will not be suicide. I want it to be a standoff. I want to make sure the media is there. I want everyone to remember that on this day and this year, Michael Smith was at the Capitol and this is where he died."**

Based on Smith's threat, an alert regarding this subject was disseminated throughout the USCP. The USCP also requested an arrest warrant for Smith from the District of Columbia. The arrest warrant was denied, since Smith had not committed a crime at any of the U. S. Capitol Buildings.

b6
b7C

On March 19, 2007, based on the information received from [redacted] WFO initiated a Conspiracy to Impede or Injure a Federal Officer investigation (89E-WF-235991). SA

[redacted] and Detective [redacted] USCP, met with Assistant United States Attorney (AUSA) [redacted] District of Columbia. Due to the lack of probable cause for an arrest warrant, a strategy was developed to search Smith's apartment and car for a weapon, which would then predicate a felon in possession of a weapon charge. AUSA [redacted] contacted AUSA [redacted], Greenbelt, Maryland, in regard to obtaining search warrants for Smith's apartment and vehicle. AUSA [redacted] concurred with the issuance of the search warrants for violation of felon in possession of a weapon. b6 b7C

On March 20, 2007, search warrants were issued by the United States District Court, District of Maryland, for Smith's apartment #203, 4403 Rena Road, Suitland, Maryland, and his vehicle, a 1987 silver Lincoln Town Car. Due to a statement made by [redacted] regarding Smith's possession of a gun, SA [redacted] requested a "no knock" search warrant from the Greenbelt USAO. The Greenbelt USAO deferred the decision on the basis for a "no knock" to the District of Columbia. The District of Columbia AUSA would not support a "no knock" warrant, so the warrant was obtained without a "no knock" provision.

On March 20, 2007, SA [redacted] prepared an operation plan for the searches and submitted it for approval. The original plan had Agents from WFO making entry and conducting the search. WFO A/ASAC [redacted] reviewed the plan, and based on the tone of Smith's threatening e-mails and the potential for violence, denied the plan and indicated SWAT would serve the warrant. A/ASAC [redacted] contacted the Baltimore Field Office (BA), as the subject's residence was in their territory, and advised BA ASAC Kevin Lewis of the pending operation. ASAC Lewis indicated that BA SWAT would serve the warrant with WFO Agents conducting the search. SA [redacted] submitted a revised operation plan indicating BA SWAT would conduct the entry and WFO Agents would conduct the search. This plan was approved by A/ASAC [redacted]

On March 21, 2007, SA [redacted] met with [redacted] for a pre-operational intelligence debrief. [redacted] advised Smith would be agitated if the police came to his door. On the same date, Smith sent [redacted] two e-mails making increasing threats, **"you completely ripped my heart from my chest, and destroyed me, and now you want to make things better, knowing the consequences of fatalities that are going to take place and will be because of you. I do not care about who will get hurt whether it be co-workers or a cop or an innocent bystander, or where it will be, this is not my concern. My concern is that I will make history and never be forgotten."** Smith's e-mail further advised, **"this is my last letter to you before this happens, see you soon, no wait, you will hear about me soon enough, the end is near."** b6 b7C

On the same date at 4:00 p.m., a briefing regarding the execution of only the search warrant was held at WFO, with representatives from USCP. All personnel were provided with a copy of the approved operation plan. During this briefing, information was provided pertaining to the background of the investigation, Smith's criminal history, a possible "Armed and Dangerous" status, the deadly force policy, and a contingency plan to obtain a Maryland state arrest warrant prior to the search warrants for the recent e-mail threats.

On the same date, SA [redacted] spoke with SA [redacted], Senior Team Leader, BA SWAT, via the telephone and briefed him regarding the ongoing investigation. SA [redacted] inquired as to why a "no knock" search warrant was not obtained. SA [redacted] advised that an attempt had been made to obtain one; however, the request was denied by the USAO in

the District of Columbia. A copy of the operation plan was provided to SA [redacted] SA [redacted] was advised BA SWAT would complete a separate SWAT operation plan to execute the search warrant. WFO would conduct the search of Smith's vehicle and search Smith's residence after secured by BA SWAT. b6 b7C

During the evening hours, on same date, and after reviewing the recent e-mails from Smith, A/ASAC [redacted] and SA [redacted] telephoned AUSA [redacted] to again request a "no knock" search warrant and the request was denied. AUSA [redacted] conferred with her supervisor, [redacted] who advised "no knock" search warrants were not even issued in drug cases in the District of Columbia.

On the same date, SA [redacted] contacted Detective [redacted] Prince George's County Police (PGCP), in regard to the escalation of the violent threats [redacted] received from Smith. On the evening of the same date, Detective [redacted] interviewed [redacted] in an attempt to obtain a state arrest warrant for Smith, based on these threats. In the early morning hours of March 22, 2007, Detective [redacted] informed SA [redacted] that he was unable to obtain an arrest warrant, but would only be able to get a summons issued for Smith pertaining to the threats.

On the same date, SA [redacted] prepared a written SWAT operation plan for the execution of a WFO search warrant at the apartment occupied by Smith. The operation plan was forwarded to ASAC Frank Goetz who sent SA [redacted] an e-mail approving the plan.

On Thursday, March 22, 2007, at approximately 5:00 a.m., the BA personnel arrived at the Maryland Sate Police (MSP) barracks in the area of Suitland, Maryland to conduct a pre-operation briefing. The Baltimore Division assembled 20 personnel for the execution of the warrant. ASAC Goetz was the on-scene commander during the initial entry. The perimeter team consisted of SAs [redacted] PGCP TFO [redacted] and a Uniformed PGCP Officer [redacted] The SWAT entry team consisted of SAs [redacted] and Lt. [redacted] from MSP, who was the BA SWAT team medic. SAs [redacted] and [redacted] were agents located in the Tactical Operations Center (TOC), and SAs [redacted] and [redacted] were the Hostage Negotiators on scene. WFO Agents and USCP Officers responsible for the search were also present. b6 b7C

WFO case agent, SA [redacted] provided floor plans, color photograph copies of the apartment complex, and a color photograph of subject Smith. SA [redacted] briefed the written operation plan and sequence of events, as well as the FBI deadly force policy. The entry team then conducted a simulated walk-thru of the entry. SA [redacted] conducted a briefing of the MSP medic assigned to the SWAT team. He conducted a "sound-off" radio check for the TOC and confirmed the TOC was in place prior to the SWAT deployment to the scene. The TOC was located in a SWAT Suburban parked just south of the entrance door of Smith's apartment building.

As required by the search warrant and contained in the operation plan, the team was advised of the "knock and announce" requirement, then wait a reasonable time for Smith to answer the door; if no answer, SWAT would deploy the battering ram to gain entry into Smith's apartment. SA [redacted] briefed the team and gave instructions if shots were fired, the team would

fall back to a secure position on the landing below the apartment door. Noise discipline was briefed upon the dismount as Smith was considered armed and dangerous due to a prior felony conviction, as well as his threats to his former girlfriend and USCP Officers.

The rear perimeter team consisted of non-SWAT operators, BA SAs [redacted] and [redacted] These three Agents had an average of two years field experience. They took positions in the rear of the complex, 40 yards across the parking lot from the rear windows of the subject's third floor apartment. The apartment complex was high density, containing numerous rows of three story apartment buildings. The perimeter Agents were positioned behind vehicles for cover, with approximately 15-20 yards between them.

At 6:05 a.m., the BA SWAT team staged on the open air landing outside of Smith's third floor apartment door, and SA [redacted] performed the "knock and announce" three times. After the third "knock and announce", which was approximately 30 seconds from the initial "knock and announce", SA [redacted] gave the command to deploy the ram. It took two hits with the ram on the metal door to breach the door. The first four members of the entry team entered the apartment while continuously identifying themselves as 'FBI, serving a search warrant.' The team moved across the dining room to the kitchen area. The personnel who entered the door and their assignments in order were SA [redacted] (shield), SA [redacted] (cover - long gun), SA [redacted] (commands - long gun), and SA [redacted] (team leader); the other four SWAT operators remained on the landing outside the apartment door.

b6
b7C

Upon entering the apartment, it was completely dark. SA [redacted] switched on his ballistic shield light and the light located on his Glock service handgun. SA [redacted] moved into the living room where he was positioned near the hallway and just past the kitchen wall. At this point, SA [redacted] stopped when he saw a hand protruding from the hallway into the living room holding a large silver revolver. SA [redacted] had his ballistic shield in his right hand and .40 caliber Glock model 22 handgun in his left hand. Three rounds were fired from the silver revolver towards the SWAT team without hitting any SWAT operators. SA [redacted] estimated where the subject's body was behind the wall in relationship to where the subject's arm was, then SA [redacted] fired four rounds from his pistol into the wall. The revolver and arm disappeared from view, then SA [redacted] ordered the entry team to pull back. SA [redacted] then called out "shots fired" over the radio.

The SWAT team then moved backwards out of Smith's apartment and down the stairs to the landing on the second floor of the apartment building. On the landing, SA [redacted] was behind the ballistic shield, SA [redacted] (cover - long gun), and SA [redacted] began to yell up to the apartment to try to make contact with the subject and determine if he was hurt. The three Agents began rotating one on the shield and one on the long-gun with one man resting.

b6
b7C

Once the shooting in the apartment occurred, ASAC Goetz requested three WFO Agents, who were staged several blocks away, respond to the rear of the building and assist the rear perimeter BA team already in place. SAs [redacted], [redacted], and [redacted] responded to the rear.

At 6:10 a.m., the rear perimeter BA team called out on the radio that the subject was attempting to exit the apartment from his "balcony." The subject was actually attempting to exit through the bedroom window. When the perimeter team called out for subject to halt, the subject swung his arm around towards them as if he had a weapon, and the entire BA perimeter

team took cover and lost visual contact. No shots were fired by the subject or the rear perimeter team at this time.

SA sent SWAT SAs and to the rear of the apartment building. SA with a ballistic shield, led the movement of the team toward the back of the building and was focusing on the balcony, where the perimeter team reported the subject was last seen. While covering the subject's balcony, SA observed a white male pull out the screen in the subject's apartment. SA visually identified the white male as Smith, who then immediately fired two shots at the SWAT operators. SA returned fire with two shots from his .45 caliber Glock model 21 pistol. SA who was maintaining cover with an M-4 long-gun, fired one shot at the subject. SAs and maintained their position for approximately five minutes. Then, SA provided cover for SAs and as they moved perpendicularly across the parking lot to take up positions next to the perimeter team. Once SAs and were secured behind cover with the rear perimeter team, SA crawled backwards out of the parking lot back toward the corner of the building.

b6
b7C

SAs and maintained their position on the second floor stairs behind the ballistic shield. SA continued to yell up to the apartment to try to talk the subject out of the apartment. Negotiators, SA and SA obtained approval from ASAC Goetz to go forward in order to establish "verbal containment." SA and SA were inserted into the stairwell on the landing below the subject's apartment at 6:25 a.m. Initially, SA was the primary negotiator, with SA as the coach. The subject was on the floor above the two negotiators, with the door partially closed. SA and SA repeatedly made telephone calls to the subject's two known cellular numbers. Calls to one of the telephone numbers went directly to voice mail. Calls to the second cellular telephone number were answered by a recording indicating the subscriber could not be located. From approximately 6:25 a.m. to 9:00 a.m., SA and SA attempted to engage the subject by shouting up the stairwell. Initially, the subject was unresponsive to verbal commands to speak with him. While the negotiators were trying to open dialogue with Smith, Agent personnel began evacuating the adjoining apartments.

b6
b7C

Once the initial shooting occurred, ASAC Geotz requested assistance from MSP and PGCP. The PGCP request was for an armored vehicle to safely retrieved the Agents on the rear perimeter. PGCP indicated they could only provide an armored vehicle if they took over the entire scene; the PGCP offer was declined. The Montgomery County Police (MCP) were contacted and agreed to assist with an armored personnel carrier. WFO SWAT was also contacted for additional manpower.

At 8:45 a.m., the MCP SWAT team arrived with the armored vehicle. The armored vehicle extracted the Agents on the rear perimeter and replaced them with SWAT operators.

At 9:00 a.m., the subject responded to SA stating he would speak "face to face", and "come on up, we'll talk." The subject was adamant at this point he was not coming out, but the negotiators could come in. SA advised Smith the negotiators would not be able to talk to him face to face for safety reasons. These exchanges with the subject were done by shouting back and forth between the subject in his third floor apartment with the negotiators on the second floor landing. The subject again became unresponsive.

Additionally at 9:00 a.m., the MSP SWAT team arrived and set up a sniper position in a third floor apartment across the parking lot in the rear of the building which allowed for a level view through the rear windows in Smith's apartment. The MSP snipers indicated they could not get a view of the subject in the apartment due to drawn curtains.

SA [redacted] contacted the apartment complex management supervisor to determine the layout of the apartment building to determine if Smith could get up into the attic or crawl space and get into another apartment. The building engineer indicated from Smith's apartment, it was possible to get up into the crawl space of other apartments on that level, but there was no access connecting apartment buildings. After the meeting with the apartment complex management, the BA SWAT team, with the support of WFO SWAT members, devised a plan to evacuate residents out through windows of adjoining apartments and down a ladder. In one instance, SWAT operators had to cut a hole through drywall of one apartment to remove innocent neighbors out through an adjoining apartment and down a ladder. During this time, SWAT Agents were placed in the apartments directly across and diagonally from the subject's apartment on the third floor to cover Smith's front door.

At 9:37 a.m., Smith threw his wallet, keys, and a note out his apartment door onto the landing. The note instructed the Agents to give the keys to his car to his mother and indicated he was ready to die. Negotiators continued a one way dialogue with Smith.

At 9:40 a.m., BA SAC William D. Chase arrived at the scene from an out of town conference, and he assumed the role of the On-Scene Commander. WFO SAC Jennifer Smith Love had arrived earlier, however, ASAC Goetz remained the On-Scene Commander. b6 b7C

Throughout the next several hours, BA and MSP SWAT were rotating SWAT operators in and out of positions on the stairs below Smith's apartment and throughout the perimeter. Sometime before noon, Lt. [redacted] MSP, indicated their operators had another operation later that evening and would need to be replaced. SA [redacted] began rotating WFO SWAT operators with the BA operators. The shield team in an apartment diagonally across the hall from Smith's apartment consisted of six SWAT members rotating every five to ten minutes. In this position, the team's mission was to utilize a ballistic barricade to cover Smith's apartment front door, and were ready to address him if he exited the apartment.

Between 9:45 a.m. and 10:00 a.m., another hostage negotiator, SA [redacted] arrived in the stairwell. SA [redacted] was then extracted, so she could assume her duties in the Command Post. From that point forward, SA [redacted] remained with SAC Chase, ASAC Goetz, and the SWAT SSA [redacted] SA [redacted] assumed the role as the primary negotiator, and was being coached by SA [redacted]

SA [redacted] advised the subject became more responsive, however distance continued to hamper communications. The subject reported he flushed his cell phone down the toilet. SA [redacted] told the subject that today wasn't turning out the way anyone had expected it to, and the subject replied, **"yeah, you guys messed (word substitute) up, you thought this was going to be easy - I like the way it turned out."**

At 10:56 a.m., SAC Chase approved the insertion of a "rescue telephone" to enhance communications with the subject. Due to the fact the BA rescue telephone had been

damaged in a training exercise the previous week and was inoperable, WFO's rescue telephone was used. This phone was a different model, which was never used by the BA negotiators. The telephone was equipped with covert audio and video surveillance capabilities. The WFO Electronic Technician [redacted] was newly assigned to support the equipment, and had not yet been trained on the operation and maintenance of the rescue telephone. The BA personnel did not know how to operate WFO's covert microphone. BA negotiators were accustomed to an on/off button to operate the covert audio, whereas the WFO system's covert audio operated continuously, unbeknownst to BA, without an on/off button. The negotiators set up the main console in the NOC separate from the TOC, and deployed the auxiliary console to the TOC. In the TOC, ET [redacted] and WFO negotiator SA [redacted] operated the equipment. There was never an attempt, nor capability to record the video feed. ET [redacted] attempted to connect a single handheld recorder retrieved from an Agent's car to record the negotiator and subject conversations. The video feed was intelligence provided to the tactical operators and was primarily monitored by the TOC personnel, BA SAs [redacted] and [redacted]

At 11:33 a.m., the rescue telephone was positioned outside of Smith's door. At 11:45 a.m., Smith reached out and pulled the telephone inside the apartment. SWAT operators provided 15 feet of cable for the telephone in order to control the subject's location in the apartment. Smith immediately picked up the telephone receiver and began speaking with SA [redacted] SAs [redacted] and [redacted] departed the stairwell to the NOC in the parking lot. b6 b7C

SA [redacted] then appointed SA [redacted] to be the team leader in the NOC. SA [redacted] was the primary negotiator on the phone with the subject, and SA [redacted] WFO's lead hostage negotiator, was acting as SA [redacted] coach. SA [redacted] was serving as the negotiator's liaison in the TOC and maintained a telephonic log regarding the negotiations over the rescue telephone. SA [redacted] began audio recording what he thought was the conversation between SA [redacted] and the subject through the auxiliary hostage negotiator console in the TOC at approximately 11:47 a.m. ET [redacted] had connected the recording device into the microphone connection on the video monitor, and, unbeknownst to ET [redacted] or SA [redacted] the recording device was only capturing low level apartment noise and not the negotiators conversation with Smith. b6 b7C

From approximately 11:47 a.m. until 12:45 p.m., Smith spoke continuously with SA [redacted] Smith stated he wanted to die. He told [redacted] he was wearing a suit so he could be a good looking corpse. Although the negotiators did not believe Smith based on the totality of the circumstances, Smith stated he returned fire when the cops came in and shot at him. He said his death would be [redacted] fault. He did not get to go to church to repent his sins. He had thought about taking sleeping pills, but he wanted to go out in a blaze of glory. He stated repeatedly he would not go to prison or to a nut house. SA [redacted] did not feel she was able to develop a rapport with him; she believed Smith had made up his mind he would be killed during the barricade situation. The video feed from the rescue telephone showed Smith sitting in a chair with his weapon pointed towards the door, waiting for the FBI to enter the apartment. At this point, the NOC decided to end the phone call, which was at 12:45 p.m., to conduct an assessment.

SA [redacted] rewound the audio tape to listen to the recorded conversation but couldn't hear anything. ET [redacted] disconnected the recording device from the viewing monitor and connected the recording device to another port on the remote auxiliary console in the

TOC, which was later determined to be the covert audio microphone outlet.

At 1:45 p.m., WFO SA [redacted] became the lead negotiator and initiated contact through the rescue telephone with Smith. During this second telephone conversation, Smith advised he had fired two shots when cops entered the apartment, and he thought he was being robbed. Smith knew he would go to jail for a long time; he thought he would have to serve a minimum of ten years. He said the only way for this to end would be for the police to come in and kill him, as payback to [redacted] for ending their relationship. Smith also stated he had previously served four and a half years in prison, and he was too old to go back to prison. Smith wanted the FBI to contact his mother so she could come and get his car after his death. Smith said had been in construction for 25 years, and has endured 42 years of pain, heart break, and struggle, and wanted to stop the pain. b6 b7C

At 2:00 p.m., SAC Chase requested a final assessment from SA [redacted] on the status of negotiations and the likelihood that Smith would surrender. SA [redacted] indicated that the subject was very fatalistic and was not going to surrender. She indicated Smith was not going to commit suicide; wanted a violent confrontation with the FBI; and wanted the FBI to kill him. SA [redacted] based her opinion on the following factors: (1) according to the subject, he took a shower and put on his best suit and indicated he was ready to die; (2) the subject threw out his car keys and wanted his car to be given to his mother upon his death; and (3) the subject had not made any demands or requests during the negotiation process, but continued firm on the fact he was ready to die and wanted the FBI to come and get him. SA [redacted] consulted with the Behavioral Sciences Unit, Critical Incident Response Group (CIRG), who concurred with her assessment that Smith was not coming out nor was he going to surrender. Other negotiators on scene were in agreement with SA [redacted]

In the early afternoon, SA [redacted] WFO SWAT Senior Team Leader [redacted] and BA SWAT SSA [redacted] drafted an incremental plan with graduated sequence of events to decrease Smith's comfort level to the point of surrendering. This four stage plan was developed to resolve the barricade situation inasmuch as the negotiations had been unsuccessful. At any point in this plan, if negotiations became productive, the subsequent stages would be held in abeyance. The four stages were:

- [redacted]
- 
- 

b6 b7C b7E

[redacted] b7E

The entire plan was verbally briefed to SACs Chase and Love; SAC Chase approved the plan as briefed.

Factors SAC Chase considered in the course of deciding to end the negotiation phase and begin to apply pressure to Smith to surrender were as follows: (1) escalation of the situation by Smith; (2) concern that Smith could gain a tactical advantage over the FBI by initiating his own action to end the standoff; the subject could go on the offensive and burst out the front door toward Agents, located only 15 feet away, and get off a lucky shot, as well as fire out the rear apartment window at the perimeter team; (3) concern regarding public safety issues, specifically, that children were returning from school and a school bus of special needs children was due to arrive back at the complex soon; (4) the extended displacement of a large number of civilians from the surrounding community; and (5) information provided by a video camera located in the rescue telephone showed the subject taking an offensive position with his gun pointed at the front door anticipating an entry by the FBI.

The following personnel were staged in position prior to the execution of the four phase plan. In apartment #201, diagonally from Smith's apartment, were BA SWAT SA [redacted] WFO SWAT SAs [redacted] and [redacted] and MSP Sergeant [redacted] and Officer [redacted] This team's mission was to cover Smith's door and assist in providing the rolling ballistic bunker as cover for the entry team if Phase Four was implemented. b6 b7C

In apartment #202, directly across from Smith's apartment, were BA SWAT SAs [redacted] (shield) [redacted] (long-gun) [redacted] (Team Leader), and [redacted] (long-gun). This team's mission was to conduct an entry and a slow clear of Smith's apartment if Phase Four was implemented.

In apartment #204, the apartment with the common wall with Smith's apartment #203, were WFO SWAT SAs [redacted] and [redacted] BA SWAT SAs [redacted] and [redacted] MSP Officer [redacted] and MCP Officers [redacted] and [redacted] b7E

[redacted]

b6
b7C
b7E

The tear gas deployment team was located in the apartment parking lot across from the rear of Smith's apartment building. The team consisted of all WFO SWAT operators, SAs [redacted] and [redacted] as the gas shooters, and a cover team of SAs [redacted] and [redacted].

Sniper positions were held in the apartment complex across the parking lot from the rear of Smith's apartment building. The view of the sniper positions was the rear bedroom window and the balcony. Snipers in place were WFO SWAT SA [redacted] and [redacted].

Agents were positioned on the stairwell to provide cover in case Smith came charging out of his apartment firing, and to provide support upon the entrance of the clearing team after the [redacted]. The Agents were WFO SWAT SAs [redacted]; BA SWAT SAs [redacted]; and MSP Medic Officer [redacted].

At 2:49 p.m., SAC Chase gave approval to initiate Phase One of the plan and the utilities to Smith's apartment were terminated. Negotiators indicated the shut-off of the utilities had no effect upon the subject. Smith stated there was no way he was ever coming out; they would have to come in and kill him; and he had made peace and was ready.

b6
b7C

At 3:15 p.m., SAC Chase authorized SWAT to deploy the CS tear gas. A grenade launcher was used to shoot five rounds of gas into the subject's apartment. Four rounds went into the bedroom, and one round into the utility closet off of the balcony. The plan was to move the subject toward the front door. Upon insertion of the first two volleys of gas, an eye-ball camera for enhanced video feed was discretely inserted by a pole through the partially open apartment front door into the living room. However, Smith noticed the eye-camera and fired two shots, with at least one hitting the eye-ball camera. BA SA [redacted] MSP Sergeant [redacted] and MSP Officer [redacted], reported Smith fired one round through the partially open front door into the apartment #201 diagonally across the hall containing Agents and officers who were behind a ballistic barricade. Two or three minutes later, SAC Chase authorized four more canisters of gas to be fired through Smith's rear patio door. The negotiator continued talking to Smith, but he refused to come to the door and the gas appeared to have no effect on him. Two more canisters of gas were then fired into the subject's bedroom and two into the patio door. Negotiations continued, then four additional gas canisters were fired into the apartment. A total of 17 CS gas canisters were fired into the apartment; one canister, the eighteenth, hit an exterior wall and fell harmlessly to the ground.

At 3:30 p.m., Smith was back on the rescue telephone with SA [redacted] Smith was angry about the gas and about the "camera" in his door. The subject was screaming for the cops to come in to kill him, and he was ready to die. Smith then went from being very agitated when the gas was inserted to, as seen from the video feed from the rescue telephone, calmly sitting in a chair near the kitchen with a cloth over his face pointing a gun at the front door. He was not reacting to the gas and did not show any indication of coming out.

At this time, SAC Chase consulted with Lt. [redacted] medic and senior officer on scene for MSP. Lt. [redacted] stated in his experience as a tactical SWAT medic, if the CS gas had no effect on the subject by now, additional gas would not make a difference due to his apparent ability to withstand the effects of the gas and all the windows in the apartment being broken, providing for ventilation of the gas. b6 b7C b7E

Based upon the shots fired by Smith, the lack of effect of the gas upon him, and reports from the TOC that Smith had placed himself into an offensive position near the kitchen, pointing his gun at the door waiting for a SWAT entry, SAC Chase consulted with operational partners, MSP and MCP, on moving to Phase Three. There was agreement with his partners to use the [redacted]

[redacted]

Smith was viewed by FBI Agents through both the partially disabled eye-ball camera and the rescue telephone video feed running, with the revolver in his hand, from near the kitchen into the hallway before losing visual contact. SA [redacted] through his limited penetration port hole in the bathroom, saw Smith coming towards him from the hallway into the bathroom. Smith had his .357 revolver in his hand above his waist, out in front of him. SA [redacted] yelled out "FBI, get down," but Smith completely disregarded his command and kept coming toward him. SA [redacted] was only protected by the concealment of dry wall and he feared for his life, so he fired his 10 mm MP-5 at the subject to eliminate the threat. SA [redacted] fired four rounds; two rounds hit Smith in the chest and one round caused a deep graze wound in the back of the head as he dropped to the floor from the first two shots. FBI Laboratory results matched the two bullets recovered from Smith's chest with SA [redacted] weapon.

There were seven other Agents and officers in apartment #204 with SA [redacted] who were focused on the other three portal holes. No one witnessed SA [redacted] firing his weapon, but MCP Officers [redacted] and MSP Officer [redacted] heard SA [redacted] call out his law enforcement command to Smith. b6 b7C b7E

After the [redacted] the four member entry team in apartment #202 (SAs [redacted] and [redacted] attempted to stage at Smith's front door behind the MSP rolling barricade. However, the barricade was stuck exiting apartment #201, so SA [redacted] pushed the barricade team aside after hearing shots fired, and his team entered the front door using shields. The team entered slowly and cleared the living room, then slowly moved toward the kitchen and down the hall. SA [redacted] called out seeing a male lying face down on the bathroom floor. SA [redacted] saw Smith had a silver revolver in his right hand, and he kicked the

gun out of Smith's hand. SA [redacted] grabbed Smith's arms and placed flex cuffs on his wrists. SAs [redacted] and [redacted] cleared the back bedroom and a utility closet. SA [redacted] then called in the medics to provide assistance to Smith. SA [redacted] returned to the bathroom and found a chrome plated .357 magnum revolver with black grips on the bathroom floor. SA [redacted], being a firearms instructor, put on protective gloves and rendered the gun safe by ejecting three fired shells and three live shells from the handgun. He placed the empty gun back on the floor. b6 b7C

Smith was pulled out of the bathroom and placed in the middle of the living-room floor and was attended to by MSP Medic Officer [redacted] who pronounced Smith dead.

Immediately following the shooting incident, the BA Evidence Response Team (ERT), with the assistance of the FBI Laboratory, processed the crime scene. ERT recovered four shell casings from a .40 caliber weapon in the living room area; five .357 caliber shell casings in a closet across from the bathroom; three .45 caliber shell casings and one .223 caliber casing in the parking lot to the west of the apartment; and four 10 mm shell casings in the adjacent apartment #204 near a breach hole into the bathroom. In addition, there were three empty shell casings in a .357 magnum revolver that was in the possession of Smith at the time of the shooting. Locations of shell casings from any semi-automatic or automatic weapons was consistent with witness accounts of events. Several bullet projectiles were also recovered in the apartment. Many of the projectiles were not able to be located or, in some cases, were deemed inaccessible to search personnel.

The FBI Laboratory sent two processing teams to the scene to conduct detailed bullet trajectory measurements and to conduct advanced digital diagram using a Nikon Total Station package. According to the Laboratory Team, there were clear shooting positions that could be identified from the trajectories. These included shooting positions in the living room, the closet across from the bathroom, from the parking lot west of the apartment, and from the adjacent apartment into the bathroom. All recovered firearms and projectiles were submitted to the FBI Laboratory for further analysis and identification.

Interviews of non-law enforcement personnel were conducted at the scene during a neighborhood canvas. In summary, there were no non-law enforcement witnesses to the shooting incident during the initial search warrant or during the shooting of Smith by SA [redacted] later the same day. Several neighbors heard the shots fired and the law enforcement commotion outside of their apartments. One neighbor and friend of [redacted] reported that recently Smith told him that he was "felling suicidal." [redacted] was aware Smith had a .357 revolver. Furthermore, over the prior weekend, Smith told [redacted] that he was going to make history for [redacted], Smith's girlfriend, to remember. b6 b7C

The Office of the General Counsel (OGC) determined the inadvertent Title III did not require any additional action, either administratively or with the court. This was based on the clear pattern of facts illustrating the inadvertent nature of the event, coupled with the only person with standing is deceased.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SIP [redacted] Office: Sacramento
Date: 07/23/2007

Case ID #: 297-HQ-A1271905-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
SACRAMENTO DIVISION, FRESNO RESIDENT AGENCY
03/15/2007

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 03/15/2007, the Fresno Methamphetamine Task Force (FMTF), as part of the High Intensity Drug Trafficking Initiative (HIDTA) Task Force, which consisted of personnel from the California Department of Justice, Bureau of Narcotic Enforcement (CAL DOJ/BNE), Fresno Regional Office, United States Drug Enforcement Administration (DEA), Fresno Police Department (FPD), Fresno County Sheriff's Department (FCSD), California Highway Patrol (CHP), Merced County Sheriff's Department (MCSD), Madera County Sheriff's Department (Madera SD), and the Federal Bureau of Investigation (FBI), were attempting to conduct a buy/bust operation in the parking lot of a Burger King located at Fresno and "C" Street in Fresno, California. The target of this operation was [redacted], Hispanic Male, Date of Birth [redacted]. Prior to conducting the operation, a [redacted] b6 b7C b7D The FMTF established a contingency plan to arrest [redacted] upon his arrival in the Burger King parking lot. Upon [redacted] arrival in the parking lot, [redacted] When the arrest team proceeded to execute the arrest, [redacted] who was the driver complied with the officers demands, but the passenger bolted and ran towards

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Highway 99 and was pursued by SA [redacted] During the foot pursuit, the Hispanic male failed to comply with SA [redacted] demands to "stop." SA [redacted] also noticed that the subject appeared to run with his hand at his waist as though he had a weapon. When SA [redacted] observed the subject turn towards him with a silver gun in hand, SA [redacted] reported firing one shot. Prior to the subject's disappearance in the brush down the embankment, SA [redacted] fired two additional shots. A perimeter was established and FPD local SWAT and K-9 units were deployed. The subject, was later identified as [redacted], was arrested and transported to the University Medical Center (UMC) for medical treatment. b6 b7C

DETAILS:

On 02/26/2007 [redacted] contacted Officer [redacted] and advised that a subject only known to the [redacted] was living in a Fresno, California neighborhood and was distributing large quantities of methamphetamine.

[redacted] began assisting the FMTF in negotiating the purchase of narcotics from the subject known as [redacted] The negotiations were recorded and resulted in the purchase of approximately 15.2 grams of methamphetamine from [redacted] and two unidentified Hispanic male subjects [redacted] During this drug buy, the FMTF surveillance team acquired the vehicle driven by [redacted] The vehicle, a gray Ford Focus, was registered to a [redacted] Fresno, California.

b6
b7C
b7D

[redacted]

On 03/15/2007, at approximately 6:11 pm, the HIDTA FMTF (investigative team) created an operations plan in which [redacted] would assist the FMTF to conduct a buy/bust. The FMTF consisted of officers/agents from several state, local, and federal agencies and were listed as follows:

1. Sergeant [redacted] FPD Supervisor
2. Officer [redacted] FPD
3. Officer [redacted] FPD
4. Officer [redacted] FPD
5. Officer [redacted] FPD
6. Deputy [redacted] Madera CSD
7. Deputy [redacted] FCSD
8. SA, [redacted] BNE
9. SA [redacted], FBI

b6
b7C

[redacted] and [redacted] had been negotiating the purchase of three to four ounces of methamphetamine. [redacted] agreed to sell [redacted] four ounces for a purchase price of $4,444. Based on prior information garnered during the [redacted] and the recorded conversations, Officer [redacted] authored a search warrant which was signed by Honorable Judge Hoff for [redacted] Fresno, California. [redacted] and [redacted] arranged to meet in the Burger King parking lot located at the corner of Fresno Street and "C" Street in Fresno, California.

At approximately 5:00 pm, Officer [redacted] briefed all assisting FMTF personnel regarding the buy/bust. During the briefing, an operations order was distributed to each member of the team and TFS [redacted] gave specific assignments for the buy/bust. The Bust Team consisted of TFS [redacted] and TFAs [redacted] and [redacted]. The Surveillance Team consisted of TFAs [redacted] and [redacted] Officer [redacted] handled [redacted] and would stay with the Surveillance Team. With the exception of Officer [redacted] who was with the [redacted] the remaining FMTF members all wore fully marked tactical gear with the word "POLICE" fully visible on the front and back of their uniforms.

b6
b7C
b7D

At approximately 5:45 pm, all assisting FMTF members were in position in the parking lot of the Burger King. The [redacted] vehicle was searched for drugs and/or weapons. None were found. [redacted] was equipped with an electronic listening device. While waiting for [redacted] to arrive, [redacted] received a phone call from [redacted] who advised he was on his way. Unaware that he failed to hang up the phone, [redacted] was overheard by [redacted]

talking to two unknown males saying that he wanted to rip the [redacted]. The two unknown subjects and [redacted] were overheard saying that they would rip [redacted] when they arrived at the Burger King parking lot.

[redacted] immediately advised Officer [redacted] of what he just heard. Officer [redacted] relayed that information to the Task Force Sergeant (TFS) [redacted], the On-Scene commander. TFS [redacted] advised Officer [redacted] to remove [redacted] off of the lot and to place [redacted] into the vehicle of Officer [redacted] This vehicle was parked adjacent to the Burger King parking lot. The arrest/surveillance teams were instructed to stay in the parking lot so FMTF TFAs could arrest [redacted] and any additional subjects involved in the plan to "rip" [redacted] of his/her money.

b6
b7C
b7D

A black Ford Explorer, with California license [redacted] was seen driving through the lot several times. [redacted] positively identified the driver of that vehicle as [redacted] to Officer [redacted] Visible sitting next to [redacted] was an unidentified Hispanic male, later identified as [redacted]. TFS [redacted] advised all FMTF personnel to stay in place and the Bust Team would take [redacted] into custody upon his arrival to the parking lot. SA [redacted] was in the vehicle with Sergeant [redacted] and was seated in the front passenger seat. Behind SA [redacted] was Deputy [redacted] and behind Sergeant [redacted] was Officer [redacted]

When the black Explorer parked, TFS [redacted] gave the bust signal and pulled his unmarked task force vehicle directly behind in order to bumper lock the subjects' vehicle. As the arrest team exited the Bust Team vehicle wearing tactical law enforcement clothing, fully marked with clear "POLICE" insignia, subject [redacted] immediately complied with the arrest orders and was taken into custody without incident. However, the subject passenger, [redacted] exited the vehicle and began running south on the east side of the Burger King restaurant. SA [redacted] began a foot pursuit while identifying himself as law enforcement and ordering [redacted] to stop. Deputy [redacted] also ran after [redacted] but was some distance behind SA [redacted]

b6
b7C
b7D

During the foot pursuit, Detective [redacted] parralled the chase in his unmarked police vehicle and turned into the path of subject [redacted] in a effort to block his path and/or to stop the pursuit. As Detective [redacted] pulled in front of [redacted] ran into the side of the police vehicle. Detective [redacted] thought [redacted] had been knocked down, but when he exited his vehicle he realized that [redacted] spun around and kept running eastbound towards

Highway 99. It was then Detective [redacted] heard shots fired, saw SA [redacted] a distance behind his vehicle, and observed [redacted] making his way down through the bushes. SA [redacted] and Detective [redacted] did not pursue [redacted] because of the inherent danger. Both observed [redacted] with what appeared to be a shinny gun in [redacted] hand prior to losing visibility of the subject in the brush. Detective [redacted] vehicle sustained scatch marks believed to have come from the weapon carried by [redacted] b6 b7C

SA [redacted] reported seeing [redacted] clutching the waistband of his pants with his right hand while running. [redacted] was approximately 10 yards ahead of SA [redacted] who repeatedly shouted "police" and "stop." After [redacted] path was cut-off by Detective [redacted] vehicle, [redacted] made eye-contact with SA [redacted] during which time SA [redacted] reported seeing a silver semiautomatic handgun in [redacted] hand. The gun was held level to [redacted] torso and pointed outward in a ready to shoot position. Before [redacted] completed his 180 degree turn, toward SA [redacted] SA [redacted] believed if he did not take action that [redacted] was going to shoot him. SA [redacted] stopped running, obtained the shooting stance and fired one round at [redacted] After [redacted] first round was fired, [redacted] did not complete his 180 turn, but ran around the back of the undercover vehicle approaching the edge of the embankment. Fearing that [redacted] would take cover and begin firing at SA [redacted] SA [redacted] then fired two more rounds in succession before [redacted] disappeared into the brushes.

When the remaining arrest team members met up with SA [redacted] and Officer [redacted] they were advised that [redacted] had a gun. A security perimeter was established until additional personnel arrived and could initiate a controlled search for [redacted]

Fresno Police Department SWAT team was activated at approximately 7:00 pm, and deployed to find and arrest [redacted] For safety purposes, all vehicle traffic was stopped surrounding the area. Since the area where [redacted] was last seen was covered with dense vegetation, a Police K-9 was used to help find [redacted] Prior to the search for [redacted] marked police vehicles were used to provide overhead lighting. Multiple K-9 announcements were given from both air (CHP helicopter) and ground using a public access system. The K-9 was released in the area where [redacted] was last seen by SA [redacted] and Detective [redacted]. A struggle was heard and the K-9 and [redacted] were seen coming out of the brush and rolling down the embankment. [redacted] punched the K-9 several times, however, the K-9 bit and held [redacted] left bicep. Once down the hill, [redacted] was arrested at approximately 10:20 pm and medical assistance was obtained for [redacted] injuries. b6 b7C

SA [redacted] positively identified [redacted] in the emergency room of the UMC Hospital as the fleeing subject. SA [redacted] reported that during the identification process, [redacted] "winked" at him leaving him to believe that [redacted] also recognized him. Fresno Police Officers [redacted] and [redacted] were with [redacted] when [redacted] stood from his hospital bed and winked at [redacted] while laughing. b6 b7C

Two of the eight employees of the Burger King witnessed portions of the incident. The manager, [redacted], saw a Hispanic male running fast across the front of the restaurant heading toward Highway 99. He then saw a uniformed police officer chasing the Hispanic male followed by two gunshots. He remained inside the restaurant.

The second employee advised she was working inside Burger King when she heard shouting outside. She heard something to the effect of "get down, get down," "stop," "don't run," and "put your hands up in the air." She looked out and saw a man running by the Burger King holding something in his hand. She then saw the police officer chasing him. The employee was not sure if it was a gun because of how the subject was moving his arms up and down during the pursuit.

During a search subsequent to the arrest of [redacted] a silver and black Bersa .380 caliber semi-automatic pistol with an extended magazine was located in the heavy bushes east of the embankment. The gun contained one live "fed" .380 caliber round in the chamber of the gun and nine rounds of the same ammunition in the extended magazine. It was later determined that the weapon located at the scene, believed to have been carried by [redacted] was reported stolen from the residence of [redacted] in Fresno on 01/16/2007.

No law enforcement or bystanders were injured during this incident. b6 b7C

There were no issues identified by the SIRT.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspection b6 b7C
Date: 05/07/2007

Case ID #: 297-HQ-A1271895-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHILADELPHIA DIVISION
03/15/2007

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 03/15/2007, the Philadelphia Division participated in an undercover operation with Philadelphia Police Department (PPD), Narcotics Field Unit (NFU) as part of the Safe Streets Task Force (SSTF) initiative. The operation utilized [redacted] who had arranged a buy/walk with an unknown male subject for two ounces of cocaine and a 9 mm semiautomatic pistol. After meeting in [redacted] vehicle, the subject and two others attempted to rob [redacted] of $1800. As surveillance converged on [redacted] vehicle, all three subjects exited the vehicle and fled in different directions. One subject fled toward a surveillance team consisting of two FBI Agents and a PPD Sergeant. As the Agents and Sergeant approached and identified themselves, the subject ignored their commands to stop, the subject then reached into his pocket, removing a black cellular telephone. Believing the cellular telephone was a weapon, an Agent fired a single round striking the subject in the upper right chest. The subject was pronounced dead at the scene. b6 b7C b7D

**DETAILS:**

On 03/15/2007, the Philadelphia Division's Squad 3 took part in an undercover buy/walk operation with the PPD-NFU. This operation was one in a series of operations Squad 3, the Latin Violent Gang Squad, had routinely supported since August 2005. Squad 3 received SSTF designation in February 2007. This particular operation

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

was part of the "Hearts and Minds Program," a comprehensive four-phase program targeting specific areas of Philadelphia and incorporating: 1)intelligence gathering through source development; 2)undercover buys targeting lower-level dealers; 3)execution of search and arrest warrants; and 4)visible uniform presence and positive engagement with the population of the targeted area following the enforcement action. FBI cases were opened on targets developed through this program who merited additional scrutiny.

As part of this initiative, Squad 3 personnel were divided up to work with specific teams within the PPD-NFU. SA [redacted] and SA [redacted] were assigned to work with PPD-NFU Team 2 led by Sergeant [redacted] SA [redacted] entered on duty(EOD)on 03/09/2003 and joined Squad 3 in July 2006 after transferring to the Philadelphia Division from the Baltimore Division. SA [redacted] EOD'd as an Agent on 02/09/1992. She was assigned to the Philadelphia Division on 06/03/1992.

On 03/15/2007, at approximately 1:00p.m., SAs [redacted] and [redacted] and members of the PPD-NFU attended a briefing by Sergeant [redacted] at the PPD-NFU offsite to discuss a buy/walk operation involving one of PPD-NFU's [redacted] The target of the operation was later identified as [redacted] Neither the PPD-NFU nor the FBI prepared a written operations plan for this buy/walk. This was not unusual for joint Squad 3 and PPD-NFU operations, especially for what was described as relatively low-risk events such as buy/walks, which were conducted as often as four times per day. The Squad 3 supervisor, SSA [redacted] and ASAC Ronald T. Hosko noted division policy only required written operations plans in large arrests/searches or events with the potential for generating significant media interest.

b6
b7C
b7D

SSA [redacted] was made aware of the operation by SA [redacted] who left him a voice mail on 03/15/2007. ASAC Hosko was not notified of this operation prior to it's execution. SA [redacted] left SSA [redacted] a voice mail stating she and SA [redacted] would be working with PPD-NFU Team 2 on a buy/walk operation. It was anticipated a PPD-NFU [redacted] would purchase two ounces of cocaine, a Beretta 9 mm semiautomatic pistol and be "fronted" an ounce of cocaine by [redacted] had been told by [redacted] the Beretta 9mm would have a fully loaded magazine and one round in the chamber. [redacted] believed the offer to front an ounce of cocaine was unusual and he was concerned [redacted] was intending to rob him. There had been telephonic contact between [redacted] and [redacted] but this was the first buy [redacted] had made from [redacted]

The PPD-NFU had been used in the past by PPD and was deemed reliable and credible by PPD. The $1800 in cash to be exchanged for the weapon and cocaine would be provided by PPD.

After the verbal briefing, SA [redacted], SA [redacted] and Sergeant [redacted] departed the PPD-NFU offsite in SA [redacted] Bureau vehicle, a Ford Explorer and drove to a nearby KFC Restaurant to meet [redacted] Sergeant [redacted] briefed [redacted], then searched him while SAs [redacted] and [redacted] searched the CI's vehicle. [redacted] was then provided $1800 in buy money by Sergeant [redacted] After discussing several options for distress signals, [redacted] agreed to put his hands over his head to signal he needed help. Sergeant [redacted] offered to put an undercover PPD officer with [redacted] but [redacted] declined. Sergeant [redacted] decided not to place a recorder or transmitting device with [redacted] due to this being the first purchase from [redacted] and feared the device(s) would be discovered. b6 b7C b7D

[redacted] had instructed [redacted] to contact him by cellular telephone after exiting I-95 at Allegheny Avenue in Northeast Philadelphia. He also agreed to lift his shirt to indicate he was unarmed before entering [redacted] vehicle.

[redacted] departed the KFC Restaurant enroute to the Allegheny Avenue exit, followed by SA [redacted] SA [redacted] and Sergeant [redacted] in SA [redacted] Bureau vehicle. Three other unmarked PPD surveillance units were also following. After exiting at Allegheny, [redacted] turned on Belgrade Street where he pulled over to the curb to pick up [redacted] who was flagging down [redacted] As pre-planned, [redacted] lifted his shirt and exposed his waist, before getting into the front passenger seat of [redacted] vehicle.

[redacted] pulled away from the curb and drove around the block before parking at the corner of Belgrade and Clearfield Streets. Wade exited and reentered [redacted] vehicle several times while speaking on a cellular telephone. Upon reentering the vehicle, [redacted] drove away and proceeded to Cedar and Ann Streets where subjects [redacted] and [redacted] entered the rear passenger's seat of [redacted] vehicle. [redacted] was seated directly behind [redacted] and [redacted] was seated behind [redacted] [redacted] then drove northbound on Cedar Street and pulled over at the intersection of Cedar and Clearfield Streets. At this point, over the PPD radio, Sergeant [redacted] warned all surveillance units to be alert to indications [redacted] was being robbed. Minutes later, surveillance units which were parked as close as 100 feet away observed the subjects striking [redacted] in the head with their fists. [redacted] was also seen placing his hands over his head. Believing [redacted] was being beaten and robbed, Sergeant [redacted] using the radio instructed the surveillance units to converge on [redacted] vehicle. b6 b7C b7D

Immediately, Sergeant [redacted], SA [redacted], and SA [redacted] leapt from their vehicle which was parked going the opposite direction on the other side of the street approximately 100 yards away from [redacted] vehicle. Although all three brought ballistic protective vests which identified them as law enforcement, they had not donned them prior to exiting the vehicle. b6 b7C b7D

In his statement to the Shooting Review Team (SIRT), SA [redacted] said, "immediately upon exiting my vehicle I began to yell 'Police stop!' I continued to yell this as I ran toward [redacted] vehicle. As I was moving toward [redacted] vehicle and yelling 'Police stop' the individual who was hitting [redacted] stopped and stood still next to [redacted] car. Almost immediately I saw an individual I believed to be a male on the passenger side of the vehicle begin to run in my direction on the sidewalk next to the vehicle. I began to run across the street in an effort to cut off the individual all the time continually yelling 'stop police.' As the individual was running toward the same general direction as myself, he continued to turn his head back and forth looking around. For a brief moment I lost view of the subject when a vehicle I recall as being either a SUV or a van, red in color, came between us. As I started around the corner of the vehicle and anticipated coming face to face with the subject I had my weapon in a two hand grip and raised it pointing toward the subject. When I came around the corner of the vehicle I was about five feet from the subject and I yelled 'police stop' and the individual reached his left hand into the area of his waist band retrieving a dark object which I believed to be a handgun then he appeared to thrust his hand in my direction with the object I believed to be a handgun in his hand. I then fired one shot at the individual. Immediately after firing at the individual he fell to the ground to my right and the 'weapon' fell from his hand.". b6 b7C b7D

In her statement to the SIRT SA [redacted] stated," I immediately exited through the rear driver's door of the Explorer and ran diagonally across the street towards [redacted] vehicle to render assistance. As I did so, I saw the two rear-seat passengers jump from [redacted] vehicle and begin to run. The subject wearing the black jacket ran down the sidewalk in our direction as SA [redacted], Sergeant [redacted], and I began shouting, "Police, Police, Stop, FBI, Freeze!" The neighborhood was quiet that afternoon, and I recalled our voices echoing between the houses on the street. The subject ignored our commands and continued to run down the sidewalk. SA [redacted] was in front of me as I tried to parallel the subject in an effort to cut him off further down the street. There was a red Bronco parked across the street from us and I ran towards the rear of this vehicle since I saw that SA [redacted] would reach the front of the vehicle first. While doing so, I observed the subject reach for his

waist and pull out a black object which I immediately thought was a handgun. As I came around the rear of the vehicle with my weapon drawn, I heard a pop and saw the subject was hit in the chest. He staggered, then fell to the sidewalk. I observed what I thought was a weapon laying next to him on the sidewalk. I holstered my weapon and while maintaining my eye on the subject, I knelt down and retrieved the "weapon" from the sidewalk. Only then did I realize what I thought was a weapon was in fact a Motorola cell phone."

In an interview conducted by PPD, Sergeant [redacted] said, "I notified our backup officers over the radio and we exited our auto. Agent [redacted] and myself started hollaring, 'police, police,' as we ran over to [redacted] auto. As we ran over the big white male in the front seat was still punching [redacted] and the two males in the backseat started to exit. The male who was in the rear backseat of the vehicle started running southbound on Cedar Street using the opposite side of the street. This male was reaching into his pocket and Agent [redacted] said, 'let me see your hands.' 'Let me see your hands.' He said it several times. At this point the male took his hand from his pocket and I saw a black object in his hand. I then saw Agent [redacted] shoot one time and the male fell to the ground." Sergeant [redacted] went on to state, "I was just about to shoot the male when Agent [redacted] shot him. At that time, I thought the male had a black gun in his hand." b6 b7C b7D

Immediately following the shooting, PPD Investigators located and interviewed [redacted] was leaving her mother's house on Cedar Street approximately 25 feet from where the shooting occurred. Although [redacted] was not an eyewitness to the shooting she provided the following statement to PPD, "I was inside my mother's house when I heard someone yell, 'freeze, police, get down,' something like that and then I heard a gunshot. I went outside my mother's house to go back to work and I saw a guy on the ground bleeding in front of 3083 Cedar Street and another white male standing there I guess was a Police Officer."

Paramedics from the Philadelphia Fire Department immediately responded to the scene and determined Kopp was deceased. The PPD Crime Scene Search Unit also responded to the scene and conducted a crime scene investigation.

The male who was shot was later identified as Kopp. A search of Kopp revealed a pocket knife in the front left pocket of his pants. The black object Kopp was seen removing from his pocket was a Motorola Cellular telephone. [redacted] was arrested by PPD surveillance units after a short foot pursuit. A search of [redacted] revealed a Walther BB gun. [redacted] was arrested near the b6 b7C

[redacted] vehicle. No cocaine or any other weapons were found on or near Kopp, [redacted] or [redacted]

In an interview with PPD, [redacted] indicated he and Kopp had been asked by [redacted] to help him rob [redacted] He told investigators that he [redacted] and Kopp were never not in possession of handgun nor any cocaine. [redacted] brought the BB gun to "scare" [redacted] refused to be interviewed. b6 b7C b7D

An autopsy performed by the City of Philadelphia's Office of the Medical Examiner determined the manner of Jason Kopp's death to be Homicide. The cause of Jason Kopp's death was determined to be a gunshot wound to the right upper chest which was 1 1/2" from the midline and 12" below the top of the head. The bullet entered the right chest and passed backwards, downwards and leftwards through the right lung, through the aorta, through the spine at the level of the 4th intercostal space and through the left lung before exiting out from the left chest and lodging within the muscles of the left back.

The FBI Laboratory determined the bullet recovered from Kopp's body was fired from SA [redacted] .40 caliber Glock pistol, Model 22, Serial Number EDR782.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SSA [redacted] Office: Cleveland
Date: 09/11/2007

Case ID #: 297-HQ-A12712292-D

Title: SHOOTING INQUIRY REPORT OF SHOOTING INCIDENT
CLEVELAND DIVISION
SEPTEMBER 4, 2007

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was a direct result of a fugitive investigation, wherein a Safe Streets Task Force (SSFT), the Mahoning Valley Violent Crimes Task Force, which operates out of the Youngstown Resident Agency of the Cleveland Division, was seeking to locate and apprehend [redacted], who had been charged by the local authorities with felonious assault. b6 b7C

The underlying circumstances regarding this offense were that on July 4, 2007 [redacted] became embroiled in an argument with two males at a gas station in Youngstown, Ohio. [redacted] pulled a handgun and, as the males fled the area in their vehicles, he fired numerous rounds at them.

The local authorities requested the Youngstown Resident Agency's SSTF's assistance after charging [redacted] for this act and being unsuccessful in locating him. An 88 preliminary investigation was opened on July 9, 2007 based upon this request. Investigation by members of the SSTF developed information that [redacted] was moving back and forth from Youngstown, Ohio to various locations in the state of Pennsylvania. Accordingly, on August 29, 2007 a federal warrant was issued at Youngstown, Ohio by United States Magistrate Judge George J. Limbert charging [redacted] with Unlawful Flight to Avoid Prosecution in violation of Title 18, United States Code, Section 1073.

On September 4, 2007 investigators learned that

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] was supposedly utilizing a certain cellular telephone.

Based upon this information, technical tracking of that cell phone was initiated on September 4, 2007. At first, the tracking information indicated that the cellular phone was being utilized in the north central area of Youngstown, in the vicinity of a municipal park - Wick Park. This information was developed at approximately 1:00 p.m on September 4, 2007. Continued operation of tracking technology essentially isolated the location of this cellular phone to [redacted]. Based upon this information, SA [redacted] utilized the available Task Force personnel to establish a loose perimeter on that location. SA [redacted] and Task Force Officer (TFO) [redacted] took up a position that provided them with visual surveillance of [redacted]. At approximately 2:15 p.m surveillance observed a Toyota Camry leave [redacted]. In that it was being operated by a male whose description was not consistent with [redacted] the decision was made to stop the vehicle some distance from the residence. (NOTE: [redacted] is one address of a "side-by-side" duplex with two address - [redacted].

b6
b7C

The information provided by the operator of this vehicle indicated that [redacted] was very likely in a Toyota Camry behind [redacted].

A plan was formulated wherein a number of Task Force officers would block escape through the rear of the residence to the street behind (or to the east) of the Ohio residence (Elm Street). The remaining Task Force officers and SA [redacted] would approach from the front of the residence in an effort to locate and apprehend [redacted]. This plan had to be communicated to the Task Force members, who had spread out to establish the aforementioned perimeter around [redacted], via radio and cellular phone. Significant radio problems were encountered and therefore some Task Force members had to be briefed via cellular phone.

b6
b7C

At approximately 2:30 p.m SA [redacted] gave an order to move up and the respective Task Force units moved towards [redacted]. SA [redacted] arrived first, with TFO [redacted] was observed in a red or burgundy Toyota Camry behind [redacted] Street, with the vehicle parked facing away from the residence. He appeared to be talking on a cell phone and both the driver's window and front passenger window were open. The plan had been for SA [redacted] and TFO [redacted] along with TFOs [redacted] and [redacted] to block in the Camry and effect the arrest. SA [redacted] and TFO [redacted] arrived at the southeast side of [redacted] prior to the other units.

Civilian witnesses and TFOs confirm that SA [redacted] ordered [redacted] out of the car and identified himself as "Police". [redacted] placed the Camry in reverse and, at a high rate of speed, swung the vehicle out of its parked position just missing SA [redacted] who had exited his vehicle to effect the arrest. The Camry turned through an approximately 270 degree arc and stopped, facing SA [redacted] then placed the vehicle in drive and accelerated sharply at SA [redacted] who, at this time, fired five times at [redacted]

b6
b7C

The Camry continued on past SA [redacted] coming to a stop approximately 30 yards behind him. SA [redacted] and TFOs removed [redacted] from the vehicle, provided first aid, called for the EMS and made appropriate notifications. He was transported to a local hospital for treatment and surgery. [redacted] had three gunshot wounds to his left arm (two to the wrist and one to the upper arm), one gun shot wound to the right forearm and a superficial wound to his left leg. He would be interviewed on September 6, 2007 and claimed that he only heard an order to "get out of the car", but thought that he was being robbed. He acknowledged that he threw his car into reverse and floored it; he also acknowledged that he then put the car in drive and again floored it. [redacted] stated that at this point he saw a man, whom he realized was police, to his left and front and at this juncture he heard gunfire and was shot. [redacted] also conceded that he was aware of the fact that the police were looking for him and that a 9mm handgun found in the Camry was his.

b6
b7C

The only rounds fired in this shooting were the five fired by SA [redacted] who utilized his Bureau issued Colt, M16A1 (or M-4).

Bureau issued ammunition was utilized and the weapon functioned properly. SA [redacted] was qualified on this weapon. SA [redacted] is a member of the Cleveland SWAT team.

The Supervisor of Youngstown, Squad 16, who has responsibility for the SSTF, was on the scene within minutes and insured that Cleveland Executive Management was notified. ASAC Derek M. Siegle responded from Cleveland. FBI ERT personnel and Youngstown Police Department jointly processed the scene.

(Rev. 06-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/05/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L 3/12
Clemens Michael

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271906-D

**Title:** SHOOTING INCIDENT
ST. LOUIS DIVISION
05/30/2007

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/30/2007, involving Special Agent (SA) [redacted] While he and other law enforcement personnel attempted to arrest a subject wanted on federal and local criminal charges, SA [redacted] fired three rounds from his Bureau-issued Rock River semi-automatic rifle at an unaccompanied, aggressive K-9 dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 06/07/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/30/2007, SA [redacted] and two additional Safe Streets Task Force (SSTF) officers, met with Sergeant [redacted] of the St. Louis County Police Department, Community Action Team (CAT), as well as K-9 Units. A request was made for the CAT to utilize marked patrol units to initiate a traffic stop of fugitive [redacted]

Sergeant [redacted] and his team were fully briefed regarding the subject's identity as well as his criminal history. SA [redacted] advised all attendees that the subject would probably attempt to run from law enforcement personnel. Sergeant [redacted]

advised K-9 Units would be utilized if West attempted to evade arrest or injure law enforcement personnel. Sergeant [redacted] identified one canine as vicious and advised the dog was particularly effective at neutralizing his targets and would not stop biting until pulled off by his handler.

According to one local participant, all personnel present in the briefing were instructed to stay inside their vehicles if K-9s were deployed to avoid confusing the dogs.

Approximately thirty minutes after the briefing Sergeant [redacted] team executed the traffic stop. Prior to his vehicle coming to a complete stop the subject jumped out, rolled down a hill, and fled into a wooded area. Although previously instructed to remain in their vehicles, law enforcement officers exited their vehicles with weapons drawn and ran toward the subject.

As Canine Units searched for the suspect in the heavily vegetated area, SA [redacted] positioned himself along a creek to prevent the subject's escape through the creek. As he was holding his position, SA [redacted] heard what he believed to be local officers to the south of his location, and shouted, "FBI to your front," several times.

During the activity, K-9 Officer [redacted] deployed his dog (previously identified as vicious) approximately 50 yards away from the other K-9 Unit with instructions to search and apprehend. Shortly after deploying his dog, Officer [redacted] observed the dog alert and start running. Officer [redacted] called out, "St. Louis County Police Canine," and heard someone respond, "FBI," from the direction in which the dog was running. Officer [redacted] immediately attempted to recall his dog, but immediately heard one gunshot followed by two additional gunshots. Officer [redacted] recalled his dog again and the dog returned to him.

b6
b7C

Officer [redacted] subsequently learned that his canine encountered SA [redacted] in the woods, and advised SA [redacted] could have incurred serious injury had he not shot at the dog.

According to SA [redacted] while holding his position in the vegetated area he could not see other law enforcement personnel. However, he observed the police canine approach him in an aggressive manner, crouch, and prepare to lunge at him. Believing he was in imminent danger of serious physical injury, he fired three rounds from his rifle near the dog's head. As the rounds struck the ground, the dog returned to his handler.

No personal or property damage was incurred as a result of the rounds fired by SA [redacted]

On 02/15/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Gang Squad, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Ronald T. Hosko, Inspector, Office of Inspections (OI), INSD; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Indian Country/Special Crimes Unit, Violent Crimes Section, Criminal Investigative Division; UC [redacted] Practical Applications Unit, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] Gangs/Criminal Enterprise Section, CID. Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted], was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

The OGC representative voiced concern regarding SA [redacted] putting himself in a dangerous situation since participants were advised to stay inside their vehicles if canines were deployed. Additionally, SA [redacted] had no

communication with other law enforcement personnel which resulted in him having to shout his location several times. This matter will be discussed with the Special Agent in Charge of the St. Louis Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271906-D, 03/05/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. Casey, Room 5096
1 - Ms. [redacted] Room 3999
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs [redacted], Room 3043

♦♦

(Rev. 05-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 02/22/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1271659-D

**Title:** SHOOTING INCIDENT
KANSAS CITY DIVISION
05/11/2007

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/11/2007, involving Special Agent (SA) [redacted] During the execution of a Federal search warrant, SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, injuring an aggressive dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of Acting Chief Division Counsel (A/CDC) [redacted] dated 05/16/2007.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/11/2007, at approximately 11:00 a.m., members of the Kansas City Special Weapons and Tactics (SWAT) Team executed a search warrant at a Kansas City residence. As the search team approached the rear of the residence, they observed a large brown and white dog attached to a heavy chain. The team stopped its approach, however, the dog turned and raced aggressively toward team members barking and baring his teeth. Although one Agent used his shield to deflect the dog's attack, the dog then attacked SA [redacted] injuring his left hand. SA [redacted] who was directly behind SA [redacted] fired one round striking the dog's paw. The dog immediately ceased its attack on SA [redacted]

[redacted] The SWAT Team medic provided immediate assistance to SA hand at the scene and he was seen by a doctor the same day.

The dog was removed by local animal control authorities.

On 02/15/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Gang Squad, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Ronald T. Hosko, Inspector, Office of Inspections (OI), INSD; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Indian Country/Special Crimes Unit, Violent Crimes Section, Criminal Investigative Division; UC [redacted] Practical Applications Unit, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of General Counsel; and SSA [redacted] Gangs/Criminal Enterprise Section, CID. Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271659-D, 02/22/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. Casey, Room 5096
1 - Ms. [redacted] Room 3999
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted], Room 7326
1 - Mr. [redacted] WFO
1 - Mrs [redacted], Room 3043

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIC [redacted] Office: Inspection b6 b7C
Date: 07/23/2007

Case ID #: 297-HQ-A1271464-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
DALLAS DIVISION
05/05/2007

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred while a team of FBI Agents, task force officers, and Richardson Police Department Officers were attempting to arrest a subject at the Wal-Mart Parking lot, 1521 Cockrell Hill Road, Dallas, Texas, during an active, violent kidnaping investigation. As part of the plan, the subject(s) delivered a "drop vehicle" to an agreed-upon location for the purpose of having ransom money and methamphetamine placed in the vehicle to secure the release of the victim. One subject parked the "drop vehicle" near surveilling SAs. A second suspect vehicle parked parallel to the "drop vehicle." The driver of the "drop vehicle" ran when approached by SAs. The second vehicle sped off. The running subject subsequently boarded a third suspect vehicle as a R-front passenger. This third vehicle then drove at FBI SAs who fired at the subject driver. Two SAs discharged their weapons. Three shots taken by one SA struck the subject driver resulting in his death. The subject passenger was unharmed. Subsequent investigation led to the arrest of five involved kidnaping subjects, the seizure of four firearms and ammunition, and the rescue of the kidnaping victim who had been shot twice and beaten by subjects.

The shooting was recorded by Wal-Mart parking lot surveillance cameras. An aerial photograph of the parking lot is located on page 619 of this report.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

DETAILS:

On 05/05/2007, just after midnight, the Dallas Division switchboard operator received a telephone call from the Dallas Police Department (DPD) Communications Center regarding a possible kidnaping matter having taken place in Texas. Information was telephonically forwarded to Dallas FBI Criminal Enterprise (CE) Squad Acting Supervisory Special Agent (A/SSA) [redacted] A/SSA [redacted] was told that according to DPD, a call had been received from a Spanish-speaking male in Mexico who was reporting that his brother had been kidnaped.

A/SSA [redacted] telephonically contacted the DPD Communications Center and spoke to DPD Dispatcher [redacted] an English and Spanish-speaker, who would translate for A/SSA [redacted] during a three-way patch telephone connection to [redacted] the alleged kidnap victim's brother in Mexico. After dropping the three-way connection several times, A/SSA [redacted] telephoned Dallas FBI Assistant Special Agent in Charge (ASAC) Blaise Mikulewicz at approximately 12:30am [05/05/2007], and briefed him on what he knew of the matter at the time. The ASAC concurred with A/SSA [redacted] assessment that the FBI should begin working this as an active kidnaping matter. The ASAC requested he be kept apprised of developments. A/SSA [redacted] telephoned Special Agent (SA) [redacted] of the CE Squad, briefed him on the case, and put him on "stand-by" in the event he and his Spanish-speaking abilities were needed.

A/SSA [redacted] continued to speak to the DPD Dispatcher and learned from her that the kidnap victim's name was [redacted] Also, the kidnapers were demanding $250,000 or they would kill the victim. A/SSA [redacted] through the DPD Dispatcher, asked [redacted] to have the subjects put the victim on the phone as a "proof of life." During one communication, the subject(s) repeated their demand for $250,000 or an equivalent amount in drugs. At approximately 1:00am [05/05/2007], the DPD Dispatcher reported to A/SSA [redacted] that the subject(s) did put the victim, [redacted], on the phone with the brother in Mexico. The Dispatcher further translated for A/SSA [redacted] that [redacted] said that [redacted] [victim's brother] should pay the money.

During one of the three-way conversations, A/SSA [redacted] learned that the kidnapers had mentioned Richardson, Texas [suburb of Dallas]. A/SSA [redacted] called the Richardson Police Department (RPD) and learned from RPD Sergeant [redacted] that the RPD had responded to a possible kidnaping/shooting which occurred on 05/04/2007. A/SSA [redacted] spoke to RPD Sergeant [redacted] and learned that the RPD was investigating a possible

kidnaping, but that the RPD did not know the kidnaping victim's name. A/SSA [redacted] advised that he shared information with Sergeant [redacted] including the victim's name and cellular telephone number. A/SSA [redacted] learned that the RPD had responded to a call where gunfire had been reported coming from a residence, an adult male was seen being forced into a vehicle, and that another shot was heard coming from within this vehicle before it left the area slowly. Sergeant [redacted] indicated that more assistance would be needed and A/SSA [redacted] offered to send CE Squad personnel to assist in the kidnaping investigation. b6 b7C

At approximately 2:00am [05/05/2007], A/SSA [redacted] again telephoned SA [redacted] and dispatched him to the RPD. One other SA and Taskforce Officer (TFO) [redacted] were also dispatched to the RPD. ASAC Mikulewicz was called and briefed. ASAC Mikulewicz noted that it was his experience having worked kidnaping and extortion matters that having shots fired, the subjects not covering their faces, and the fact that they drove away slowly, caused him to believe that the kidnaping victim was either injured or in great danger.

During follow-up telephone calls with RPD Sergeant [redacted] A/SSA [redacted] learned that DEA possibly had information regarding the kidnaping but that DEA would not divulge the information to the RPD because the RPD did not have the proper clearances. Sergeant [redacted] provided A/SSA [redacted] a telephone number to call at DEA. A/SSA [redacted] spoke to a DEA SA and learned that DEA was aware of the kidnaping and that the victim was alive and within one mile of the original kidnaping location, [redacted] Richardson, Texas. The exact location of the victim was not determined at this time. The information was characterized by the DEA SA as "third hand" which led A/SSA [redacted] to believe that DEA or another government agency had a wiretap on a telephone. A/SSA [redacted] provided the victim's Nextel telephone number to DEA and learned that this number was not the target of a wiretap. The subject(s) were using the victim's Nextel telephone to communicate demands.

A/SSA [redacted] continued to brief ASAC Mikulewicz who concurred that the kidnaping investigation should continue. A/SSA [redacted] continued to call out investigative resources to include Technically Trained Agents (TTAs) and on-call Duty Agents. A/SSA [redacted] contacted a Northern District of Texas AUSA at her residence and briefed her on the case. A/SSA [redacted] requested emergency authority to establish a "pen register" and "tracking order" targeting [redacted] b3 b6 b7C

As the investigation progressed, SA [redacted] communicated to A/SSA [redacted] that a money drop might have to be made. A/SSA [redacted] contacted ASAC Mikulewicz to request additional Agents be dispatched. The ASAC concurred. At approximately 3:30am

[05/05/2007], A/SSA [redacted] made a request of the Dallas Office that all CE Squad personnel be notified by text message and instructed to respond to the RPD.

At approximately 4:00am [05/05/2007] A/SSA [redacted] reported to the Dallas FBI Office to continue coordinating the investigation. He inserted TFO [redacted] in an undercover capacity to act as the kidnaping victim's cousin. This insertion was coordinated with the victim's brother in Mexico who told the subject(s) that the "victim's cousin" [TFO [redacted] in Texas would deal with them. TFO [redacted] hereafter the Undercover Employee (UCE), began speaking directly with the kidnapers via a Nextel telephone using its "push-to-talk" feature. b6 b7C

A/SSA [redacted] began to write an Operational Plan with the assistance of ASAC Mikulewicz. At this point, ASAC Mikulewicz was briefed by A/SSA [redacted] to include being advised that the UCE's negotiations had reached a point where the subject(s)' demands were now fixed at $70,000 in cash and three pounds of methamphetamine for the release of the victim. The TTAs were still attempting to locate the position of the subject(s)' cellphone communications through technical means.

At approximately 6:00am [05/05/2007], ASAC Mikulewicz and A/SSA [redacted] telephonically briefed Special Agent in Charge (SAC) Robert E. Casey, Jr., on the status of the investigation. The SAC concurred with the direction and actions taken by the investigators thus far. ASAC Mikulewicz secured $3,000 from the Dallas Division's safe such that a "money drop" package with weights and transmitter could be constructed in case needed.

As a safety precaution, ASAC Mikulewicz assembled all SA and non-FBI personnel involved in the operation at the Dallas FBI Office such that all could see one and other. Due to the fast-moving nature of the operation, the ASAC allowed A/SSA [redacted] to hand write the operations order which the ASAC read and approved. b6 b7C

At 7:00am, ASAC Mikulewicz and A/SSA [redacted] initiated a briefing of all parties involved with the exception of two of the TTAs who were occupied with tracking the telephone used by the subject(s). During the briefing, members of the RPD briefed the attendees on the background of the case, including that the subjects should be considered armed and dangerous; that shots had been fired during the abduction; that the subjects repeatedly threatened to kill the victim of the kidnaping if the ransom was not paid; and that the subjects threatened to kill the UCE if he missed the deadlines set by the subjects.

A/SSA [redacted] followed with a verbal briefing to the law enforcement contingent where he outlined four scenarios which included: 1) If the operation was successful in identifying a residence where the subject(s)/victim were located, SWAT would be activated to conduct the entry and rescue of the victim, 2) If the operation was successful in identifying a residence and the

victim was in imminent danger of being killed, the operational team comprised of CE Squad personnel would make the entry to rescue the victim, 3) If the operation was successful in locating the subject(s)' vehicle prior to the "money drop," a felony traffic stop would be conducted, and 4) If the operation was not successful in locating either a residence or a vehicle, negotiations with the subject(s) would continue, a money drop would be arranged, and a felony traffic stop would be conducted when the subject(s) attempted to pick up the money.

ASAC Mikulewicz followed with instructions to those present that if the scenarios involving traffic stops developed, personnel were not to engage in high-speed pursuits. The tracking device placed in the money drop package would be relied on to identify the direction of travel and the location of the subject(s)/victim. Precise assignments for personnel were made were possible. Due to the fluid nature of the multiple-scenario operation, precise assignments would be contingent on the position of the team members at the time of an arrest or takedown.

ASAC Mikulewicz had each member of the team identify themselves, identify their roles, and brief back their responsibility within the scenarios. The ASAC additionally had each of the participants put on the clothing that they would be wearing during the operation. He emphasized that the team members should be aware of cross-fire issues, cover and other safety issues. ASAC Mikulewicz cited that he was ensuring that a tragic friendly-fire circumstance similar to one where an SA was killed in New Jersey could not happen.

A/SSA [redacted] briefed the attendees on the FBI's Deadly Force Policy and told local officers to adhere to their respective departmental policies. b6 b7C

At approximately 8:00am [05/05/2007], ASAC Mikulewicz, A/SSA [redacted] and SA [redacted] traveled together to the area of Ledbetter Drive and Lancaster Road in Dallas where the TTAs last reported that the cellphone signal of interest had been detected. Other SAs and officers deployed to the area as well. After an approximate 40 to 45 minute search of a trailer park area where the signal of interest had been emanating, ASAC Mikulewicz and A/SSA [redacted] collectively decided that the "money drop" scenario would be employed. A/SSA [redacted] directed the teams to move the Wal-Mart located at Interstate-30 and Cockrell Hill Road, a location where the subjects had told the UCE, that the "money drop" would occur. The address of the Wal-Mart was 1521 Cockrell Hill Road, Dallas, Texas.

At 8:48am [05/05/2007], ASAC Mikulewicz telephonically briefed SAC Casey on the latest developments, to include that neither the subject(s)' car nor trailer, had been located. Also briefed was that the "money drop" scenario would be implemented. SAC Casey concurred with this decision. ASAC Mikulewicz discussed with the SAC that the UCE would place the drop package in or near the subject(s)' "money drop" vehicle, but not in the

trunk given a concern that the tracking signal could be lost. The UCE was aware of this. An SA would be secreted in the UCE's vehicle as protective cover for the UCE. The UCE was to clear out of the area and a felony traffic stop would be conducted when the subject(s) attempted to retrieve the package. A vehicle (Buick LaCrosse) operated by SAs [redacted] and [redacted] and the vehicle in which the ASAC, A/SSA [redacted] and SA [redacted] (a Chevrolet Suburban) would approach the drop vehicle from the rear. The plan briefed to the SAC included a third blocking vehicle to approach from the front. This vehicle would be identified when it was determined which vehicle had the best vantage point once the location of the drop vehicle was known. The remaining vehicles would secure the perimeter. After the subject(s) were arrested, they would be interviewed in an attempt to locate and rescue the victim. The SAC concurred with this plan.

b6
b7C

The ASAC and A/SSA [redacted] discussed a multiple subject vehicle scenario and agreed to stay with the drop vehicle in hopes of having it eventually lead them to the victim. A/SSA [redacted] supervisor of the operation, positioned the vehicle (Suburban) in which he, the ASAC and SA [redacted] were in, at the southwest section of the parking lot. A/SSA [redacted] broadcasted his location to other units and directed other units to strategic areas within the Wal-Mart parking lot area. As units arrived, A/SSA [redacted] directed those units via radio to ensure all entrance and exit routes were covered. TTAs [redacted] and [redacted] were in the area monitoring for the signal of the subject(s)' cellular telephone with which the UCE was in contact. A/SSA [redacted] directed the UCE to position his vehicle in an open parking area to the north of the Wal-Mart Store, a distance from the Wal-Mart building.

At approximately 8:52am [05/05/2007] SAC Casey called the ASAC for an update. The operations plan remained unchanged. The UCE continued his telephonic communications with the subject(s) via the "push-to-talk" feature, and continually updated A/SSA [redacted] of the contents of these conversations. The subject(s) continued to threaten to kill the kidnap victim and the UCE if the money drop wasn't properly made. Other teams of SAs/officers in the area continued to proactively monitor the activity in the area of the Wal-Mart parking lot and report results by radio.

b6
b7C

At approximately 10:34am [05/05/2007], TTA [redacted] alerted that the cellular telephone signal of interest was active near the Ledbetter Drive trailer park and that the signal was moving. ASAC Mikulewicz immediately called SAC Casey and updated him. The SAC approved the operation and requested that he be notified in the event of a change, a money drop, or an arrest. The TTAs updated operational SAs/officers by radio broadcast that the subject(s) were "ten minutes out" [ten minutes away], "they are in the parking lot" and "they are behind the Wal-Mart." During this time, the UCE communicated to A/SSA [redacted] that the subject(s) had advised that the "drop vehicle" was a grey Mitsubishi.

At approximately 11:00am [05/05/2007] TTA [redacted] advised over the Bureau radio that the cellular telephone in contact with the UCE was active behind the Wal-Mart and that the TTAs had observed a suspicious vehicle in the area associating with a Chevrolet Blazer. TTA [redacted] next advised that he saw a grey Mitsubishi with the Blazer and that both were traveling northbound next to the Wal-Mart, apparently together. ASAC Mikulewicz looked over his right shoulder and saw a grey Mitsubishi approaching from the right, followed by a Blazer. A/SSA [redacted] made radio broadcast updates to SA/Officers about the approaching vehicles. A/SSA [redacted] discussed with ASAC Mikulweicz that he thought it was the right opportunity to move towards the Mitsubishi to which the ASAC agreed. The Mitsubishi, a 1994 4-door grey sedan, parked in the same row a few [three or four] parking slots away from the vehicle in which the ASAC and A/SSA were parked. The Mitsubishi was blocked to the front by another parked civilian vehicle. The Blazer pulled up along the left side of the Mitsubishi, not blocked to the front.

ASAC Mikulewicz gave A/SSA [redacted] the authorization to deploy the arrest plan. A/SSA [redacted] radioed to the other operational team members where the Mitsubishi was and that a felony car stop on the Mitsubishi would be initiated. A/SSA [redacted] broadcasted the deploy instruction by saying "execute, execute, execute" over the radio. Unbeknownst to A/SSA [redacted] not all of the SAs/Officers were aware of where to go when the order was given. A/SSA [redacted] next moved his vehicle from its parked position, drove a short distance [three or four parking stall widths] and bumped into the Mitsubishi from the rear blocking it in. A/SSA [redacted] exited his vehicle identified himself by yelling FBI and by yelling arrest commands in Spanish and English to the subject driver of the Mitsubishi. ASAC Mikulewicz also exited the vehicle and started to back A/SSA [redacted] The subject driver of the Mitsubishi, later identified as Subject [redacted] [hereafter Subject [redacted], exited the Mitsubishi and quickly tried to enter the passenger door of the adjacent Blazer, disregarding arrest commands being given by A/SSA [redacted]. The subject driver of the Blazer, later identified as Subject [redacted] [hereafter Subject [redacted], quickly sped away, leaving Subject [redacted] behind. Subject [redacted] next ran eastbound through the parking lot refusing to yield to A/SSA [redacted] arrest commands. A/SSA [redacted] gave chase through the congested parking lot while ASAC Mikulewicz initially observed the fleeing Blazer to determine its direction of flight before joining the foot pursuit. A/SSA [redacted] estimated that he was 40 to 50 yards behind Subject [redacted]

SA [redacted], positioned northeast of the location where A/SSA [redacted] and the parked Mitsubishi were, heard TTA [redacted] broadcast that a "cell phone hit" was received from the vicinity of two cars coming into the Wal-Mart parking lot on the west side of the Wal-Mart building. SA [redacted] heard A/SSA [redacted] broadcast that the kidnaper's vehicle was driving behind him [A/SSA [redacted] and then SA [redacted] recalled hearing A/SSA [redacted] give the order to "execute, execute, execute." SA [redacted] knew A/SSA [redacted] was positioned in the southwest corner area of the

b6
b7C

b6
b7C

Wal-Mart parking lot, but could not see him. SA [redacted] driver of the vehicle SA [redacted] was a passenger in, drove south through the parking lot. SA [redacted] saw A/SSA [redacted] Chevrolet Suburban bump into the Mitsubishi and also saw a Blazer drive off.

SA [redacted] saw the driver of the Mitsubishi, Subject [redacted] get out of the Mitsubishi and start running eastbound through the parking lot in front of SAs [redacted] and [redacted] SA [redacted] left his position in the Bureau vehicle and began chasing Subject [redacted] through the parking lot at about a 90 degree angle to the path of fleeing Subject [redacted]. SA [redacted] could see A/SSA [redacted] running behind Subject [redacted] SA [redacted] was yelling arrest commands to Subject [redacted] as were other agents believed to be A/SSA [redacted] and SA [redacted] SA [redacted] ran from within a row of parked cars and saw Subject [redacted] attempting to get into the passenger side of a black Ford Mustang automobile. SA [redacted] was yelling "FBI, get down" at Subject [redacted] who looked directly at SA [redacted] and got into the Mustang. In his Signed Sworn Statement (SSS) SA [redacted] stated that he was one aisle length away (about 15 feet) when the Mustang began to move west right toward him. The Mustang was not turning and he believed the driver intended to run him down. He stated that he was face to face with the driver of the Mustang and that he feared for his life. As the Mustang drove toward SA [redacted] SA [redacted] began firing. Certain views of the recorded event depict the Mustang driving toward SA [redacted] SA [redacted] did not recall looking at the sights of his MP-5 [H&K, MP-5, 10mm shoulder weapon] and was deliberately holding the muzzle low to avoid hitting any of the customers in the parking lot. In his SSS he further stated that he initially fired four rounds with the intent of hitting the driver and, although he was not shooting at the tires, he recalled seeing a bullet strike on one of the front tires. Further contained in SA [redacted] SSS was that after he fired the first four rounds the Mustang began to turn south. SA [redacted] feared for the safety of the Agents coming in from his right, as the Mustang was now in a position to run them down. SA [redacted] ran around the rear of the Mustang and continued to fire his MP-5. SA [redacted] stated that all of his shots were taken with the intent to hit the driver [of the Mustang]. SA [redacted] stated that he could not see clearly through the driver or passenger side Mustang windows due to the dark tinting. SA [redacted] saw a bullet hit the driver side of the Mustang in the vicinity of the gas tank near the rear tire.

b6
b7C

At this point, SA [redacted] heard other gunfire from A/SSA [redacted] SA [redacted] stated in his SSS that he believed the Mustang posed a threat to A/SSA [redacted] because the driver still had both hands firmly on the steering wheel and was driving directly toward him [A/SSA [redacted]]. SA [redacted] stopped firing because A/SSA [redacted] was now in his line of fire.

b6
b7C

A/SSA [redacted] while chasing Subject [redacted] a distance of approximately 188 yards through a congested parking lot, noted that Subject [redacted] appeared to be headed toward a black Ford Mustang. A/SSA [redacted] saw Subject [redacted] for several seconds attempt to enter the passenger door of a stopped Mustang. Once Subject [redacted] got into the Mustang, the car

started off at a "a high rate of speed" in a westerly direction. A/SSA [redacted] heard gunfire and saw SA [redacted] come into his line of sight. As A/SSA [redacted] emerged from a row of parked cars he saw the Mustang turning down the parking aisle towards him [A/SSA [redacted]. A/SSA [redacted] estimated the speed of the Mustang as between 15 and 20 miles per hour. From a forward position not directly in front of the approaching Mustang, A/SSA [redacted] saw the right front passenger, Subject [redacted] through the Mustang's windshield with his hands up. The Mustang's driver, identified as Gerardo Torres, aka Gerardo Diaz, [hereafter Subject Diaz], had both hands on the steering wheel and A/SSA [redacted] recalled that Subject Diaz was looking directly at him and turned the Mustang directly towards A/SSA [redacted]. In his SSS, A/SSA [redacted] stated that he felt that he [Subject Diaz] was going to try and run him over and that he was trying to kill or injure him by running him over. A/SSA [redacted] fired three shots at close range from his LAR-15 rifle through the windshield striking Subject Diaz three times in the upper right chest, center chest, and lower abdomen. Subject [redacted] was not injured. No other passengers were in the car. The Mustang continued a short distance and bumped into a parked car. A/SSA [redacted] extracted Subject Diaz through the Mustang's open driver's door and administered first aid. Subject Diaz died as a result of his injuries from gunfire from A/SSA [redacted] LAR-15. A/SSA [redacted] received a cut to a hand. It is believed this occurred during the extraction of Subject Diaz from the Mustang.

Contemporaneous with the foot pursuit of Subject [redacted], Subject [redacted] attempted to flee the scene in a 1994 Chevrolet S-10 Blazer, Texas license [redacted]. This was the vehicle which accompanied Subject [redacted] and the grey Mitsubishi to the "money drop" site. This vehicle fled southbound along the west side of the Wal-Mart Building, turned eastbound and continued behind the Wal-Mart at a high rate of speed. Subject [redacted] became involved in a three-car crash at the intersection of Adler Drive and Cockrell Hill Road. RPD officers and SA [redacted] who were following Subject [redacted] as he tried to flee, caught up to Subject [redacted] at the accident scene and arrested him. One loaded, stolen .380 pistol was found on the street at the accident scene, and one loaded 9mm pistol was found in the console of the Blazer. There were no other occupants in the Blazer at the time of the collision.

After questioning of Subject [redacted] Dallas SAs and local officers were able to locate and rescue the kidnaping Victim [redacted] within a house trailer at [redacted] Dallas, Texas. The victim was found in a bathtub bound and hooded. He had been shot twice and beaten. The victim was taken to a local hospital by ambulance. Subject [redacted] was arrested in the house trailer. Subjects [redacted] and [redacted] were arrested trying to leave the area in a vehicle. Among other things seized by investigators were one Ruger .357 magnum revolver, one SKS 7.62 caliber rifle, ammunition [.25, .380. 9mm, .357 magnum calibers], a magazine with 7.62 caliber ammunition, and a machete.

On 07/17/2007, Subjects [redacted]

b6
b7C

[redacted] and [redacted] each pled guilty in U.S. District Court, Northern District of Texas, to one count of conspiracy to commit kidnaping, one count of kidnaping, one count of using interstate communication facilities to demand ransom, and one count of using, carrying, and brandishing a firearm during or in relation to a crime of violence. On 8/07/2007, Subject [redacted] pled guilty to misprision of a felony. b6 b7C

Subsequent analysis revealed that the R-front tire and wheel of the Mustang appeared to have been impacted twice by projectiles. FBI laboratory determined that specimen Q5, "Bullet from inside passenger side front wheel (1B22, E038621244, Item 5)" was fired from Item K-4, 10mm, Auto Heckler & Koch rifle, Model MP5/10, Serial Number 68-2726), the MP-5 carried by SA [redacted] The source of the second apparent projectile impact was not positively determined.

The left-rear passenger side wheel was determined to have been impacted twice by firearms projectiles. FBI Laboratory Specimen Q8, "Bullet from drivers side rear rim (1B22, E03862124, Item 7)" was a jacketed hollow-point bullet which is consistent in its remaining observable and measurable physical characteristics with the .40 caliber (10mm) family. The projectile was fired from a barrel rifled with six grooves, with a right hand twist. The measurable General Rifling Characteristics (GRC) for this projectile were like those of the MP-5 carried by SA [redacted] but could not be identified as having come from that weapon. Projectiles from the MP-5 carried by SA [redacted] were not found either inside of the Mustang or its driver.

Laboratory Specimen Q43, "Bullet removed from red Ford Escort (1B12,E03862115, Item 17)" was determined to have been fired from the MP-5 carried by SA [redacted] Specimen Q42, "Bullet removed from red Ford Escort (1B12,E03862115, Item 1) similar in GRCs to those of the SA [redacted] MP-5 but not identified as having been fired from that weapon. Both of these bullets impacted the Ford Escort at "upward" angles suggesting that these two projectiles ricocheted upward from the pavement prior to striking the rear bumper and trunk lid of the Ford Escort. The Ford Escort was diagonally parked forward of the Mustang in the parking aisle down which the Mustang was headed at the time of the shooting. Other 10mm projectile specimens submitted for analyses were not positively identified as having been fired from the MP-5 carried by SA [redacted] b6 b7C

The Dallas County Institute of Forensic Sciences Post Mortem Examination (Autopsy) was conducted on 05/06/2007 for Subject Diaz. Three rifle projectiles, now identified as FBI Laboratory Specimens Q1, Bullet from "Left Chest Wall #2" (1B18, E03862120, Item 2), Q2, Bullet from "Left Abdominal Wall #1" (1B18, E03862120, Item 1), and Q3, Bullet from "Soft Tissue, pelvis #3"(1B18, E03862120, Item 3), were recovered and removed from Subject Diaz's body by Dallas County Deputy Chief Medical Examiner [redacted] M.D. No other firearms projectiles were found in Subject Diaz. All three of these projectiles were identified by the FBI Laboratory as having been fired by Item K3, .223 Remington caliber Rock River Arms rifle, Model LAR-15,

Serial Number CM 36332, the rifle carried by A/SSA [redacted] The cause of death was attributed to multiple gunshot wounds.

In addition to the entry wounds caused by Q1, Q2, and Q3, the autopsy report notes "Gunshot Wound #5". This injury was articulated as, "...a gunshot wound of entrance of the left forearm, located 4 inches above the wrist and 1-1/4 inches to the right of midline when the arm is in anatomic position. The entrance wound measures 3/4 inch in greatest dimension. Noted surrounding and below this wound are multiple abrasions and an exit defect. This exit defect is present 1 inch above the wrist and measures ½ inch in greatest dimension. Inasmuch as all three bullets fired by A/SSA [redacted] were recovered in areas consistent with the known position of the shooter (A/SSA [redacted] and the seated position of Subject Diaz, coupled with the identified entry point of "Gunshot Wound #5" being inconsistent with the shooting position of A/SSA [redacted] it is suggested that the L-forearm gunshot injury identified during autopsy as "Gunshot Wound #5" originated from SA [redacted] MP-5. A corresponding projectile for this wound was not recovered. It is noted that SA [redacted] did fire his MP-5 from a position behind the driver. From this position, a projectile fired from SA [redacted] MP-5 could have caused "Gunshot Wound #5" which took a path in an "elbow toward wrist" direction in Subject Diaz's L-forearm.

The autopsy report further noted two "Blunt Force Injuries" articulated as follows: "The right side of the chest shows two horizontally oriented abrasions that measure 1-1/2 inches and 1 inch respectively." Photographs of these wounds were examined extensively as were the corresponding damage to FBI Laboratory Specimen Q149, "Shirt form subject GERARDO DIAZ-RUIZ (1B18, E03862141, Item 7)." The Laboratory found lead residues which are consistent with the passage of a bullet around the perimeter of the hole in the shirt (Q149) which corresponded to the "upper hole" and the 1-1/2 inch abrasion. Based on the recovery of projectiles fired by A/SSA [redacted] as stated above, and absent any other known source of force which would cause this type of deposit of lead laterally on the shirt and trauma of this type to Subject Diaz's R-chest area, it is suggested that these "Blunt Force Injuries" could have been caused by projectiles fired from the MP-5 carried by SA [redacted] Corresponding firearms projectiles, secondary projectiles or debris capable of causing these "Blunt Force Injuries" were not identified.

b6
b7C

As noted on the video recorded account of the shooting, the opportunity for the "Blunt Force Injuries" to have been caused by projectiles from the MP-5 was as SA [redacted] moved from the R-front passenger side toward the rear of the Mustang and the Mustang turned to the left causing the passenger door to swing open. In his SSS, SA [redacted] stated that he could not see clearly through the driver or passenger side Mustang widows due to the dark tinting. It is submitted that SA [redacted] fired through the Mustang's passenger door opening as the door swung open during the left turn. Window glass on the passenger side was not broken and the passenger window was up. These shots possibly caused the "Blunt Force Injuries" grazing Subject Diaz twice along the R-

chest. Regarding SA [redacted] statement of not being able to see in through the driver's window because of the tint, yet able to see Subject Diaz's hands high on the steering wheel when Subject Diaz drove at A/SSA [redacted] it is submitted that SA [redacted] saw this through an approximate eight inch space caused by the driver's window being approximately half way open (down) when SA [redacted] stood to the rear-side area of the Mustang. Upon examination, the driver's window was determined to have been approximately half open at the time of the shooting. The driver's window was also determined to have been broken at some point prior to A/SSA [redacted] extracting Subject Diaz from the driver's seat area of the Mustang. Neither the FBI Laboratory analyses nor interview could establish definitively how and when this window was broken.

b6
b7C

Four separate areas of notable trauma were identified within the autopsy report as "Puncture Wounds." All four appear in the upper chest area and measure 3/8 to ½ inch in their greatest dimension and between 1/4 and ½ inch in depth. As of this writing, the source of these trauma points are not known. No foreign objects were found within these wounds.

In his SSS, A/SSA [redacted] stated that he saw through the windshield that the passenger [Subject [redacted] had his hands up. The driver had both hands high on the steering wheel and was looking directly at A/SSA [redacted]. As the Mustang continued forward the driver turned the Mustang towards A/SSA [redacted] and A/SSA [redacted] felt that he [Subject Diaz] was going to try and run A/SSA [redacted] over. A/SSA [redacted] believed the driver was clearly trying to kill or injure him by running him over and that he was in fear of his life. As noted on the video account of the shooting, the Mustang is shown to veer toward A/SSA [redacted] prior to A/SSA [redacted] firing his LAR-15 at Subject Diaz. A/SSA [redacted] did not recall if the Mustang struck him, but realized the next day that his left knee was sore and that the Mustang may have hit him.

b6
b7C

During interview, Subject [redacted] [R-front passenger in the Mustang] stated after being admonished of his Miranda Rights, he entered the Mustang and that Gerardo [Subject Diaz] attempted to drive away in order to escape the area. Subject [redacted] also advised that as Subject Diaz was driving away, and as Subject [redacted] saw all of the FBI Agents with guns ordering them to stop, Subject [redacted] told Subject Diaz to stop or they [FBI Agents] were going to shoot them. Subject [redacted] continued by stating that Subject Diaz pointed the vehicle in the direction of an FBI Agent, who Subject [redacted] described as being tall, white, and with blonde hair, and continued driving. A/SSA [redacted] fits this description. In his statement, Subject [redacted] stated that the Mustang was going to hit the FBI Agent and the FBI Agent had to fire his gun to defend himself. Subject [redacted] further advised that he would have done the same thing himself had he been in the FBI Agent's position.

# 2007

Savage-2027

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/27/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L.
Clemens Michael [redacted]

**Drafted By:** [redacted] :lrr

b2
b6
b7C

**Case ID #:** 297-HQ-A1271286-D

**Title:** SHOOTING INCIDENT
CINCINNATI DIVISION
04/26/2007

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/26/2007, involving Special Agent (SA [redacted]. While participating in the attempted installation of a Global Positioning Satellite (GPS) tracking device, SA [redacted] fired one round from his Bureau-issued Glock Model 27, .40 caliber pistol, killing an individual who was brandishing a weapon at him. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Chief Inspector [redacted] dated 07/24/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

While conducting an investigation into a drug organization suspected of being the largest black tar heroin distributor in the Cincinnati, Ohio, area, approval was obtained to install two GPS tracking devices on two vehicles belonging to

Gerald Mulato. Installation of the GPS tracking devices was scheduled for 04/26/2007.

On 04/26/2007, SAs [redacted] and [redacted] led an operational briefing which included three additional Agents and two Task Force officers (TFOs). Mulato's Mercedes Benz was located in the parking lot approximately 40-50 feet from the building entrance of his apartment complex. Investigation revealed Mulato had a rear, ground-level apartment which was located on the opposite side of the building of the subject vehicle's location. Law enforcement personnel also knew Mulato did not have a window in his apartment to view the vehicle. The plan called for Technically Trained Agent (TTA) [redacted] to conduct the GPS installation, with SA [redacted] serving as his immediate proximity cover Agent. SA [redacted] would be positioned near the subject vehicle during the installation while SA [redacted] would be positioned approximately 25 feet away behind a trash dumpster. SAs [redacted] and [redacted], as well as TFOs [redacted] and [redacted] would be located inside their vehicles and serve as perimeter surveillance/cover.

b6
b7C

At 4:15 a.m., TTA [redacted] SA [redacted] and SA [redacted] were driven to SA [redacted] Chevrolet Suburban. At 4:20 a.m., with all team members in position, the GPS installation team walked from SA [redacted] vehicle to the subject vehicle.

Shortly after TTA [redacted] initiated the GPS installation a person, subsequently identified as [redacted] exited an adjoining apartment building and proceeded to his vehicle in the parking lot where the subject vehicle was located. SA [redacted] radioed the signal "clear," which required TTA [redacted] and his cover team to clear the area. [redacted] noticed the suspicious individuals wearing dark clothing, and believing they were burglarizing a vehicle, called 911 to report suspicious activity before leaving the area.

b6
b7C

In response to the 911 suspicious activity call, an officer of the Forest Park Police Department (FPPD) responded, approached SA [redacted] vehicle, and requested identification. SA [redacted] discretely identified himself and the FPPD officer departed; however, he and his Sergeant remained in the area to render assistance if necessary.

At approximately 4:30 a.m., the installation team resumed their positions. Within several minutes, SA [redacted] observed Mulato coming up the interior apartment building

stairwell toward the front door. SA [redacted] radioed "clear," seconds prior to Mulato throwing open the door to the apartment building. SA [redacted] heard Mulato rack the slide of his weapon and SA [redacted] saw Mulato aggressively exiting the door pointing a silver handgun in the direction of the subject vehicle. At that moment, according to SA [redacted] SA [redacted] said, "he's got a gun." SA [redacted] also recalled someone calling out, "gun." TTA [redacted] was on his back near the subject vehicle and observed Mulato with a pistol. [redacted] grabbed his tech bags and ran past the east side of the dumpster toward SA [redacted] vehicle. b6 b7C

SA [redacted] quickly proceeded to the west side of the dumpster without turning his back fearing Mulato would shoot him in the back. SA [redacted] was located on the west side of the dumpster and observed Mulato in the parking lot moving toward his position as SA [redacted] came around the west side of the dumpster. Seeing Mulato with a gun in his hand with his arm extended straight, and pointing the weapon toward SAs [redacted] and [redacted] SA [redacted] curled further behind the dumpster. Both Agents lost sight of the suspect who was advancing quickly toward the dumpster. SA [redacted] heard Mulato yell, "you trying to steal my shit"; SA [redacted] heard, "you messing with my shit"; and SA [redacted] heard the subject say, "that's my car." SA [redacted] heard, "that's my car, mother fucker, that's my fucking car."

As soon as SA [redacted] had cover behind the dumpster, he called out "police" or "FBI" and to "get your hands up." SA [redacted] heard loud voices but could not determine what was said. He did hear SA [redacted] shout, "drop it" more than once, however, was unsure if it was before or after he heard the single gun shot. SA [redacted] heard voices yelling, "FBI" and "gun." As SA [redacted] was running toward the dumpster, he heard yelling but did not know what was being said. SA [redacted] approached from his cover position and stood between two cars located approximately ten to twelve yards from Mulato, who had his weapon pointed in the direction of the Agents behind the dumpster. SA [redacted] pointed his weapon at Mulato, illuminated him with his flashlight, and called out, "gun" to warn other law enforcement personnel in the area. Mulato responded by pointing his weapon at SA [redacted] who had no cover between himself and the subject. SA [redacted] fired one round, hitting Mulato in the stomach and again yelled, FBI, drop the gun." Mulato immediately fell backward against his vehicle and slid toward the ground, maintaining possession of his weapon until he hit the ground. b6 b7C

SA [redacted] administered chest compressions to Mulato while FPPD Sergeant [redacted] provided a medic bag. A local fireman, a resident in the apartment complex, assisted with cardio pulmonary resuscitation and first aid. Mulato was transported by the Forest Park Fire Department and died en route to the hospital.

On 07/09/2007, Hamilton County Prosecuting Attorney [redacted] provided a declination of prosecution regarding the actions of SA [redacted] On 12/13/2007, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident. b6 b7C

On 05/13/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; [redacted], Chief Inspector, Office of Inspections (OI), INSD; Assistant Section Chief (ASC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel; UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. Inspector [redacted] I, INSD, and Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, non-voting members, were also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271286-D, 06/27/2008

Prior to the discussion of this incident by SIRG members, Chief Inspector [redacted] Inspector-in-Charge of the investigation of the shooting incident, provided an overview of this incident.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Members noted the absence of a written operation plan and emphasized no current policy exists regarding technical installations.

The SIRG recognized installation team members conducted a thorough and complete oral briefing prior to the attempted GPS installation; however, the plan did not include notification to local law enforcement which could have resulted in officer safety issues. This matter will be discussed with the Special Agent in Charge of the Cincinnati Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271286-D, 06/27/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr [redacted] USDOJ
1 - Mr [redacted] Room 3280
1 - Mr [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] Room 7326
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/08/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins
CIRG **Attn:** AD Robert A. Blecksmith

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin
Clemens Michael

b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1270951-D

**Title:** SHOOTING INCIDENT
BALTIMORE DIVISION
03/22/2007

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/22/2007, involving Special Agents (SAs) [redacted] and [redacted] During the execution of a federal search warrant and subsequent nine-hour standoff by the subject, Michael Terry Smith was shot and killed by Agents. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

**Administrative:** Reference report of Inspector-in-Charge [redacted] dated 05/24/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 01/26/2006, the Washington Field Office (WFO) Bank Robbery Coordinator initiated an investigation pertaining to the robbery of the Virginia Commerce Bank in Alexandria, Virginia. The bank was robbed by a white male wearing a suit, fedora hat,

UNCLASSIFIED

black gloves, dark colored trench coat, and was armed with a black semi-automatic gun.

On 02/27/2007, [redacted] provided information to the FBI and United States Capitol Police (USCP) regarding Michael Terry Smith, who threatened her due to a romantic breakup. [redacted] advised law enforcement authorities she believed Smith was involved in bank robberies. According to [redacted] she met Smith on the Internet in June 2006, and began dating him. During the course of their relationship, Smith told her he had previously been arrested on drug charges and served four years on a federal bank robbery conviction. He told [redacted] he wore suits during the bank robberies and was known as the pinstriped bank bandit. Additionally [redacted] advised Smith always had large sums of money and possessed a black semi-automatic gun.

b6
b7C

On 03/06/2007, [redacted] advised WFO SA [redacted] that Smith's threats were escalating and several days earlier said that if he did not kill himself, he would spend most of his time in jail. According to [redacted] Smith said, "I want to go out," referring to suicide. He followed that statement with, "my first thought is to drive up to the (Capitol Hill) barricade and take out as many cops as I can, then kill myself. If not, then somewhere else like Wal-Mart or Target, just to make national news."

The following week, Smith continued to call and send threatening e-mails to [redacted] On 03/15/2007, SA [redacted] learned [redacted] reported to the USCP that Smith's threats toward Capitol Hill were increasing in specificity. Smith planned to give a note to an innocent bystander on Capitol Hill and ask this person to give the note to a USCP officer. The note would state, "the person that is handing you this letter is unaware of its contents and is in no way involved in what is about to happen. I am going to initiate gunfire so that the police will be forced to kill me." Smith also told [redacted] "I am going to give them no choice - that way my mother can collect the insurance money because it will not be suicide. I want to be in a standoff. I want to make sure the media is there. I want everyone to remember that on this day and this year, Michael Smith was at the Capitol and this is where he died."

b6
b7C

Based on Smith's threat, an alert was disseminated throughout the USCP. The USCP also requested an arrest warrant for Smith, however, it was denied.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 09/08/2008

On 03/19/2007, based on information provided by [redacted] the WFO initiated a Conspiracy to Impede or Injure a Federal Officer investigation. SA [redacted] and Detective [redacted] of the USCP met with Assistant United States Attorney (AUSA) [redacted] in Washington. Due to the lack of probable cause for an arrest warrant, a strategy was developed to search Smith's apartment and car for a weapon, which would then predicate a felon in possession of a weapon charge. AUSA [redacted] contacted AUSA [redacted] in Greenbelt, Maryland, regarding obtaining search warrants for Smith's apartment and vehicle. AUSA [redacted] concurred with the issuance of the search warrants and on 03/20/2007, search warrants were issued for Smith's apartment in Suitland, Maryland, as well as his vehicle which was identified as a 1987 Lincoln Town Car. b6 b7C

On 03/20/2007, SA [redacted] prepared an operation plan for the search and submitted it for approval. Discussions with the WFO Acting Assistant Special Agent in Charge (A/ASAC) and Baltimore ASAC Kevin Lewis, led to the decision that the Baltimore Special Weapons and Tactics (SWAT) Team would serve the warrant with WFO Agents conducting the search.

During a pre-operational intelligence debrief on 03/21/2007, [redacted] advised SA [redacted] that Smith would be agitated if the police came to his door. Additionally, Smith sent [redacted] two e-mails on the same day making increasing threats.

At 4:00 p.m., on 03/21/2007, a briefing regarding the execution of the search warrant was held at WFO, with representatives from the USCP. All personnel were provided a copy of the approved operation plan. During the briefing, information was provided pertaining to the background of the investigation, Smith's criminal history, a possible "Armed and Dangerous" status, the deadly force policy, and a contingency plan to obtain a Maryland state arrest warrant prior to the search warrants for the recent e-mail threats. b6 b7C

On 03/21/2007, SA [redacted] telephonically spoke with SA [redacted], Senior Team Leader of the Baltimore SWAT Team, and briefed him regarding the investigation. SA [redacted] inquired as to why a "no knock" search warrant was not obtained and SA [redacted] explained that an attempt was made to obtain one; however, the request was denied by the United States Attorney's Office in Washington. A copy of the operation plan was provided to SA [redacted] who advised SA [redacted] the Baltimore SWAT Team would complete a separate SWAT operation plan to execute the

search warrant. The plan called for WFO personnel to conduct the search of Smith's vehicle and residence after being secured by the Baltimore SWAT Team.

On 03/22/2007, at approximately 5:00 a.m., Baltimore personnel arrived at the Maryland State Police (MSP) barracks in Suitland to conduct a pre-operation briefing. SA [redacted] provided floor plans, color copies of the apartment complex and a photograph of Smith. SA [redacted] briefed the written operation plan and sequence of events, as well as the FBI deadly force policy. The entry team conducted a simulated walk-thru of the entry. SA [redacted] conducted a briefing of the MSP medic assigned to the SWAT Team, a "sound-off" radio check for the Tactical Operations Center (TOC), and confirmed the TOC, which was located in a SWAT Suburban parked south of the entrance door of Smith's apartment building, was in place prior to the SWAT deployment to the scene. The team was advised of the "knock and announce" requirement and that if, after a reasonable time Smith failed to answer the door, the SWAT team would deploy the battering ram to gain entry into the apartment. SA [redacted] told team members if shots were fired, the team would fall back to a secure position on the landing below the apartment door.

b6
b7C

The rear perimeter team consisted of three Baltimore Division non-SWAT operators with an average of two years field experience. They took positions in the rear of the complex, 40 yards across the parking lot from the rear windows of the subject's third floor apartment. The perimeter Agents were positioned behind vehicles with approximately fifteen to twenty yards between them.

At 6:05 a.m., the SWAT team staged on the open air landing outside of Smith's third floor apartment door where a "knock and announce" was performed three times. After the third "knock and announce", SA [redacted] gave the command to deploy the ram. The first four members of the entry team entered the apartment while continuously identifying themselves as 'FBI, serving a search warrant.'

b6
b7C

Upon entering the completely dark apartment, SA [redacted] switched on his ballistic shield light as well as the light located on his handgun. SA [redacted] moved into the living room and stopped when he saw a hand, holding a large silver revolver, protruding from the hallway into the living room. The subject fired three rounds toward the SWAT team. SA [redacted] estimated the location of the subject's body behind the wall, and fired four rounds from his Glock Model 22, .40 caliber pistol into the wall.

The arm and revolver disappeared from view and SA [redacted] ordered the entry team to pull back while he called out "shots fired" over the radio. b6 b7C

The SWAT team moved out of Smith's apartment and down the stairs to the second floor landing of the apartment building. While on the landing three Agents yelled up to the third floor apartment in an attempt to determine if Smith was hurt.

When the shooting began inside the apartment, Baltimore ASAC Frank Goetz, the on-scene commander during the initial entry, requested three WFO Agents to respond to the rear of the building and assist the rear perimeter team already in place. He also requested assistance from the Maryland State Police (MSP) and the Prince George's County Police Department (PGCPD). ASAC Goetz requested that the PGCPD provide an armored vehicle to safely retrieve the Agents on the rear perimeter. The PGCPD offered to provide an armored vehicle if they took over the entire scene, however, the offer was declined. The Montgomery County Police (MCP) was contacted and agreed to assist with an armored personnel carrier. A request was also made for additional resources from the WFO SWAT team.

At 6:10 a.m., the rear perimeter team called out on the radio that the subject was attempting to exit the apartment from his balcony. It was subsequently determined Smith was attempting to exit through the bedroom window. When the perimeter team called for the subject to halt, Smith swung his arm around toward them as if he had a weapon. The Baltimore perimeter team took cover and lost visual contact of the suspect. SA [redacted] sent three SWAT Agents to the rear of the apartment building where they were focusing on the balcony where the subject was last seen. While covering the balcony, SA [redacted] observed a white male pull out the screen in the subject's apartment. SA [redacted] visually identified the white male as Smith, who then immediately fired two shots at the SWAT operators. SA [redacted] fired two shots from his Glock Model 21, .45 caliber pistol and SA [redacted] fired one round from his Colt Model M-4 carbine. SAs [redacted] and [redacted] maintained their positions for approximately five minutes and SA [redacted] provided cover for SAs [redacted] and [redacted] as they moved perpendicularly across the parking lot to assume positions next to the perimeter team. b6 b7C

The three Agents located on the second floor apartment landing maintained their positions behind the ballistic shield. One Agent continued to yell up to the apartment in an attempt to

talk the subject out of the apartment. Telephone calls were repeatedly made to two cellular numbers belonging to the subject. Calls to one number went directly to voice mail while calls to the second number were answered by a recording indicating the subscriber could not be located.

At 8:45 a.m., the MCP SWAT team arrived with the armored vehicle and retrieved the Agents on the rear perimeter replacing them with SWAT operators.

At 9:00 a.m., the subject responded to SA [redacted] stating he would speak "face to face", and "come on up, we'll talk." The subject was adamant he was not coming out but the negotiators could come in. SA [redacted] advised the subject negotiators would not be able to talk to him face to face for safety reasons resulting in the subject becoming unresponsive.

b6
b7C

During this time, the MSP SWAT team arrived and set up a sniper position in a third floor apartment across the parking lot in the rear of the building which allowed for a view through the rear windows of Smith's apartment. The MSP snipers advised they could not get a view of the subject in the apartment because of closed curtains.

SA [redacted] contacted the apartment complex management supervisor to determine the layout of the apartment building and if it was possible for Smith to get into the attic or crawl space and enter another apartment. The building engineer indicated Smith could get into the crawl space of other apartments on that level, however, he would not have access to connecting apartment buildings. Law enforcement officers evacuated residents through windows of adjoining apartments. SWAT Agents were placed in the apartments located directly across and diagonally from the Smith's apartment on the third floor in order to cover his front door.

At 9:37 a.m., Smith threw his wallet, keys, and a note onto the landing. The note instructed the Agents to give the keys to his vehicle to his mother and indicated he was ready to die. Negotiators continued a one-way dialogue with Smith.

b6
b7C

Throughout the next several hours, SWAT operators were rotating in and out of positions and hostage negotiator SA [redacted] arrived on the scene. According to SA [redacted] the subject became more responsive although distance hampered communications. Smith told Agents he had flushed his cell phone down the toilet.

At 10:56 a.m., Baltimore SAC William Chase approved the insertion of a "rescue telephone" to enhance communications with Smith. Due to the Baltimore Division rescue telephone being damaged a week earlier, WFO's rescue phone was used which was a different model and had never been used by the Baltimore negotiators. The telephone was equipped with covert audio and video surveillance capabilities. WFO Electronic Technician (ET) [redacted] was newly assigned to support the equipment and had not yet been trained on the operation and maintenance of the rescue telephone. At 11:33 a.m., the rescue telephone was positioned outside of Smith's apartment door. At 11:45 a.m., Smith reached out, pulled the telephone inside the apartment, and immediately picked up the telephone receiver and began speaking with SA [redacted] SA [redacted] was serving as the negotiator's liaison in the TOC and maintained notes and a "telephone log" regarding the negotiations over the rescue telephone. SA [redacted] began audio recording what he thought was the conversation between SA [redacted] and Smith through the auxiliary hostage negotiator console. ET [redacted] had connected the recording device into the microphone connection on the video monitor and neither ET [redacted] or SA [redacted] were aware the recording device was only capturing low level apartment noise and not the negotiator's conversation with Smith.

b6
b7C

Smith spoke continuously with SA [redacted] for approximately one hour and told her he wanted to die. He told SA [redacted] he was wearing a suit so he could be a good looking corpse. Smith stated he returned fire when the cops came in and shot at him, his death would be [redacted] fault, he did not get to go to church to repent his sins, and that he had thought about taking sleeping pills but he wanted to go out in a blaze of glory. He stated repeatedly he would not go to prison or to a nut house. SA [redacted] did not believe she was able to develop a rapport with Smith and believed he had made up his mind he would be killed during the barricade situation. The video feed from the rescue telephone showed Smith sitting in a chair with his weapon pointed towards the door, waiting for the FBI to enter the apartment. At this point, the phone call with Smith ended and a decision was made to conduct an assessment.

b6
b7C

SA [redacted] rewound the audio tape to listen to the recorded conversation but couldn't hear anything. ET [redacted] disconnected the recording device from the viewing monitor and connected the recording device to another port on the remote auxiliary console in the TOC, which was later determined to be the covert audio microphone outlet.

At 1:45 p.m., WFO SA [redacted], became the lead negotiator and initiated contact Smith through the rescue telephone. During this conversation, Smith advised he fired two shots when cops entered the apartment because he thought he was being robbed. Smith stated the only way for this to end would be for the police to come in and kill him, as a payback to [redacted] for ending their relationship. Smith also stated he had previously served four and a half years in prison, and he was too old to go back to prison. Smith asked the FBI to contact his mother so she could come and get his car after his death.

At 2:00 p.m., SAC Chase requested a final assessment from SA [redacted] on the status of the negotiations and the likelihood that Smith would surrender. SA [redacted] indicated the subject was very skeptical and was not going to surrender. SA [redacted] indicated Smith was not going to commit suicide, he wanted a violent confrontation with the FBI, and wanted the FBI to kill him.

b6
b7C

[redacted]

b7E

At 2:49 p.m., SAC Chase gave approval to initiate Phase One of the plan and the utilities to Smith's apartment were terminated. Negotiators indicated Phase One did not affect the subject and Smith stated there was no way he was ever coming out, they would have to come in and kill him, and he had made peace and was ready.

At 3:15 p.m., SAC Chase authorized SWAT to deploy the tear gas. A grenade launcher was used to shoot five rounds of gas into Smith's apartment. Four rounds went into the bedroom and one round went into the utility closet off of the balcony. Upon insertion of the first two volleys of gas, an eye-ball camera was discretely inserted by a pole through the partially open apartment front door into the living room. Smith noticed the eye-camera and fired two shots. Seventeen gas canisters were fired into the apartment with no reaction shown by Smith.

At approximately 3:30 p.m., Smith, who was angry about the gas and the "camera" in his door, was on the telephone with SA [redacted] Smith was screaming for the cops to come in and kill him and he was ready to die. Smith went from being very agitated to calmly sitting in a chair near the kitchen with a cloth over his face pointing a gun at the front door and showing no indication of coming out.

Based upon the shots fired by Smith, the lack of effect of the gas upon him, and reports that he placed himself into an offensive position near the kitchen, pointing his gun at the door waiting for a SWAT entry, [redacted] b6 b7C b7E

[redacted] were a hole in the bedroom closet and a hole in the bathroom wall. [redacted]

Utilizing the partially disabled eye-ball camera and the rescue telephone video feed, Agents observed Smith with a revolver in his hand running from near the kitchen into the hallway before losing visual contact. SA [redacted] through his limited port hole in the bathroom, saw Smith coming toward him from the hallway. Smith had his .357 revolver in his hand above his waist in front of him. SA [redacted] yelled out, "FBI, get down," but Smith completely disregarded his command and continued toward SA [redacted] SA [redacted] was only protected by the concealment of dry wall, and fearing for his life, fired four rounds from his MP-5. Two rounds hit Smith in the chest and one round caused a deep graze wound in the back of Smith's head as he dropped to the floor from the first two shots. After ensuring Smith was secured, SA [redacted] called the medics to provide assistance. b6 b7C

Although four Agents fired their weapons during the incident, investigation determined only the rounds fired by SA [redacted] struck Smith who died on the scene.

On 06/10/2008,a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of the Agents involved in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 09/08/2008

On 08/19/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Gang Squad, USDOJ; Section Chief (SC) Robert Anderson, Jr., CD-4, Counterespionage Section, Counterintelligence Division; SC Thomas A. Nunemaker, Violent Crimes Section, Criminal Investigative Division (CID); Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; Acting UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] CR-2, Washington Field Office. Management Program Analyst [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against the four Agents as a result of their involvement in this shooting incident. b6 b7C

The next area of discussion pertained to the lack of FBI policy regarding the use of local and state law enforcement explosive breaching techniques in joint FBI investigations. The CIRG representative agreed that standard operating procedures are needed for these situations; however, emphasized that explosives are available for use if contact is made with the Hostage Rescue Team. Emphasis was placed on the fact that the FBI is not thoroughly knowledgeable of the capabilities of state and local

authorities nor the frequency and types of training received at the state and local levels. The CIRG representative advised that although the current CIRG position is not to use state and local explosive techniques, SACs have the authority to dictate their use which occurred during this incident. This discussion led to the recommendation that the CIRG develop and promulgate policy regarding the use of local and state SWAT team explosive breaching techniques on FBI operations.

The last area of discussion by the SIRG centered around the use of the rescue phone by on-scene personnel. It was noted by the Shooting Incident Review Team that the hostage negotiation component violated standard protocols by not making two audio tapes of the hostage negotiations from the rescue telephone. The rescue telephone console was deployed without any recorders resulting in the use of a handheld recorder from an Agent's vehicle to attempt to make one recording. The Baltimore rescue telephone was damaged one week prior to this incident resulting in personnel using the WFO rescue telephone during the operation. The lack of knowledge by on-scene personnel regarding the proper operation of the telephone led to the missed opportunity of deploying the covert microphone. Hostage negotiators from Baltimore and the WFO were unable to determine how the covert microphone on the rescue telephone worked resulting in the technique not being deployed. It was also noted by SIRG members that the hostage negotiators did not have the capabilities of recording the video feed from the rescue phone. This discussion resulted in the recommendation that standard operating procedures be promulgated to all offices regarding the use and capabilities of rescue telephones.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 09/08/2008

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

Set Lead 2: (Action)

CIRG

AT QUANTICO, VA

That AD, CIRG establish and promulgate policy to all field offices regarding the use of local and state SWAT team explosive breaching techniques on FBI operations.

Set Lead 3: (Action)

CIRG

AT QUANTICO, VA

That AD, CIRG ensure standard operating procedures are emphasized and promulgated to all offices regarding the use and capabilities of rescue telephone equipment.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 09/08/2008

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Anderson, Room 4825
1 - Mr. Nunemaker, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted], WFO
1 - Mrs. [redacted], Room 3043

b6
b7C

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 03/19/2009

To: Inspection Attn: AD Kevin L. Perkins

From: Inspection
Office of Inspections
Contact: [redacted]

Approved By: Perkins Kevin L
Clemens Michael
[redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271905-D

Title: SHOOTING INCIDENT
SACRAMENTO DIVISION
03/15/2007

b2
b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/15/2007, involving Special Agent (SA) [redacted]. While pursuing a fleeing subject in possession of a handgun, SA [redacted] fired three rounds from his Bureau-issued Springfield, Model 1911A1, .45 caliber pistol, injuring the subject's left thigh. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 07/23/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

b6
b7C
b7D

On 02/26/2007, [redacted] contacted local law enforcement and advised a subject known only as [redacted] was living in a Fresno, California, neighborhood and was distributing large quantities of methamphetamine.

[redacted]

UNCLASSIFIED

To: Inspection From: Inspection
Re: 297-HQ-A1271905-D, 03/19/2009

[redacted]

b6
b7C
b7D

In anticipation of a buy/bust operation planned for 03/15/2007, [redacted]

On 03/15/2007, members of the FMTF created an operations plan [redacted] which was to take place in a Burger King parking lot. [redacted] was equipped with an electronic listening device prior to receiving a telephone call from [redacted] advising he was on his way to the designated location. Unaware he failed to hang up the phone, [redacted] was overheard by [redacted] talking to two unknown males saying he wanted to "rip" [redacted]. The two unknown subjects and [redacted] were overheard saying they would "rip" [redacted] when they arrived at the parking lot.

[redacted] notified law enforcement personnel of the information which was relayed to the On-Scene Commander. Instructions were given to remove [redacted] from the parking lot and place him into a law enforcement vehicle. The arrest/surveillance teams were instructed to stay in the parking lot to effect the arrest of [redacted] and any additional subjects involved in the plan to "rip" [redacted] of his money.

A black Ford Explorer, with [redacted] identified as the driver, was observed traveling through the parking lot several times before being parked. Task Force Sergeant [redacted] gave the bust signal and pulled his unmarked vehicle directly behind the parked Explorer. As the arrest team exited their vehicle, [redacted] immediately complied with law enforcement commands and was taken into custody without incident. The passenger of the subject vehicle, subsequently identified as [redacted] exited and began running with SA [redacted] in foot pursuit. SA [redacted] identified himself as law enforcement and ordered [redacted] to stop, however, [redacted] failed to comply with the command. Detective [redacted] paralleled the foot chase in his unmarked police vehicle and turned into the path of the subject in an effort to block his path. As Detective [redacted] pulled in front of the subject, [redacted] ran into the side of the police vehicle. Believing the subject had been knocked down, Detective [redacted] exited his vehicle and realized the subject had spun around and continued running. Detective [redacted] heard shots

b6
b7C
b7D

fired and observed SA [redacted] behind his vehicle and the subject escaping through bushes.

According to SA [redacted] he saw the subject clutching the waistband of his pants with his right hand while running. After [redacted] escape path was cut off by Detective [redacted] vehicle, he made eye contact with SA [redacted] SA [redacted] saw a silver semiautomatic handgun pointed outward in a ready-to-shoot position. Fearing for his safety, SA [redacted] stopped running, obtained the shooting stance, and fired one round at the subject. The fleeing subject ran behind Detective [redacted] vehicle approaching the edge of an embankment. Fearing the subject would take cover and fire at law enforcement personnel, SA [redacted] fired two additional rounds before the subject disappeared into the bushes.

The Fresno Police Department Special Weapons and Tactics team, as well as a Police K-9, was activated and deployed to apprehend the subject. Following a struggle with the K-9, [redacted] was subsequently arrested and transported to the University Medical Center for treatment of numerous lacerations and puncture wounds on his left arm and a gunshot wound to his outer left mid thigh.

On 09/16/2008, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

01/30/2009, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Attorney, Criminal Division, USDOJ; Chief Inspector [redacted], Office of Inspections (OI), INSD; Section Chief (SC) Jill Marie Eulitz, CD-1, Eurasian Section, Counterintelligence Division; A/SC [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Practical Applications Unit, TD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Investigative Law Unit, Office of General Counsel; SSA [redacted] Evidence Response Team Unit, Laboratory Division; and SSA [redacted], CR-2, Washington Field Office. UC [redacted]

b6
b7C

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271905-D, 03/19/2009

[redacted] Inspection Management Unit (IMU), OI, INSD, and Management Program Analyst [redacted] IMU, OI, INSD, non-voting members, were also in attendance.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271905-D, 03/19/2009

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Anderson, Room 4825
(Attention: Ms. Eulitz)
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 06-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 03/24/2008

To: Inspection Attn: AD Kevin L. Perkins

From: Inspection
Office of Inspections
Contact: [redacted] Extension 4-1837

Approved By: Perkins Kevin
Clemens Michael

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271895-D

Title: SHOOTING INCIDENT
PHILADELPHIA DIVISION
03/15/2007

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/15/2007, involving Special Agent (SA) [redacted]. During an attempted arrest, SA [redacted] fired one round from his Bureau-issued Glock Model 22, .40 caliber pistol, killing a subject who made a furtive movement toward his waistband as he was fleeing from the scene of an attempted robbery [redacted] SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector [redacted] dated 05/07/2007.

b6
b7C
b7D

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 03/15/2007, Agents of the Philadelphia Division participated in an undercover buy/walk operation with the Philadelphia Police Department (PPD), Narcotics Field Unit (NFU). The operation was one in a series of operations routinely supported by Agents assigned to Squad 3, a Safe Streets Task Force (SSTF). As part of the initiative, Squad 3 personnel were designated to work with specific teams within the PPD, NFU.

Although no written operations plan was prepared for the operation, SAs [redacted] and [redacted], as well as members of the PPD-NFU, attended a briefing on 03/15/2007, at the

PPD-NFU offsite to discuss a buy/walk operation involving a [redacted] The operation called for [redacted] to purchase two ounces of cocaine, a Beretta 9 millimeter semi-automatic pistol with a fully loaded magazine and one round in the chamber, and be "fronted" an additional ounce of cocaine by a subject identified as [redacted]

As the briefing concluded, SA [redacted] telephonically advised her supervisor of the intended plan, and SAs [redacted] and [redacted], as well as Sergeant [redacted] met [redacted] Sergeant [redacted] briefed [redacted] and searched him while SAs [redacted] and [redacted] searched his vehicle. [redacted] voiced his concern several times that the subject possibly intended to rob him because it was very unusual to "front" narcotics to an unknown individual. [redacted] was making from [redacted] law enforcement personnel elected not to use a recorder or transmitting device. [redacted] agreed he would put his hands over his head to signal law enforcement officers if he needed help and was subsequently provided $1,800 to make the purchase.

[redacted] departed the area in his vehicle followed by SA [redacted], SA [redacted] and Sergeant [redacted] in one vehicle, as well as three additional unmarked PPD surveillance units. [redacted] proceeded to the identified meeting area and pulled to the curb to pick up [redacted] who was flagging him down. [redacted] lifted his shirt and exposed his waist indicating he was not carrying a weapon before getting into the front passenger seat of [redacted]'s vehicle. [redacted] pulled away from the curb and drove around the block before parking at the corner of Belgrade and Clearfield Streets. While talking on his cell phone, [redacted] exited and re-entered [redacted] vehicle several times. Upon his final entry into the vehicle, [redacted] drove away and proceeded to Cedar and Ann Streets where subjects Jason Kopp and [redacted] entered the rear passenger seat. [redacted] drove away and again pulled over at the intersection of Cedar and Clearfield Streets. Moments later, surveillance units observed the subjects striking [redacted] in the head with their fists. Believing [redacted] was being beaten and robbed, Sergeant [redacted] instructed the surveillance units to converge on the vehicle to assist [redacted] and arrest the subjects.

Sergeant [redacted] SA [redacted] and SA [redacted] immediately exited their vehicle. SA [redacted] began to yell, "police stop," and continued to yell as he approached [redacted] vehicle. SA [redacted] observed Jason Kopp run toward his direction on the sidewalk near [redacted] vehicle. SA [redacted] ran across the street in an attempt to block Kopp from leaving the scene while continuing to yell, "police stop." SA [redacted] momentarily lost sight of Kopp due to a parked vehicle; however, put himself in a

b6
b7C
b7D

b6
b7C
b7D

firing position in anticipation of coming face-to-face with him. As SA [redacted] came around the corner of the vehicle, he was approximately five feet from Kopp. SA [redacted] again yelled, "police stop." Kopp reached into the area of his waist band retrieving a dark object which SA [redacted] believed was a handgun. While holding the dark object, Kopp thrust his hand in SA [redacted]'s direction. Believing he was in imminent danger of death or serious injury, SA [redacted] fired one shot killing the subject.

According to SA [redacted] she was running behind SA [redacted] and also attempted to cut the subject off from escape. SA [redacted] observed the subject reach for his waist and pull out a black object which she immediately believed was a handgun. She heard a "pop" and saw the subject was hit in the chest. According to SA [redacted] the subject staggered and fell to the sidewalk. Seeing what she believed to be a weapon lying on the sidewalk next to the subject, SA [redacted] proceeded to retrieve the "weapon" and determined the object was a cell phone. b6 b7C

According to Sergeant [redacted] he observed the subject's actions and stated he was preparing to shoot the subject when SA [redacted] shot him.

Medical personnel immediately responded to the scene and determined the subject was deceased.

On 08/02/2007, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 02/15/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Gang Squad, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted], Defensive Systems Unit, TDD; UC [redacted] Indian Country/Special Crimes Unit, Violent Crimes Section, Criminal Investigative Division; UC [redacted] Practical Applications Unit, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of General b6 b7C

Counsel; and SSA [redacted] Gangs/Criminal Enterprise Section, CID. [redacted] Inspector, Office of Inspections (OI), INSD, and Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, non-voting members, were also in attendance.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

The discussion of the incident addressed several areas of concern by SIRG members. The first area pertained to the fact that neither SA [redacted] nor SA [redacted] utilized any type of protective body armor during this incident. According to SA [redacted] he was not wearing any clothing identifying himself as a law enforcement officer, nor was he wearing his bullet protective vest. The operation was intended to be a buy/walk and he did not want to wear any identifying clothing which could reveal his presence in the area. The discussion resulted in one SIRG member asking if the Bureau was providing proper equipment to Agents in the field, i.e., covert protective armor. A TDD representative advised field offices are provided Electronic Communications regarding procedures for obtaining this type of equipment and furthermore, if a request is made, the equipment is provided. The SIRG Chairman advised this topic would be included for discussion at the scheduled conference for all Special Agents in Charge (SACs).

The second area of discussion centered around the lack of a pre-approved Operations (OPs) plan. The former SAC of the Philadelphia Division advised the Shooting Incident Review Team (SIRT) that although the squad Supervisory Special Agent is informed of every operation, "buy/walk" operations involving limited risks do not have a written OPs plan since most are PPD-NFU operations utilizing PPD-NFU cooperating witnesses and funds.

One TDD representative reiterated that written OPs plans are required if it is a Bureau operation; however, an oral OPs plan is acceptable for a non-Bureau operation. The CIRG representative emphasized there may not have been sufficient time for a detailed, approved OPs plan. Several members opined this operation should not have been considered "low risk" since a loaded gun was part of the operation. These areas of concern will be discussed with the SAC of the Philadelphia Division.

The last comment made pertained to the shooting incident report. The OGC representative noted the report included unnecessary career board notes.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 03/24/2008

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Ms. [redacted], Room 3999
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/05/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted]

**Approved By:** Perkins Kevin L
Clemens Michael
[redacted]

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271292-D

**Title:** SHOOTING INCIDENT
CLEVELAND DIVISION
09/04/2007

b2
b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/04/2007, involving Special Agent (SA) [redacted] During the attempted arrest of a subject wanted for Unlawful Flight to Avoid Prosecution, SA [redacted] fired five rounds from his Bureau-issued Colt .223 rifle, resulting in the injury of the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 09/11/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

The Mahoning Valley Violent Crimes Task Force was seeking to locate and apprehend [redacted] a subject charged with felonious assault by local authorities. The Task Force requested the assistance of the Youngstown Resident Agency (YRA) Safe Streets Task Force (SSTF) in locating and apprehending the subject.

Investigation by the SSTF revealed [redacted] was moving back and forth from Youngstown, Ohio to various locations in the State of Pennsylvania. Subsequently, a federal warrant was issued on 08/29/2007, charging [redacted] with Unlawful Flight to Avoid Prosecution.

On 09/04/2007, investigators learned that [redacted] was supposedly utilizing a particular cellular phone. Technical tracking of the phone was initiated which subsequently determined the phone was located at [redacted] in Youngstown. SA [redacted] utilized available task force personnel to establish a loose perimeter on the location, while he and Task Force Officer (TFO) [redacted] assumed a position providing them with visual surveillance of the location. b6 b7C

At approximately 2:15 p.m., a Toyota Camry left the location and was eventually stopped. The operator of the Camry indicated to law enforcement personnel that the subject [redacted] was probably in a Toyota Camry located behind [redacted]

A plan was formulated and called for a number of TFOs to block any escape through the rear of the residence while the remaining TFOs and SA [redacted] would approach from the front of the residence. The plan had to be communicated via radio and cellular phone to the Task Force members who had spread out to establish the perimeter.

At approximately 2:30 p.m., SA [redacted] instructed participants to move up and the units moved toward the Ohio Street residence. SA [redacted] and TFO [redacted] arrived first and observed the subject in a red/burgundy Toyota Camry behind the residence with the vehicle parked facing away from the residence. He appeared to be talking on a cell phone with the driver's window and front passenger window of the vehicle open. The plan called for SA [redacted] and TFOs [redacted] and [redacted] to block the Camry and effect the arrest of [redacted] b6 b7C

SA [redacted] and TFO [redacted] arrived at the southeast side of the residence before other units. SA [redacted] identified himself as law enforcement and ordered the subject out of the vehicle. [redacted] placed the Camry in reverse and swung the vehicle from its parked position at a high rate of speed, nearly striking SA [redacted] The subject turned the vehicle through an approximately 270 degree arc and stopped, facing SA [redacted] placed the vehicle in drive and quickly accelerated

toward SA [redacted]. Fearing for his safety, SA [redacted] fired five rounds from his Bureau-issued Colt .223 rifle. The subject vehicle continued past SA [redacted] and stopped approximately thirty yards behind him. SA [redacted] and the TFOs removed [redacted] from the vehicle, provided first aid, and called for the Emergency Medical Service. [redacted] was transported to a local hospital where he underwent surgery and was treated for three gunshot wounds to his left arm, one gunshot wound to the right forearm, and a superficial wound to his left leg.

On 10/12/2007, Assistant Mahoning County Prosecutor [redacted] advised he had reviewed the facts of the shooting with local authorities and discussed the matter with the Mahoning County Prosecutor. Mr. [redacted] advised his office was not going to take any action regarding SA [redacted] in this matter. On 12/13/2007, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident. b6 b7C

On 05/13/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; [redacted] Chief Inspector, Office of Inspections (OI), INSD; Assistant Section Chief (ASC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted], Investigative Law Unit, Office of General Counsel; UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. Inspector [redacted] OI, INSD, and Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, non-voting members, were also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 08/05/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 7326
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦

(Rev. 05-01-2008)

UNCLASSIFIED

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 08/01/2008

To: Inspection Attn: AD Kevin L. Perkins

From: Inspection
Office of Inspections
Contact: [redacted]

Approved By: Perkins Kevin
Clemens Michael
[redacted]

b2
b6
b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271464-D

Title: SHOOTING INCIDENT
DALLAS DIVISION
05/05/2007

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/05/2007, involving Special Agent (SA) [redacted] and Acting Supervisory Special Agent (A/SSA) [redacted]. During the attempted arrest of subjects involved in a violent kidnaping, SA [redacted] and A/SSA [redacted] fired multiple shots from their Bureau-issued weapons, resulting in the death of one of the suspects. SIRG members recommended that no administrative action be taken against SA [redacted] and A/SSA [redacted] as a result of their involvement in this shooting incident.

Administrative: Reference report of Inspector [redacted] dated 07/23/2007.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

Just after midnight on 05/05/2007, the Dallas Division switchboard received a telephone call from the Dallas Police Department (DPD) regarding a possible kidnaping matter. Information regarding the matter was telephonically forwarded to

A/SSA [redacted] who was advised that according to the DPD, a call had been received from a Spanish-speaking male in Mexico reporting his brother had been kidnaped.

A/SSA [redacted] telephonically contacted the DPD Communications Center and spoke to a bilingual dispatcher who advised she would translate for A/SSA [redacted] during a three-way patch telephone call to the alleged kidnap victim's brother, [redacted], in Mexico. A/SSA [redacted] subsequently advised Assistant Special Agent in Charge (ASAC) Blaise Mikulewicz of the developments in the case. Both A/SSA [redacted] and ASAC Mikulewicz agreed that the FBI should begin working this as an active kidnaping matter. b6 b7C

A/SSA [redacted] continued speaking with the DPD dispatcher and learned that the kidnap victim's name was [redacted] and the kidnapers were demanding $250,000 or they would kill the victim. A/SSA [redacted] through the DPD dispatcher, asked [redacted] to have the subjects put the victim on the phone as a "proof of life." During a subsequent communication, the subject(s) repeated their demand for $250,000 or an equivalent amount in drugs.

At approximately 1:00 a.m., the dispatcher advised A/SSA [redacted] that the subject(s) did not put the victim on the phone with his brother. The dispatcher further advised that the victim said that [redacted] (victim's brother) should pay the money.

During one of the three-way conversations, A/SSA [redacted] learned that the kidnapers had mentioned Richardson, Texas, a suburb of Dallas. A/SSA [redacted] contacted the Richardson Police Department (RPD) and learned that the department had responded to a possible kidnaping/shooting on 05/04/2007. The RPD advised they were investigating a possible kidnaping; however, the victim's name was unknown. A/SSA [redacted] shared his known information with RPD [redacted] including the victim's name and cellular telephone number. A/SSA [redacted] learned that the RPD had responded to a call where gunfire had been reported coming from a residence, an adult male was seen being forced into a vehicle, and that another shot was heard coming from within the subject vehicle before it slowly left the area. Sergeant [redacted] indicated the RPD needed additional assistance and A/SSA [redacted] offered to send FBI personnel to assist in the kidnaping investigation. Two Agents and one Task Force officer (TFO) were subsequently instructed to respond to the RPD to provide assistance. b6 b7C

During subsequent telephone calls with Sergeant [redacted] A/SSA [redacted] learned that the Drug Enforcement Administration (DEA) possibly had information regarding the kidnaping; however, they would not divulge the information to the RPD due to inadequate clearances by police personnel. A/SSA [redacted] spoke to a DEA Agent and learned the DEA was aware of the kidnaping and that the victim was alive and within one mile of the original kidnaping location in Richardson. The DEA SA characterized his information as "third hand". b6 b7C

A/SSA [redacted] continued to notify ASAC Mikulewicz and obtained his concurrence that the investigation should continue. A/SSA [redacted] called out additional investigative resources and contacted a Northern District of Texas Assistant United States Attorney and briefed her on the investigation. A/SSA [redacted] requested emergency authority to utilize sophisticated investigative techniques targeting the kidnaping victim's telephone.

SA [redacted] who was assisting the RPD, advised A/SSA [redacted] that a money drop might have to be made. With the concurrence of ASAC Mikulewicz, all Dallas Division Criminal Enterprise squad personnel were instructed to respond to the RPD. At approximately 4:00 a.m., A/SSA [redacted] responded to the Dallas office to continue coordinating the investigation. He inserted a TFO in an Undercover Employee (UCE) capacity to act as the kidnaping victim's cousin. This action was coordinated with the victim's brother in Mexico who further advised the subject(s) that the "victim's cousin" in Texas would deal with them. The UCE began speaking directly with the kidnapers via a Nextel telephone using its "push-to-talk" feature.

A/SSA [redacted] with the ASAC's assistance, proceeded to write an Operational Plan (OP). A/SSA [redacted] briefed ASAC Mikulewicz including the fact that the UCE's negotiations had reached a point where the subject(s)' demands were now fixed at $70,000 in cash and three pounds of methamphetamine for the victim's release. b6 b7C

At approximately 6:00 a.m., ASAC Mikulewicz and A/SSA [redacted] telephonically briefed the SAC who concurred with the direction of the investigation as well as the actions taken. ASAC Mikulewicz secured $3,000 from the Dallas Division's safe to prepare a "money drop" package with weights and transmitter, if needed. ASAC Mikulewicz assembled all SA and non-FBI personnel involved in the operation at the Dallas Office. Due to the fast-

moving nature of the operation, the ASAC allowed A/SSA [redacted] to hand write the operations order which was subsequently read and approved by ASAC Mikulewicz.

At 7:00 a.m., ASAC Mikulewicz and A/SSA [redacted] initiated a briefing of all personnel involved with the exception of two Technically Trained Agents (TTAs) who continued to track the telephone used by the subject(s). During the briefing, members of the RPD briefed participants on the background of the case, including the fact the subjects should be considered armed and dangerous; shots had been fired during the abduction of the victim; the subjects repeatedly threatened to kill the victim if the ransom was not paid; and the subjects threatened to kill the UCE if he missed the deadlines set by the subjects. b6 b7C

A/SSA [redacted] followed with a verbal briefing to participants outlining four scenarios. ASAC Mikulewicz further advised the participants if the scenarios involving traffic stops developed, personnel were not to engage in high-speed pursuits. The tracking device placed in the "money drop" package would be relied on to identify the direction of travel and the location of the subject(s)/victim. Precise assignments for personnel were made where possible; however, due to the fluid nature of the multiple-scenario operation, assignments were contingent on the position of team members at the time of arrest or takedown.

ASAC Mikulewicz had team members identify themselves, identify their roles, and brief back their responsibility within the scenarios. Additionally, he had each participant put on the clothing they would be wearing during the operation and emphasized team members should be aware of cross-fire issues, cover, and other safety issues.

At approximately 8:00 a.m., ASAC Mikulewicz, A/SSA [redacted] and SA [redacted] traveled together to an area in Dallas where the TTAs last reported the cellphone signal of interest had been detected. Other Agents and officers deployed to the area as well and conducted an extensive search of a trailer park area where the signal of interest had been emanating. b6 b7C

ASAC Mikulewicz and A/SSA [redacted] collectively decided the "money drop" scenario would be employed. A/SSA [redacted] directed the teams to move to the Wal-Mart located at Interstate 30 and Cockrell Hill Road. This location had been identified by the subject(s) as the location of the "money drop."

At 8:48 a.m., ASAC Mikulewicz telephonically briefed the SAC who concurred with the actions taken. He discussed with the SAC the fact that the UCE would place the drop package in or near the subject(s)' "money drop" vehicle, but not in the trunk due to a concern the tracking signal could be lost. An Agent would be concealed in the UCE's vehicle as a protective cover. The UCE was to clear out of the area after the "money drop" was made and a felony traffic stop would be conducted when the subject(s) attempted to retrieve the package.

At approximately 10:34 a.m., a TTA alerted that the cellular telephone signal of interest was active near the trailer park and that the signal was moving. The TTAs updated operational Agents and officers by radio that the subject(s) were ten minutes away, they were in the parking lot, and that they were behind the Wal-Mart. The UCE also advised A/SSA [redacted] the subject(s) advised the "drop vehicle" was a gray Mitsubishi.

At approximately 11:00 a.m., a TTA advised via Bureau radio that the cellular telephone in contact with the UCE was active behind the Wal-Mart and that the TTAs observed a suspicious vehicle in the area associating with a Chevrolet Blazer. TTA [redacted] subsequently advised he saw a gray Mitsubishi with the Blazer and that both were traveling northbound next to the Wal-Mart. ASAC Mikulewicz looked over his right shoulder and observed a gray Mitsubishi approaching, followed by a Blazer. A/SSA [redacted] provided radio broadcast updates to participants regarding the approaching vehicles. A/SSA [redacted] discussed the matter with ASAC Mikulewicz and both believed it was the right opportunity to move toward the Mitsubishi which was parked three or four parking slots away from their vehicle on the same row. The front of the Mitsubishi was blocked by a civilian vehicle and the Blazer pulled along the left side.

ASAC Mikulewicz gave A/SSA [redacted] authorization to deploy the arrest plan. A/SSA [redacted] radioed the operational team members of the Mitsubishi's location and further advised a felony car stop would be initiated. He also broadcasted the deploy instruction by saying, "execute, execute, execute." As he issued the execute instruction, A/SSA [redacted] was unaware that a number of the participants did not know where to go when the order was given. A/SSA [redacted] moved his vehicle from its parked position, drove a short distance, and bumped into the Mitsubishi from the rear, blocking it in. A/SSA [redacted] exited his vehicle, identified himself by yelling FBI, and yelled arrest commands in Spanish and English to the driver of the Mitsubishi.

b6
b7C

ASAC Mikulewicz also exited the vehicle and began providing backup for A/SSA [redacted]. The driver of the Mitsubishi, later identified as [redacted] ignored the arrest commands, exited the Mitsubishi and attempted to enter the passenger door of the Blazer. The driver of the Blazer, later identified as [redacted] quickly sped away leaving [redacted] in the parking lot. [redacted] ran eastbound through the parking lot refusing to yield to law enforcement commands and A/SSA [redacted] gave chase through the parking lot while ASAC Mikulewicz observed the fleeing Blazer to determine its direction before joining in the foot pursuit.

SA [redacted] who was positioned northeast of A/SSA [redacted] location, heard TTA [redacted] broadcast that a "cell phone hit" was received from the vicinity of two vehicles coming into the Wal-Mart parking lot on the west side of the building. SA [redacted] heard A/SSA [redacted] broadcast that the kidnaper's vehicle was driving behind him and then recalled hearing A/SSA [redacted] give the execute order. SA [redacted] was aware A/SSA [redacted] was positioned in the southwest corner of the parking lot, but could not see him. As SA [redacted] and SA [redacted] drove south through the parking lot, they observed A/SSA [redacted] bump into the Mitsubishi and saw the Blazer drive off. SA [redacted] observed the driver of the Mitsubishi get of out his vehicle and run through the parking lot in front of he and SA [redacted]. SA [redacted] exited his vehicle and joined in the foot chase of the subject. SA [redacted] along with other law enforcement personnel, continued to yell arrest commands to [redacted]. SA [redacted] observed the subject attempting to enter into the passenger side of a black Ford Mustang. SA [redacted] was yelling, "FBI, get down" at [redacted] who looked directly at SA [redacted] and entered the Mustang. According to SA [redacted], he was approximately fifteen feet away when the Mustang began to move toward him. He stated he was face-to-face with the driver of the Mustang, and believing the driver was going to run him down, SA [redacted] began firing rounds from his MP-5 shoulder weapon. According to SA [redacted] he did not recall looking at the sights of his weapon but deliberately held the muzzle low to avoid hitting any individuals in the parking lot. SA [redacted] advised he initially fired four rounds with the intent of hitting the driver although he recalled seeing a bullet strike one of the front tires of the subject vehicle. As he fired the first four rounds, SA [redacted] advised the Mustang began to turn south. Knowing other Agents were approaching the scene and the Mustang was in a position to run them down, SA [redacted] ran to the rear of the Mustang and continued firing his weapon.

b6
b7C

b6
b7C

Although he heard other gunfire from A/SSA [redacted] SA [redacted] believed the Mustang posed a threat to A/SSA [redacted] because the driver still had both hands firmly on the steering wheel and was driving toward [redacted] As A/SSA [redacted] entered his line of fire, SA [redacted] ceased firing. When A/SSA [redacted] emerged from a row of parked vehicles, he noticed the Mustang turning down the parking aisle toward him. He noted the right front passenger through the windshield with his hands up. The driver of the vehicle, later identified as Gerardo Torres aka Gerardo Diaz, had both hands on the steering wheel and was looking directly at him. Fearing for his safety, A/SSA [redacted] fired three shots from his LAR-15 rifle through the windshield of the vehicle, hitting the driver three times. The Mustang continued a short distance and bumped into a parked vehicle. A/SSA [redacted] removed the driver of the vehicle through the open door and administered first aid. The driver died as a result of injuries sustained from A/SSA [redacted] gunfire.

b6
b7C

The fleeing Blazer became involved in a three-car crash and the driver was subsequently arrested by law enforcement personnel.

Law enforcement personnel located and rescued the kidnaping victim who was transported to a local hospital for treatment of two gunshot wounds as well as other physical injuries received from being beaten. Three additional subjects were arrested and numerous weapons were located in the house trailer.

An autopsy determined the deceased subject was shot four times, three of which were identified by the Laboratory Division as having been fired by a .223 Remington caliber Rock River Arms rifle, Model LAR-15, which was the weapon utilized by A/SSA [redacted] during the incident.

On 04/25/2008, [redacted] Division Chief, Public Integrity Division, Dallas County District Attorney's Office, advised SA [redacted] and A/SSA [redacted] were no-billed in the case. On 03/21/2008, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] and A/SSA [redacted] in this shooting incident.

b6
b7C

On 05/13/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and

was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; [redacted] Chief Inspector, Office of Inspections (OI), INSD; Assistant Section Chief (ASC) [redacted] Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training Division (TD); UC [redacted] Defensive Systems Unit, TD; UC [redacted] Investigative Law Unit, Office of General Counsel; UC [redacted] Practical Applications Unit, TD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] CR-2, Washington Field Office. Inspector [redacted] OI, INSD, and Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, non-voting members, were also in attendance. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Prior to the discussion of this incident by SIRG members, Inspector [redacted] Inspector-in-Charge of the shooting investigation, provided a detailed overview of the incident. Inspector [redacted] explained to the SIRG members that his investigation revealed radio communications among the field/operational teams were not effectively utilized to keep law enforcement personnel apprised of developments or deployment instructions prior to the "execute" order being given to initiate the felony car stop. Inspector [redacted] also noted SA [redacted] intentionally fired his shoulder weapon low of his target in an attempt to avoid hitting customers in the parking lot area. The Special Agent in Charge of the Dallas Division was aware of the issued identified by the Shooting Incident Review Team. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] and A/SSA [redacted] was justified and in conformance with the FBI's deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271464-D, 08/01/2008

This discussion resulted in the recommendation that no administrative action be taken against them as a result of their involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271464-D, 08/01/2008

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] and A/SSA [redacted] as a result of their involvement in this shooting incident..

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Room 7326
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 3043

♦♦

(Rev. 06-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 03/05/2008

To: Inspection Attn: AD Kevin L. Perkins

From: Inspection
Office of Inspections
Contact: [redacted] Extension 4-1837

Approved By: Perkins Kevin
Clemens Michael

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271788-D

Title: SHOOTING INCIDENT
NEW YORK FIELD OFFICE
07/21/2007

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/21/2007, involving Special Agent (SA) [redacted] SA [redacted] fired eight rounds from his Bureau-authorized, personally owned Glock Model 27, .40 caliber pistol, killing a rattlesnake located on his patio. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication (EC) of SA [redacted] dated 07/24/2007.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 07/21/2007, SA [redacted] was at his vacation cottage in Pennsylvania when his wife told him a large rattlesnake was on the patio. SA [redacted] unsuccessfully attempted to remove the snake with a long-handled shovel and the snake repeatedly attempted to strike at the shovel and SA [redacted]

b6
b7C

SA [redacted] retreated, drew his pistol, and fired eight rounds of which five stuck the snake. SA [redacted] removed the dead snake from the patio and notified the Pennsylvania State Police of the incident.

On 02/15/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Gang Squad, Criminal Division, United States Department of Justice (USDOJ); [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; [redacted], Inspector, Office of Inspections (OI), INSD; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted], Indian Country/Special Crimes Unit, Violent Crimes Section, Criminal Investigative Division; UC [redacted] Practical Applications Unit, TDD; Acting UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of General Counsel; and SSA [redacted] Gangs/Criminal Enterprise Section, CID. Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 03/05/2008

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Ms. [redacted] Room 3999
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 3043

♦♦



Savage-2075

# FBI
# Shooting Incident Report Summaries

# 2006

D-104 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIC [redacted] Office: Inspection
Date: 10/25/2006

Case ID #: 297-HQ-A1271462-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT,
COLUMBIA DIVISION;
10/20/2006

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 10/20/2006, a Columbia Police Officer relayed source reporting to the Columbia Division that federal fugitive [redacted] was observed in the vicinity of the Colony Apartments, Columbia, South Carolina. Two Agents responded and confirmed that an individual matching [redacted] description was in the area. The squad Supervisor and an additional Agent also responded to the area and they collectively planned to arrest [redacted] on the street in front of the housing complex. However, when they returned to the area [redacted] was no longer present. The Agents decided to question [redacted] sister who lived in the complex. Two Agents approached the front door while the Supervisor and one Agent went to the rear of the apartment. As Agents peered into the open front door, they observed the fugitive inside the unit. They stepped inside, identified themselves as FBI Agents and repeatedly instructed him to raise his hands. The subject raised his left hand, but bladed his body and then moved his right hand near his waistband in a furtive manner. One Agent fired a single round from his Glock 22 pistol striking the subject in the chest. The Agents secured the subject and conducted a security sweep of the unit. They summoned Emergency Medical Support and applied first aid. The subject was transported via ambulance to Palmetto Richland Memorial Hospital and treated for the gunshot wound.

DETAILS:

On 11/23/2004, the Columbia Division initiated a

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

violent gang investigation focusing on a local faction of the Bloods Street Gang [redacted] In January 2006, a multi-defendant federal indictment was returned in U.S. District Court, District of South Carolina, charging several members of the criminal enterprise with violations of Title 21, but leaving other known subjects on the street. b2 b7A

On 07/18/2006, in a superceding indictment, Omeksa [redacted] aka [redacted] and 15 others were charged with violations of Title 21. On 07/21/2006, [redacted] was indicted on three counts of violating Title 21, USC, Section 841(a)(1) and 841 (b)(1)(C). On 07/21/2006, following the issuance of a warrant for his arrest, [redacted] was entered into NCIC as a wanted person. b6 b7C

The investigation of [redacted] continued beyond the date of his indictment. In the intervening time, Moaney was the subject of informant reporting, subject proffers, defendant debriefings and a Safe Streets Task Force referral to the U.S. Marshal Service Fugitive Task Force to facilitate his apprehension. Information and intelligence received by the Columbia Division indicated [redacted] regularly carried and/or possessed weapons; on at least one occasion, he had discussed executing a firebomb attack on a Columbia Police Department (CPD) Safe Streets Task Force Officer; and had made a statement to a Columbia Police Officer that he would not return to jail. b6 b7C

On 10/20/2006, between 3:00 pm and 3:30 pm, Columbia Police Sergeant [redacted] telephonically contacted Columbia Division Special Agent [redacted] (EOD 07/14/2002) and advised him that a source just reported [redacted] was near [redacted] sister's residence in the Colony Apartments. SA [redacted] had information [redacted] sister [redacted] also known as [redacted] resided at [redacted] in the Colony Apartments Complex. SA [redacted] was engaged in trial preparation, therefore, he relayed the information to SA [redacted] (EOD 01/11/2004). SA [redacted] called Sgt. [redacted] who advised [redacted] was just seen at [redacted] wearing a striped shirt and jeans. A short time later, SAs [redacted] and [redacted] drove bureau vehicles from the Columbia Field Office to the Colony apartment complex in an attempt to corroborate the source information.

Upon arriving in the area of the Colony Apartments, SAs [redacted] and [redacted] attempted to gain entry to the nearby Columbia Police Substation to view the CCTV coverage of areas within the Colony Apartments complex. The Substation was locked, therefore, SAs [redacted] and [redacted] decided to drive past the 7000 block of Bailey Street parking area in an attempt to spot [redacted] Their

initial attempt failed to spot the subject. On a second drive passed the area, Agents spotted an individual fitting the physical description of [redacted] wearing the same clothing the source had described. This individual was standing in the parking lot in front of [redacted] Street. The person the Agents observed was also wearing a white baseball cap. The Agents drove back to the CPD Substation and telephonically contacted their supervisor, SSA [redacted] (EOD 11/04/1990) and Special Agent [redacted] (EOD 03/12/2000) for backup. SA [redacted] and SA [redacted] were assigned as co-case Agents on the referenced gang investigation. b6 b7C

While at the CPD Substation, SA [redacted] was recontacted by Sgt. [redacted] who confirmed [redacted] was seen in the area and was wearing a striped shirt, blue jeans and a white baseball cap. Meanwhile, SA [redacted] arrived at the CPD Substation and SA [redacted] sketched the spot where he and SA [redacted] observed the subject. The Agents made a tentative arrest plan pending the review and approval of their Supervisor.

SSA [redacted] arrived at the CPD Substation approximately ten minutes after SA [redacted] The Agents orally presented the arrest plan to SSA [redacted] and utilized the sketch to show where [redacted] had been observed. The plan was for all four Agents to drive toward [redacted] in a single unmarked car as though they were potential drug purchasers. They were to quickly exit the vehicle and surprise the subject in order to effect his arrest. SSA [redacted] approved the arrest plan, however, did not notify ASAC Maley of the plan to arrest [redacted] an armed and dangerous federal fugitive. After donning their tactical vests, marked with prominent FBI letters, they drove in SA [redacted] bureau car to where they had last seen the subject. They drove through the parking lot, but did not see [redacted] The Agents returned to the CPD Substation to discuss other options to locate [redacted] The decision was made to go to [redacted] residence and ask where her brother [redacted] might be located. Knowing the possibility existed that [redacted] might be in the apartment, the Agents planned an overt approach. They drove a known law enforcement vehicle into the parking lot outside [redacted] and quickly approach the apartment covering both front and rear of the unit. b6 b7C

At approximately 5:45 pm, with clear visibility and 60 degree weather, the Agents drove in SA [redacted] bureau vehicle into the parking lot adjacent to the 7000 block apartments within the Colony complex. SAs [redacted] and [redacted] proceeded to the front of the apartment and SSA [redacted] and SA [redacted] moved to cover the back door.

Moments prior to the Agents reaching [redacted] Street, an unknown male approached the partially open door of the apartment and warned [redacted] who was inside, of the approaching FBI Agents. [redacted] then moved from the livingroom area into the kitchen area of the apartment. [redacted] sister, [redacted] was not home at the time. Present within the apartment were [redacted] friend [redacted] boyfriend [redacted] and [redacted] twin one year old boys, [redacted] and [redacted] two year old daughter, [redacted] was playing just outside the front door of the apartment when the Agents approached. b6 b7C

Immediately prior to SAs [redacted] and [redacted] arriving at the front door of [redacted] briefly picked up [redacted] and then put the boy back down. [redacted] was standing behind a cushioned loveseat located directly across the front room and approximately 12 feet from the front door. [redacted] head could not be seen behind the loveseat by an average sized adult entering the apartment front door as the top of his head was at least 12 inches lower than the back of the loveseat.

As SAs [redacted] and [redacted] approached the open door of the apartment, they observed two young children playing in front of apartments [redacted] SA [redacted] told the children to go inside the apartment and they complied, entering [redacted] SA [redacted] observed [redacted] inside the unit, he drew his weapon and yelled, "FBI, put your hands up." SA [redacted] entered the apartment, moved immediately to the right, along the front wall and then toward the center of the room. AS SA [redacted] approached the front door, he also observed [redacted] and commanded [redacted] to put his hand up. Both Agents commands were heard by multiple witnesses in addition to SSA [redacted] and SA [redacted] who were positioned behind the apartment. Due to the lack of space within the front room, SA [redacted] entered the room slightly, remaining just in front of the entryway. Their positioning triangulated [redacted] who was then approximately six feet from SA [redacted] and ten to twelve feet from SA [redacted] b6 b7C

Initially, [redacted] kept his hands at his sides and stared at the Agents. [redacted] then raised his left hand to about shoulder height, but kept his right hand below waist level. [redacted] then bladed himself toward SA [redacted] When SA [redacted] observed this movement he yelled, "watch out." SA [redacted] could not clearly see [redacted] right hand but he observed [redacted] start to move his right hand up toward his waist. Believing [redacted] was drawing a weapon, SA [redacted] began pulling back on the trigger of his Glock 22 to shoot [redacted] initial non-compliance

was observed by SSA [redacted] who was looking into the residence through a window in the back of the unit. [redacted] furtive movements were observed by the two Agents inside the apartment and by eyewitness [redacted] who was seated on the couch between SA [redacted] and [redacted] also stated while [redacted] raised his left hand in response to the Agents' commands, he later moved his right hand toward his waistband and lower back.

In response to [redacted] movements in the apartment, SA [redacted] fired a single round from his Glock 22, Serial #DDR506 US, striking [redacted] in the chest. b6 b7C

When SA [redacted] heard gunfire, he began to forcibly breach the back door to the unit, but was restrained by SSA [redacted] who feared SA [redacted] may be exposed to gunfire. Instead, SSA [redacted] directed SA [redacted] to the front door of the unit while SSA [redacted] covered the rear.

[redacted] stated, "you shot me," and laid down on the floor, extending both hands above his head. As the Agents moved to secure the subject, they noticed a small child [redacted] standing a few feet from where [redacted] fell. SA [redacted] handcuffed [redacted] as the other occupants fled the apartment with the children. SA [redacted] asked [redacted] his name and [redacted] replied, "I'm the one you are looking for." To ease [redacted] breathing, SA [redacted] removed the handcuffs while SA [redacted] called 911 for Emergency Medical Support (EMS) personnel. The Agents then moved the furniture to allow medical responders access to [redacted] and, while SA [redacted] applied emergency first aid to [redacted] wound, SAs [redacted] and [redacted] cleared the rest of the unit.

SA [redacted] returned to his bureau vehicle and activated his emergency lights to alert responding EMS and CPD. Emergency medical records indicated the receipt of the emergency call at 5:50 pm, EMS arrival at the scene two minutes later, departure from the scene at 6:01 pm and arrival at the Palmetto Richland Memorial Hospital at 6:07 pm. SA [redacted] accompanied [redacted] in the ambulance to the hospital. b6 b7C

When EMS departed the scene, SSA [redacted] left a voicemail on ASAC Patrick Maley's cellular telephone advising him of the shooting. SSA [redacted] then telephonically contacted SAC Brian Lamkin and advised him of the shooting. SAC Lamkin responded to the scene within ten minutes: ASAC Maley retrieved his messages, contacted SAC Lamkin and responded to the scene shortly thereafter.

The CPD Crime Scene Unit responded to [redacted] Street and processed the scene. SA [redacted] Glock 22 semi-automatic pistol was secured by SSA [redacted] and subsequently turned over to the State Law Enforcement Division (SLED) for ballistic examination.

A shooting incident review team including Inspector [redacted] ASAC Ronald T. Hosko (PH), and SSAs [redacted] (BH), [redacted] (DL) and [redacted] (BF), was assembled in Columbia. The shooting review team conducted, in coordination with Columbia Police representatives, a neighborhood canvass. Multiple witnesses observed FBI personnel approach [redacted] wearing tactical vests bearing FBI lettering. Witnesses also heard FBI personnel give commands from within the apartment. Two adults present inside [redacted] at the time of the shooting were also interviewed. Both indicated that an unidentified male tapped on the apartment door to warn of the law enforcement presence just before the Agents arrived. Both stated that the FBI personnel wore vests marked with FBI letters and that the Agents gave the subject repeated commands in attempting to secure his compliance. While one of those witnesses, [redacted] obeyed the commands himself by putting his head down on the couch, the other, [redacted] confirmed not only [redacted] failure to comply with the Agents' commands but his furtive movements with his right hand prior to his being shot. Importantly, [redacted] confirmed for investigative personnel, that contrary to erroneous news reports, [redacted] was not holding a child at the time he was shot.

b6
b7C

b6
b7C

Pursuant to the provisions of the FD-927, "Warning and Assurance to Employee Requested to Provide information Following a Shooting Incident," the investigative team took multiple signed sworn statements from the four personnel involved in the incident and from ASAC Patrick J. Maley and SAC Brian D. Lamkin.

The shooting review team determined on 08/08/2006, SA [redacted] qualified with his Bureau issued Glock 22, Serial #DDR506 US, shooting a 98 on the Pistol Qualification Course. He is a primary SWAT team member in Columbia and he successfully completed required training for SWAT Field Certification per CIRG EC to Columbia dated 08/31/2006. BPMS indicated SA [redacted] attended a basic SWAT inservice in Quantico from 04/19-23/2004.

SA [redacted] was an attendee at the 12/15/2005 Columbia All Employee Conference wherein the FBI's Deadly Force Policy and role of the Shooting Incident Review Group were discussed.

During his interview, Columbia ASAC Patrick J. Maley advised the planning and execution of [redacted] arrest was

in accord with the division's operational plan policy. On 11/04/2004, ASAC Maley documented the operations plan policy which encouraged the use of operations plans as a tool to maximize preparedness and minimize problems and mistakes. The policy recognized the challenges of striking a proper balance between time constraints and the ability to obtain the desired results. In the policy, ASAC Maley mandated the use of operations plan when a fixed location where a fugitive is likely to be located has been identified. However, in instances where Agents are checking logical locations where a transient fugitive may be located, no operations plan was required and Agents must utilize standard law enforcement tactics. The guidance concluded by directing Agents to discuss fugitive matters with their SSA and/or ASAC. On October 4, 2006, in a meeting with the SSA's, ASAC Maley reiterated his earlier guidance and acknowledged the use of operations plans in transient fugitive matters requires flexibility and utilization of SA's professional judgement.

The Sate of South Carolina Solicitor's Office reviewed the case file and determined SA [redacted] was justified in firing his weapon as he was in reasonable fear for his own life and the safety of others. Therefore, no criminal charges were filed in this matter.

b6
b7C

## Table of Contents


A. SIGNED, SWORN STATEMENTS
- SA [redacted]
- SA [redacted]
- SA [redacted]
- SSA [redacted]
- ASAC PATRICK J. MALEY
- SAC BRIAN D. LAMKIN

B. COLUMBIA POLICE DEPARTMENT INVESTIGATION
- CASE FILE DOCUMENTS

C. SUBJECT [redacted]
- REVIEW OF CASE FILE [redacted]
- FD-65, NCIC INITIAL SUBMISSION
- NCIC RESULTS AND III RESPONSE
- FEDERAL INDICTMENT
- SEARCH WARRANT APPLICATION

b2
b7A

D. SHOOTING SCENE
- SOUTH CAROLINA LAW ENFORCEMENT DIVISION
  - CRIME SCENE PHOTOGRAPHS
- EVIDENCE RECOVERED

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

b6
b7C

Report of: IIC [redacted] Office: Inspection
Date: 02/09/2007

Case ID #: 297-HQ-A1271971-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CRITICAL INCIDENT RESPONSE GROUP
HOSTAGE RESCUE TEAM
12/06/2006

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 12/06/2006, the Critical Incident Review Group (CIRG), Operations and Training Unit (OTU), conducted live fire, fire and maneuver training for 13 HRT Operators and three Helicopter pilots assigned to the Tactical Helicopter Unit (THU). This Unconventional Law Enforcement Operations (ULEO) training was conducted at Fort A.P. Hill, Caroline County, Virginia. The training was designed to prepare HRT Snipers for deployment in Iraq. At approximately 3:30 P.M. while conducting a Combat Search and Rescue (CSAR) training scenario, SSA Gregory J. Rahoi was misidentified as a three dimensional target by another HRT Sniper and accidently shot and killed.

**DETAILS:**

On 12/06/2006, CIRG, OTU conducted live fire, fire and maneuver training for 13 HRT Operators and three Helicopter pilots assigned to THU. This ULEO training was conducted on Range 24 at Fort A.P. Hill, Caroline County, Virginia. [redacted]

b7E

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

OTU, the 12/06/2006 training scenarios were necessary to prepare HRT Operators for deployment to Iraq. The scenarios were developed using actual experiences of HRT Operators in Iraq and were reportedly similar to training exercises used by DOD SF units.

The 12/06/2006 training scenario was planned and supervised by members of the CIRG, OTU SSA [redacted] SSA [redacted] and SSA [redacted] Training began at approximately 9:00 A.M. Prior to the training, SSAs [redacted] and [redacted] provided a tactical operation briefing and an administrative safety briefing to the HRT Operators which included firearm safety, target awareness, communications and range operations. Physician's Assistant (PA) [redacted] provided a medical safety briefing, and Helicopter Pilot [redacted] THU, provided a helicopter safety briefing. These were standard briefings provided prior to all OTU training exercises. There were no new skill sets or safety procedures introduced to the HRT Operators during the 12/06/2006 training.

b6
b7C

Range 24 was approximately three miles in length and approximately 200 yards in width. It consisted of undulating or variable terrain with various size vegetation such as long grass. It ran east to west and had an obvious tree line on either side it's entire length. A gravel road ran down the approximate middle of the range cutting it into north and south sides. Fields of fire were briefed to the HRT Operators as 180 degrees forward or tree line to tree line. This was opposed to 360 degrees of coverage used during a real operation. HRT Operators were instructed not to fire from the helicopters and use fans of fire when firing live ammunition down range with other HRT Operators were positioned down range.

Fans of fire were described by HRT Operators as the area of responsibility directly in front of the shooter and to their right and left flanks or 180 degrees forward. Fans of fire would expand and collapse as other operators positioned down range moved in and out of the shooter's area of responsibility. The down range operator would become responsible for the area directly in front of them and to their right and left flanks or 180 degrees forward.

Two types of targets were used during the training; the fixed military target known as an Ivan and a FBI target known as a La Rue. The Ivan was described as a green plastic three dimensional silhouette of a human upper torso, approximately three and half feet tall, which was range controlled to pop-up after being knocked down when hit by a bullet. The Ivans were fixed to the ground and could not be moved.

The La Rue targets were steel plates, painted red and white, approximately 18 inches high and 12 inches in width and fell when hit by a bullet. La Rue targets were equipped with motors which allowed the target to automatically stand back up after being hit. These targets could be moved.

The first scenario briefed to all the HRT Operators by OTU SSAs [redacted] and [redacted] involved the group breaking up into three teams of three and one team of four. A helicopter would transport each team separately to three different locations on the range. At each location, team members would exit the helicopter and move to a fixed position clearly marked on the ground by a mannequin. They would engage both pre-positioned Ivan and La Rue targets. Once the targets were engaged from the fixed position, the team would return to the helicopter, continuing to engage targets as they appeared before re-boarding the helicopter. The helicopter would then fly to the two other marked locations where the drill would be repeated. During each team's run, SSAs [redacted] and [redacted] followed the team on the ground. SSA [redacted] provided commands over a hand held radio to the range control tower for the activation of the pop-up Ivan targets. SSA [redacted] and [redacted] also had radios which enabled them to communicate with the HRT Operators. SSA [redacted] and [redacted], Fort A.P. Hill, Range Technician were in the range control tower remotely activating the Ivan targets. The Range control tower was located approximately a half a mile up range from the exercise and did not afford the occupants a view of the training scenarios. PA [redacted] also followed the teams on the ground in the event of a medical emergency. Not involved in the scenario but also present on Range 24 was Los Angeles Police Department Photographer [redacted]

b6
b7C

After each team had completed the course one time, SSAs [redacted] and [redacted] did an after action briefing reemphasizing situation awareness, terrain issues, muzzle scope off-set, and stressed staying focused. The completion of all three drills was considered the end of one evolution. Each team completed two evolutions taking approximately 15 to 20 minutes each. This first scenario took most of the morning and occurred without any significant or out of the ordinary event.

In the afternoon, a CSAR training scenario was briefed to all the HRT Operators by SSA [redacted] and [redacted]. They also provided the HRT Operators an overhead photograph of the portion of Range 24 where they would be conducting the exercise. SSA [redacted] and [redacted] broke the group into team of six and a team of seven. One team was led by SSA [redacted] and other by SSA [redacted] This scenario was a downed helicopter in Iraq with an HRT Operator onboard and the team's mission was to rescue the injured HRT Operator.

Separately, each team would be flown by helicopter into approximately the same area on Range 24 as used in the morning. At the designated location, team members would exit the helicopter and live fire, fire and maneuver to the crash site which was a pre-positioned helicopter frame. The team would engage both pre-positioned Ivan and LaRue targets as they (HRT Operators)moved. They would rescue the survivor of the downed helicopter, and again live fire, fire and maneuver back to the helicopter and be airlifted out of the area. Team Leaders (TLs) [redacted] and [redacted] were given an opportunity to brief their teams on the CSAR scenario. b6 b7C

The teams were told by SSA [redacted] and [redacted] they would be using the same training area as the morning exercises. They were told same targets in the same locations would be used in this scenario. In total, there were two sets of Ivan targets on both the north and south side of the gravel road approximately 100 yards apart. A set of La Rue targets were positioned around the downed helicopter.

SSA [redacted] and [redacted] again followed the teams on the ground with SSA [redacted] providing commands over the radio to the range control tower for the activation of the pop-up Ivan targets. SSA [redacted] and [redacted] remained in the range control tower remotely activating the Ivan targets. PA [redacted] again followed the teams on the ground in the event of a medical emergency. Unit Chief [redacted] HRT, Red Operational Unit arrived on Range 24 and followed on the ground observing the afternoon's training exercises.

After the teams had completed the course one time, SSAs [redacted] and [redacted] conducted an after action briefing of the HRT Operator's performance and reemphasized safety. The first afternoon CSAR training scenario occurred without any significant or out of the ordinary event(s). b6 b7C

The HRT Operators were told the last CSAR training scenario would be identical to the previous scenario simulating rescuing personnel from a downed helicopter. The group was told they would be using the same training area and same targets in the same locations. The only change was all 13 HRT Operators would conduct the last training scenario together.

The scenario was briefed by SSA [redacted] and [redacted] to TL [redacted] who was designated as the overall TL for the scenario. TL [redacted] divided the group of 13 HRT Operators into three teams. Team 1 was made up of SA [redacted] SA [redacted] and SA [redacted] Team 2 consisted of SSA [redacted] as Team Leader, SA [redacted] SA [redacted] and SA [redacted] Team 3 was SSA Gregory

J. Rahoi as Team Leader, SA [redacted] SA [redacted] SA [redacted] and SA [redacted] A Bell 412 Helicopter piloted by [redacted] and co-pilot SA [redacted] and a Bell 407 Helicopter piloted by SA [redacted] would be used.

As in the earlier scenarios, SSA [redacted] and [redacted] would follow the team on the ground with SSA [redacted] providing commands over the radio to the range control tower for the activation of the pop-up Ivan targets. SSA [redacted] using another radio, fed the teams simulated intelligence information. He would communicate when a certain target(s) were considered out of play allowing the team member(s) to move forward. He would provide intelligence concerning simulated enemy movements as the scenario progressed.

b6
b7C

SSA [redacted] and [redacted] would remain in the range control tower remotely activating the Ivan targets. PA [redacted] would follow the team on the ground and UC [redacted] would be on the ground in the same vicinity observing the training. Photographer [redacted] would be on Range 24. He did not see or photograph the impending shooting incident.

After TL [redacted] was briefed by SSA [redacted] on the scenario, he was given a few minutes to devise a tactical plan. TL [redacted] then briefed his plan to the entire team: Team 1 and 2 would be inserted via Bell 412 Helicopter and Team 3 would be inserted via Bell 407 Helicopter. The insertion would be near simultaneous, approximately 200 yards east of the simulated crash site. Team 2 would be positioned to the north edge of the range, Team 3 to the south, and Team 1 would be in the center. The teams were instructed to employ a bounding overwatch method movement. Bounding overwatch movement was described as a minimum of one team providing covering fire while a minimum of one team moves forward or down range. Once at the crash site, Team 3 would establish a position to the west of the target location, the direction from which TL [redacted] had been briefed there was enemy movement. Team 2 would secure the crash site and prepare any casualties for movement. Movement back to the helicopters would be conducted in reverse of the movement to the crash site, with Team 2 responsible for transporting the casualty via a litter back to the helicopter. As the overall Team Leader, TL [redacted] was responsible for command and control of the individual teams including positioning of the teams. Each individual TL was responsible for the movement and positioning of the individual team members within their own team. TL [redacted] would communicate with the two other TLs, SSA [redacted] and SSA Rahoi, with a combination of radio calls, hand and arm signals, and verbal commands. All of HRT Operators were equipped with either an

b6
b7C

Invisio or Sordin brand radio communication head set system. These radios allowed all team members to hear TL [redacted] radio commands.

At approximately 3:30 P.M., Eastern Standard Time, the plan as described above was executed and continued as planned until Team 2 had secured the crash site, assessed the casualty's condition, and was preparing to return to the helicopter. A tactical timeout was called and Range Technician [redacted] replaced the mannequin as the casualty on the litter. This was done to make the training scenario more realistic. b6 b7C

After the casualty was prepared for transport, Team 2 provided four team members to carry the litter back to the helicopter. These Team 2 members were identified as SSA [redacted] SA [redacted] SA [redacted] and SA [redacted] TL [redacted] and SA [redacted] collapsed toward the east to provide cover for those carrying the litter. SA [redacted] and SA [redacted] were positioned near a concrete retaining wall around a set of Ivan targets approximately 100 yards east of the crash site. Both SA [redacted] and SA [redacted] were facing east providing nominal cover to the rear. SA [redacted] was on SA [redacted] left about 20 feet away. The gravel road was on SA [redacted] right or north of his position.

As the litter, four members of Team 2, TL [redacted] and SA [redacted] moved east passing SA [redacted] and SA [redacted] position, TL [redacted] instructed SA [redacted] and SA [redacted] to reorient their position 180 degrees from facing east to facing west. SA [redacted] and SA [redacted] made this adjustment taking a crouching position facing west.

In his statement to the Shooting Incident Review Team (SIRT), SA [redacted] recalled being instructed by TL [redacted] to turn from the easterly direction he was covering and turn to the west and "pick up the rear." SA [redacted] was not 100 percent positive of the verbiage used by TL [redacted] but interpreted it to mean, "turn around and cover the rear area." SA [redacted] believed that when TL [redacted] gave him rear security responsibility, there was no one west of his position down range. SA [redacted] did not recall hearing Team 3 talking on the radio about their movement or see any other HRT Operators west of his position. b6 b7C

SA [redacted] recalled hearing information in a radio transmission indicating an enemy force was approaching from the west. This transmission was confirmed by SSA [redacted] Since SA [redacted] believed he and SA [redacted] were the last two HRT Operators to the rear or west and covering down range, he also believed his field of fire was 180 degrees or the tree line on his left to tree line on his right. SA [redacted] could see the

simulated downed helicopter in plain view. He scanned with his naked eye left then right and when he scanned back left, he saw what he believed to be two Ivan targets. The Ivan targets did not move and appeared to have the same spacing, color and height of other Ivan targets he had previously engaged.

SA [redacted] then viewed what he believed to be an Ivan target through the Leupold 8x20 TS-30 optical scope on his Colt M-4, .223 Caliber, 18 inch barrel, Special Purpose Rifle (SPR). He noted he had an unobstructed view of Ivan targets similar to the way other Ivan targets on Range 24 were situated. SA [redacted] was looking in a westerly to southwesterly direction with the sun at tree top level causing significant sun glare. He was not wearing sunglasses. As SA [redacted] acquired the target he yelled to SA [redacted], "targets left." SA [redacted] did not hear SA [redacted] respond. SA [redacted] then fired one shot.

He kept his sight on the target and noticed the target did not fall like other Ivan targets. SA [redacted] saw white socks below the pants and immediately realized he had hit another HRT Operator. He stood up and heard over the radio, "real world medical". The phrase "real world medical" was used by HRT Operators as the signal to immediately stop the training exercise due to some type of medical injury. SA [redacted] left his weapon where he was standing and ran toward where SSA Rahoi was laying.

SA [redacted] recalled being instructed by TL [redacted] to provide rear security for the extraction which meant for him and SA [redacted] to turn 180 degrees and provide cover to the West. SA [redacted] did not recall the exact verbiage used by TL [redacted] used when giving this command. At this point, SA [redacted] believed his "primary field of fire to be directly ahead of him and to his right and left flanks." Although SA [redacted] believed he had cover responsibility to his left across the gravel road, he could see members of Team 3 in their positions approximately 140 yards southwest down range of his position so he did not scan for targets in their direction.

SA [redacted] recalled SA [redacted] yelling to him, "any targets on the left?" He believed SA [redacted] was asking if he saw any targets on the left remaining to shoot. He replied "no." After responding to SA [redacted] almost immediately, SA [redacted] heard the gunshot from SA [redacted] position. Immediately thereafter, SA [redacted] heard "real world medical" called on the radio. Both he and SA [redacted] quickly realized SSA Rahoi had been wounded and immediately ran to SSA Rahoi to render aid.

TL [redacted] recalled instructing SA [redacted] to reorient his and SA [redacted] position from facing east to facing west which

b6
b7C

b6
b7C

required them to make a 180 degree adjustment. TL [redacted] stated, "I communicated that Team 1 was set, meaning that we were in a position to provide covering fire (over watch) for Team 3's movement (bound) to the east."

Meanwhile, Team 3 was still on the north side of the gravel road approximately 125 yards southwest and down range of SA [redacted] and SA [redacted] Soon thereafter, Team 3 members, SA [redacted] SA [redacted] and SA [redacted] using the bounding over watch method moved in an easterly direction. This left SSA Rahoi and SA [redacted] in the position 125 yards southwest and down range of SSA [redacted] and SA [redacted] SSA Rahoi was closest to the gravel road in a kneeling or crouching postion. SA [redacted] was approximately 10 feet to SSA Rahoi's left in a prone position. Both were in knee high grass. SA [redacted] heard SA Rahoi state, "We're going to move back." SSA Rahoi then began to stand up from his kneeling position. As he did, SA [redacted] heard a shot and heard SSA Rahoi state, "real world medical." SA [redacted] then saw SSA Rahoi fall to the ground.

b6
b7C

After hearing "real world medical" over the radio, it was quickly determined by a number of the HRT Operators, SSA Rahoi had been injured. Within seconds, PA [redacted] had responded to SSA Rahoi to render aid. PA [redacted] started an assessment and noted SSA Rahoi was not breathing and had no pulse. It was immediately determined he needed to be airlifted to the nearest medical facility. Within an estimated two minutes the Bell 412 Helicopter had landed and SSA Rahoi was placed on the helicopter. PA [redacted] SA [redacted] and SA [redacted] also boarded with pilot [redacted] and co-pilot SA [redacted] SSA Rahoi was transported for approximately 10 minutes to Mary Washington Hospital in Fredericksburg, Virginia were he was examined and later pronounced dead by Dr. [redacted] and Dr. [redacted]

b6
b7C

That evening, SSA Rahoi's body was transported to the Medical Examiner's (ME) Office in Richmond, Virginia. The ME, Dr. [redacted] determined SSA Rahoi suffered a gunshot wound on the right side of the upper back, approximately 17½ inches below the top of his head and 7½ inches right of the posterior midline. Bullet fragments passed through the chest wall breaking three ribs, damaging the upper lobe of the right lung, caused multiple perforations of the right subclavian artery and vein as well as a laceration of the ascending aorta. SSA Rahoi was wearing a Bureau issued ballistic vest at the time of the shooting incident. The kevlar had been removed and ceramic "shock" plates had been placed in the front and back of the vest. The fatal round missed SSA Rahoi's ballistic vest and shock plates. Reportedly, the 5.56 mm round fired from the

SPR would have penetrated the kevlar vest. However, the ceramic shock plate would have stopped the 5.56 mm round.

Fort A.P. Hill required a qualified Range Security Officer (RSO) be present during the 12/06/2006 training scenario. To qualify as an RSO, OTU SSAs were required to attend an Army based RSO training course. SSA [redacted] was the RSO for this specific training. SSAs [redacted] and [redacted] also took an Army based Range Safety Officer training course and were certified as RSOs at the Fort A. P. Hill. SSAs [redacted] and all the HRT Operators involved were certified firearms instructors. b6 b7C

A SIRT interview with [redacted] Deputy Chief, Operations, Los Angeles Police Department (LAPD) revealed the LAPD also conducts CSAR type training however, refers to it as hostage rescue training. They utilize live fire, fire and maneuver tactics which results in LAPD SWAT Operators firing live rounds down range with other LAPD SWAT Operators positioned down range. He opined this type of training is critical for the LAPD SWAT because of the type of real-life incidents the LAPD SWAT is called upon on a daily basis, to include high risk warrants in rural settings and narcotics drops in rural settings.

Deputy Chief [redacted] also stated in order to utilize live fire, fire and maneuver training, the SWAT Lieutenant submits an approval request to the commanding officer who is normally has the rank of captain. The request must have been reviewed and received prior approval of an RSO. Further, LAPD records all SWAT Operators' training and operational performance.

b6 b7C

A SIRT interview with [redacted] Assistant Chief, Special Operations Division, New York Police Department (NYPD) revealed because NYPD primarily operates in a urban environment it does not conduct CSAR training. However, NYPD does conduct Sniper Initiated Assault Training which is similar to CSAR training. Assistant Chief [redacted] said the NYPD's Emergency Service Unit (ESU) also uses live fire, fire and maneuver tactics training which results in ESU members firing live rounds down range with other ESU members positioned down range. NYPD uses this training technique in an effort to provide ESU members with training that simulates events which closely resemble actual tactical mission environments.

Assistant Chief [redacted] indicated a supervisor is present and manages all training exercises and approves the training prior to initiation. A RSO which is provided by the NYPD's Firearms Training Unit, is always present to monitor the training and has the authority to stop the training cycle at any point. The NYPD maintains a database which documents training

activities including the topics and training conducted and the participants in the training.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to: Inspection Division - Shooting Incident Review Group

Report of: SSA [redacted] Office:
Date: 06/20/2007

b6
b7C

Case ID #: 297-HQ-A1271292-D

Title: Shooting Inquiry
Report of Shooting Incident
Cleveland Division
07/12/2006

Character: Inspection Division - Shooting Inquiry

Synopsis:

SA [redacted], Cleveland Division, assigned to the Safe Streets Task Force (SSTF), Cleveland Division, was involved in a shooting incident on 07/12/2006 at approximately 8:15AM, in Cleveland. The shooting occurred while attempting to locate and arrest a [redacted] who is the subject of 88A-CV-71828. [redacted] was wanted on charges for aggravated robbery with firearms specifications. [redacted] is described as a black male, date of birth [redacted], FBI # [redacted] was wanted by the Cuyahoga County Sheriff's Department for an armed car jacking and was also wanted by the Ohio Adult Parole Authority for a parole violation. [redacted] had been paroled after serving part of a sentence for drug trafficking, and having a weapon under a disability.

b6
b7C

Approximately one week prior to this incident, [redacted] had been involved in a high-speed chase with the Cleveland Police Department, during an incident when the Cleveland Police Department had attempted to affect the arrest of [redacted] At this time, [redacted] eluded the capture.

Through an investigation by the Cleveland SSTF into the whereabout of [redacted], information was received that [redacted] was in possession of a maroon vehicle, and that he might be staying at a hotel located at 18510 Euclid Avenue, Cleveland, Ohio. On the morning of the incident, it was determined by the investigating agents that a vehicle matching the description of the vehicle [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

was supposedly driving, but not registered to [redacted] was parked at the hotel. SA [redacted], accompanied by Task Force Officers (TFOs) [redacted] Deputy with the Cuyahoga County Sheriff's Department; [redacted], Officer with the Cuyahoga Metropolitan Housing Authority Police; observed a black male matching [redacted] description, accompanied by a white female, exit a hotel room and enter the maroon vehicle and start to leave the scene with [redacted] driving.

b6
b7C

At that time, SA [redacted] positioned his vehicle in an attempt to block [redacted] vehicle. TFOs [redacted] and SA [redacted] identified themselves as law enforcement officers, and they ordered the driver to stop the vehicle and raise his hands. [redacted] initially raised his hands, but the vehicle continued to move forward at a slow speed. Law enforcement officers, including SA [redacted] continued to order [redacted] to stop the car, place the vehicle in park, and exit the vehicle. At that point, [redacted] suddenly sped up, which forced TFO [redacted] to jump out of the path of the vehicle, and as the vehicle headed directly at SA [redacted] TFO [redacted] fired one round at [redacted]

SA [redacted] then fired two rounds at [redacted], through the front windshield of the vehicle, while also attempting to remove himself from the vehicle's path.. The vehicle, however, did hit SA [redacted] in the right leg.

At that time, another TFO, identified as [redacted] also a Deputy with the Cuyahoga County Sheriff's Office, drove into the parking lot and also attempted to place his vehicle in a blocking position near the exit of the hotel parking lot, in an attempt to block [redacted] vehicle. Deputy [redacted] then exited his vehicle and took cover behind the driver's door, just as [redacted] drove at TFO [redacted] and SA [redacted] sped past SA [redacted] vehicle, and rammed into [redacted] vehicle, knocking him to the ground. This collision disabled [redacted] vehicle, as the air bags deployed.

Neither [redacted] nor his passenger, who was identified as [redacted] date of birth [redacted], FBI # [redacted] were hit by any of the rounds fired. [redacted] was cut slightly by broken glass from the windshield.

b6
b7C

[redacted] was taken into custody and a loaded handgun was found underneath the driver's seat of his vehicle. SA [redacted] and Deputy [redacted] were treated at a local hospital and released.

Investigation into this matter was conducted jointly by the Cleveland Office of the FBI and Cleveland Police Department's

Homicide Division. [redacted] was questioned after the incident, refused to make a statement, requested an attorney. [redacted] was thereafter turned over to local authorities for prosecution.

b6
b7C

[redacted] was interviewed and admitted that she knew [redacted] was wanted by the authorities and also recognized the arresting officers as being law enforcement officers. In addition, the owner of the hotel was interviewed and also indicated that it was clear to him during the incident that the investigating agent and officers were clearly identified as police officers.

The investigation of this matter concluded in a manner that exonerated the Cleveland FBI from any criminal exposure. Enclosed is a letter dated 02/20/2007 from the City of Cleveland indicating that no crime was committed in this matter.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/16/2007

To: Inspection Attn: AD Kenneth W. Kaiser

From: Inspection
Contact: [redacted] Extension 4-1837

Approved By: Kaiser Kenneth W
Clemens Michael

Drafted By: [redacted] :lrr

b6
b7C

Case ID #: 297-HQ-A1271970-D

Title: SHOOTING INCIDENT
WASHINGTON FIELD OFFICE
07/13/2006

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/13/2006, involving Special Agent (SA) [redacted] While assisting in the execution of an arrest and search warrant, SA [redacted] fired one round from his Bureau-issued Glock .40 caliber, Model 22 pistol killing an aggressive Akita dog in the back yard of the target residence. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication (EC) of SA [redacted] dated 08/03/2006.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 07/13/2006, SA [redacted] was participating in the execution of an arrest and search warrant at a Northeast residence in Washington, D. C. The subject of the warrant, [redacted] was identified as a significant trafficker of diverted prescription drugs in the area. [redacted] who was considered "Armed and Dangerous", had a violent criminal history including convictions for assault, armed robbery, and attempted murder.

At approximately 6:00 a.m., the WFO Special Weapons and Tactics (SWAT) Team executed the warrant, with dual entry into the front and back doors of the residence. As the SWAT Team entered the back yard area, they were approached by an aggressive

Akita dog resulting in SWAT personnel using a small fire extinguisher to repel the dog.

SA [redacted] who was responsible for providing rear perimeter security, was instructed to come inside the fence into the back yard where he observed the dog standing on the steps of the residence. As the dog moved toward SA [redacted] aggressively barking and growling, SA [redacted] held his service weapon in his right hand pointing downward. The dog moved toward SA [redacted] left hand which was holding an ASP. As the dog approached, SA [redacted] jerked his left hand backward to avoid being bitten by the dog, brought his right hand around in front of his waist, and fired one shot at the back of the dog's neck area. The dog yelped several times and retreated to the side area of the residence and continued barking. The dog subsequently died.

b6
b7C

On 09/21/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: former Chief Inspector C. Frank Figliuzzi, Office of Inspections, Inspection Division [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Attorney, Civil Rights Division, USDOJ; SC James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, TDD; [redacted] Chief, Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Operational Skills Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Deputy General Counsel, Investigative Law Branch, OGC, and [redacted] General Attorney, Investigative Law Unit, OGC, as well as SSA [redacted] and [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Although the operation was successful, members noted the target residence had not been cleared, the perimeters were breached before an all clear notification was received, Agents relinquished the fire extinguisher originally used to deter the aggressive dog, and SA [redacted] was holding two weapons simultaneously. These observations will be discussed with the Assistant Director in Charge of the Washington Field Office.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 02/16/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Mr. Ford, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 7825
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
1 - Mrs [redacted], Room 7861

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SSA [redacted] Office: Miami
Date: 11/08/2006

b6
b7C

Case ID #: 88A-MM-108080

Title: SHOOTING INQUIRY;
REPORTING OF SHOOTING INCIDENT;
MIAMI DIVISION;
7/26/06

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was a result of the attempted arrest of "Armed and Dangerous" fugitive [redacted]

DETAILS:

On 07/24/2006, at approximately 23:00 hours, [redacted] fired several shots at a female acquaintance, [redacted] and her boyfriend [redacted] This incident took place at [redacted], Ft. Lauderdale, Florida. Ft. Lauderdale Police Department (FLPD) Detective [redacted] responded to the scene and assumed control of the attempted murder investigation. Detective [redacted] determined that probable cause for [redacted] arrest (attempted murder) existed and a vehicle description and physical description of [redacted] was provided to FLPD fugitive Detective [redacted] Detective [redacted] was told of the violent nature of the offense, the fact that [redacted] was armed with a firearm during the commission of the crime, and to the fact that [redacted] had recently been released from prison.

b6
b7C

On July 26, 2006, Detective [redacted] received information that [redacted] was in the area of NW 31st Avenue and NW 19th Street, Ft. Lauderdale, Florida. Detective [redacted] was a Task Force Officer (TFO) assigned to the Miami Division's Violent Crimes Squad (C-15). Detective [redacted] was working with Squad C-15 Special Agent [redacted] Both investigators were in [redacted] unmarked police unit when

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

C-16\Common [redacted] FD-204 [redacted] MM-CMRT

Detective [redacted] notified FLPD dispatch of this information concerning [redacted] and requested marked FLPD units respond to the area. FLPD uniform officers [redacted] and [redacted] responded to the area and quickly located [redacted] vehicle, which was further described as a black Chevy Lumina, Florida license plate [redacted]

b6
b7C

The suspect vehicle was followed by the patrol cars, who had not operated their emergency lights and siren, for a short distance to [redacted] This address was later determined to be [redacted] mother's residence. A felony traffic stop was initiated during which a single shot was fired at [redacted] by SA [redacted] fled in his vehicle and was pursued by Officer [redacted], Officer [redacted] Detective [redacted] and Special Agent [redacted]. In addition, other marked FLPD police units responded to the call for assistance in an attempt to stop the fleeing vehicle. After striking an uninvolved bystander at NW 20th Street and NW 28th Avenue, [redacted] crashed his vehicle at 2921 NW 23rd Street and fled on foot. [redacted] was pursued several blocks to 2871 NW 22nd Street where he was taken into custody by SA [redacted] and other FLPD officers after a violent struggle. [redacted] was transported to Broward General Hospital for treatment of a gunshot wound to his upper right arm. [redacted] was initially charged with attempted felony murder, criminal mischief, and possession of a firearm by a convicted felon.

On 7/28/06, FLPD Detective [redacted] obtained a search warrant for [redacted] Chevy Lumina. The warrant was executed at FLPD Headquarters with Detective [redacted] Detective [redacted], FBI Special Agent [redacted] and Lead FLPD Detective [redacted] present. The items that were recovered and their corresponding locations in the vehicle were documented. Detective [redacted] observations included the following:

b6
b7C

1) Ten (10) .44 caliber bullets in a plastic case were found by the inside driver seat. This discovery was consistent with the belief that the initial shots that [redacted] fired on 7/24/06 came from a revolver.

2) Lead fragments were visible on the steering wheel which were consistent with the round trajectory from the right rear quarter panel across to the driver side seat area.

3) The round trajectory was discovered to be consistent with [redacted] being inside the vehicle with his right arm and elbow below chest level when he was shot.

SA [redacted] Remington shotgun, the expended shell and several unspent shells from the shotgun were sent to the Broward

Sheriff's Office (BSO) Crime Laboratory, along with the two bullets recovered from the initial scene on 7/24/06 and one of the .44 caliber rounds recovered from [redacted] vehicle. These were sent for lab evaluation and comparison.

On 08/08/2006, at approximately 10:15 hours, an official sworn statement was taken from SA [redacted]. The statement was taken at FLPD Headquarters and present were [redacted] attorney, [redacted] FBI SA [redacted] and FLPD Detective [redacted]. During the statement, SA [redacted] stated he had been informed by Detective [redacted] prior to any contact with [redacted] that [redacted] was wanted for firearms charges and should be considered "Armed and Dangerous." SA [redacted] added that at the time of the traffic stop he recognized [redacted] as the sole occupant of the vehicle from the photo Detective [redacted] had previously shown him. SA [redacted] stated that initially [redacted] had his body turned inside the vehicle looking at the other patrol units as they were yelling commands. SA [redacted] does not believe [redacted] actually exited his vehicle. SA [redacted] stated that [redacted] was holding a white envelope in his hand and while the police commands were being given to [redacted] dropped his hand out of sight to his waistband area. SA [redacted] fearing for his life as well as for the life of the other officers present, fired one shotgun round towards [redacted] while he was seated in his vehicle. At this point, [redacted] fled the traffic stop in his vehicle and the police pursuit was initiated.

b6
b7C

SA [redacted], during the course of his statement, drew a diagram which was not to scale, but his recollection of the initial traffic stop was portrayed. The diagram appears accurate, according to Detective [redacted] with the exception of [redacted] vehicle being too far back to the east in the circular driveway. Placing the vehicle approximately 10 feet farther west in the circular driveway would be more consistent with the witness officer's statements, SA [redacted] recorded visual observations and the trajectory of the shotgun round. This diagram is attached to this report as part of SA [redacted] sworn statement.

b6
b7C

On 09/04/2006, Detective [redacted] obtained a copy of the FLPD "Fleeing Vehicle Review" which documented the pursuit of [redacted] vehicle. This report showed the pursuit lasted approximately two (2) minutes and 51 seconds and reached speeds of 50 miles per hour in a residential area. During the pursuit, the patrol officers had their emergency lights and sirens activated.

On 09/14/2006, Detective [redacted] received a copy of the BSO firearms analysis completed by Firearms Examiner [redacted] was able to determine that the

submitted spent shotgun shell was indeed fired from SA [redacted] b6 b7C submitted shotgun. [redacted] also stated that the submitted spent projectiles recovered from the initial attempted murder scene on 07/24/2006 were similar to the bullets recovered from [redacted] vehicle. Due to mutilation, an exact match could not be made.

On 10/03/2006, Detective [redacted] received a report from the Broward County State Attorney's Office, Assistant State Attorney [redacted] which indicated that Doe was charged with three counts to include attempted first degree murder, possession of a firearm by a convicted felon, and felony criminal mischief. Furthermore, Detective [redacted] was advised there would be no pending criminal charges filed against FBI Special Agent [redacted]

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/12/2007

**To:** Inspection **Attn:** AD Kenneth W. Kaiser

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Kaiser Kenneth W
Clemens Michael [redacted]
Rodriguez Michael [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271786-D

**Title:** SHOOTING INCIDENT
NEW HAVEN DIVISION
09/29/2006

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/29/2006, involving Special Agent (SA) [redacted] While executing an arrest warrant for [redacted] SA [redacted] fired one round from her Bureau-issued Glock, Model 17, pistol at an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of SA [redacted] dated 10/02/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 09/29/2006, SA [redacted] participated in the execution of an arrest warrant at a residence in Meriden, Connecticut. Agents and other law enforcement personnel approached the front door of the residence and found the door unlocked. They went to the first floor apartment where they proceeded to "knock and announce.". The subject's mother granted entry to the arrest team and confirmed [redacted] was in the bedroom located off of the kitchen. Team members heard a dog barking inside the room and yelled numerous times for the subject to secure the dog and surrender. Although [redacted] never acknowledged the presence of law enforcement personnel, at one

point his pregnant girlfriend exited the room and confirmed the subject was inside.

Arrest team members continued to yell for [redacted] to secure the dog and surrender. [redacted] opened the door enough to allow the pit bull dog to run into the kitchen and aggressively advanced toward the law enforcement officers in a threatening manner. A Meriden Police Department Officer fired one shot at the dog who continued to advance toward team members. Believing she was in imminent danger of death or serious bodily injury, SA [redacted] and a second local officer each fired one round at the dog. The dog was struck and retreated into the bedroom. b6 b7C

The subject surrendered moments later and Animal Control arrived on the scene to take the injured dog for medical assistance.

On 01/25/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Michael A. Rodriguez, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Assistant SC Richard W. Kollmar, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Practical Applications Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and UC [redacted] Investigative Law Unit, Office of the General Counsel (OGC). SSA [redacted] Management Program Analyst (MPA) [redacted] and MPA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271786-D, 04/12/2007

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271786-D, 04/12/2007

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. Rodriguez, Room 3204
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted], Room 7861
♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Deputy Assistant Director
Inspection Division

Report of: Shooting Incident-02/24/2006 Office: New York
Date: 03/01/2006

Case ID #: 297-HQ-A1271788 SUB-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
NEW YORK DIVISION
02/24/2006

Character:
INSPECTION DIVISION - SHOOTING INQUIRY

Synopsis: Members of New York Division, Special Operations (SO) Team #9 involved in adversarial conflict resulting in shots fired on captioned date. SO-9 was involved in conducting surveillance in Canarsie section of Brooklyn, New York concerning an unrelated investigation during which time several subjects conspired to conduct robbery of a suspected narcotics sales location within the proximity of the surveillance. SO-9 personnel witnessed subjects involved in the robbery and from the location exchange gunfire at which time he identified himself and began taking fire from the subjects. SO-9 SA [redacted] returned fire in direction of subjects. Subject [redacted] sustained gunshot wounds to ankle and shoulder from weapon yet to be determined.

b6
b7C

- P -

On 02/24/2006, members of the New York Division Joint Terrorism Special Operations Team #9 comprised of New York City Police Department detectives and FBI Special Agents were involved in the surveillance of a subject concerning an on-going terrorism investigation. Six (6) members of the team were involved in the surveillance and consisted of the following:

1. Detective [redacted] (Team Leader)
2. Detective
3. Detective

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

4. Detective [redacted]
5. Special Agent [redacted]
6. Special Agent [redacted]

Each member of the team was assigned to individual vehicles.

Prior to captioned event, the team had not ascertained the location of the target subject to be surveilled and was conducting individual checks of locations in various boroughs of New York City. In the early evening hours of 02/24/2006, Detective [redacted] contacted the team members via FBI radio communications and advised that he had located the target subject in the vicinity of E. 95th Street and Avenue D in the Canarsie section of Brooklyn, New York. The respective team members converged on the location and began to establish surveillance of a residence located on E. 95th Street between Nolans Lane and Avenue D. Once the team had arrived at the vicinity, they established a 30 minute rotating "eye" on the location. Each member who did not have the primary surveillance took a position in the surrounding area to await their turn in the primary position.

At approximately 8:45p.m., Detective [redacted] contacted the team via radio communication and advised of a suspicious vehicle described as a red Volkswagen Jetta in the vicinity of E.96th Street. Detective [redacted] further communicated that two black males had exited the vehicle and began walking west on Nolans Lane towards E.95th Street. [redacted] described the subjects who exited the vehicle as a tall B/M with his hair in dread locks and wearing a jacket with patches all over. The second B/M was described as shorter and wearing a gray sweatshirt. Various members of the team observed the subjects and, although unsure if they were directly involved in the surveillance, continued to relay information concerning their movements. b6 b7C

Subsequent to the two aforementioned subjects exiting of the vehicle, the team was alerted by Detective [redacted] that the Jetta had moved to the area of Avenue D and E. 95th Street at a high rate of speed. At this time SA [redacted] was in a static position and was able to observe the Jetta move to the corner of E. 95th Street and Avenue D while other team members observed the subjects approach a restaurant on the corner of E. 95th Street and Avenue D. As the subjects approached the location, another subject, later identified as [redacted], exited the store location. The subjects began to exchange gunfire. SA [redacted] moved his vehicle into the driveway of the parking lot across from E. 95th Street and identified himself as an FBI Agent while

displaying his shield. At this time the subjects turned and began firing at [redacted] SA [redacted] took up a defensive position in his vehicle and began to return fire at the subjects.

[redacted] first, engaged a subject near the restaurant (which is where the initial shots were fired from in his direction). The subject was described as an unidentified male (UM1), wearing dark pants and a light grey sweatshirt top, approximately 5 foot 7 inches tall and having a thin build. Upon returning fire, the subject ran north to Avenue D, in a Westerly direction on Avenue D. At nearly the same time, another unidentified male (UM2), wearing dark pants and a dark top fired at SA [redacted] from the rear of the Jetta which was still parked across from the restaurant on E. 95th Street. [redacted] returned fire in the direction of the Jetta. Shortly thereafter, the Jetta began to slowly roll South on E. 95th Street and eventually came to a stop in a diagonal position when it struck a parked car on the opposite side of the street. No subjects exited the vehicle. b6 b7C

Subsequent to the shooting, three subjects were arrested by the SO-9 team members and New York City Police Department at the scene of the shooting. These three subjects were later identified as 1. [redacted], 2. [redacted] (graze wound on leg), and 3. [redacted]. The forth subject, later identified as [redacted] was subsequently arrested at the North Shore University Hospital, Long Island, NY, where he was treated for gun shot wounds to the wrist and shoulder. The wrist wound was described as a "through and through" wound. The shoulder wound occurred from a lodged piece shrapnel. Medical authorities determined that it would better to leave the shrapnel in the shoulder rather than remove it. Therefore, medical treatment and records were unable to determine the type of bullet causing these wounds. b6 b7C

All personnel involved in the shooting were interviewed by New York City Police Department personnel and Federal Bureau of Investigation personnel at the NYPD 69th Precinct.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/23/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
Cloyd Daniel Lee
Figliuzzi C Frank

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271895-D

b6
b7C

**Title:** SHOOTING INCIDENT
PHILADELPHIA DIVISION
03/23/2006

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/23/2006, involving Special Agent (SA) [redacted] SA [redacted] fired two rounds from his Springfield Model 1911, .45 caliber pistol killing an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of Supervisory Special Agent (SSA) [redacted] dated 03/23/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Incident

On 03/23/2006, Agents of the FBI and Drug Enforcement Administration, along with Chester Police Department (CPD) officers, were executing a Federal arrest warrant on [redacted] who was wanted for conspiracy to distribute and possess cocaine.

At 6:04 a.m., Sergeant [redacted] of the CPD knocked on the door of the subject's residence and announced the presence of law enforcement. [redacted] responded to the initial knock and announce but failed to respond to the front door, resulting in Sergeant [redacted] ordering the breach of the door. As the entry team breached the door they were charged by an aggressive pit bull dog. Fearing for their safety as well as the safety of other law enforcement officers on the scene, Sergeant [redacted] fired two rounds and SA [redacted] fired one round resulting in severe injury to the dog. Entry into the residence was made and the premises secured. Although the suspect fled through a rear door of the residence, he was subsequently apprehended by members of the perimeter team. b6 b7C

According to SA [redacted] once the subject was taken into custody he returned to the wounded dog and observed multiple gunshot wounds. The dog was crying and in severe distress. Based on his discussion with all team members, a decision was made that immediately putting the dog down was the humane thing to do. SA [redacted] fired one additional round into the dog's head, instantly killing the animal. Animal control responded and removed the dog's body from the residence.

On 05/05/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector C. Frank Figliuzzi, Office of Inspections, Inspection Division; [redacted] Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Kevin Favreau [redacted] Section Chief (SC), CD-4, Counterintelligence Division; [redacted] Assistant SC, Transnational Criminal Enterprise Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); [redacted] UC Defensive Systems Unit, TDD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and b6 b7C

SSA [redacted] Washington Field Office [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously concurred that the use of deadly force by Sergeant [redacted] and SA [redacted] was justified. Members emphasized that the first shot fired by SA [redacted] was in conformance with the deadly force policy; however, the second shot, although the humane action to take, was not within the current deadly force policy.

The only observation made by the SIRG pertained to language contained in the Operations Plan regarding the deadly force policy. Members opined that any reference to the deadly force policy should contain language mirrored from the current deadly force policy which was approved by the Attorney General on 07/01/2004. This observation will be brought to the attention of the Acting Special Agent in Charge of the Philadelphia Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 05/23/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. Mahoney, USDOJ
(Attention: Mr. [redacted]
1 - Mr. [redacted] USDOJ
1 - Mr. Figliuzzi, Room 7837
1 - Mr. Favreau, Room 4042
1 - Mr. Cunningham, Room 3548
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC Gregory Alan Fowler Office: Chicago
Date: 04/11/2006

Case ID #: 297-HQ-A1271285-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CHICAGO DIVISION
APRIL 5, 2006

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred on Wednesday, April 5, 2006, at [redacted] Chicago, IL at approximately 6:00am Chicago Squad VC-1, executed an arrest warrant for [redacted] at [redacted] Chicago, IL on April 5, 2006. The outstanding arrest warrant for [redacted] was for armed robbery from Mississippi. The arrest plan and briefing identified [redacted] as armed and dangerous. The arrest team arrived at the location following a pre-arrest briefing. After several minutes in discussions with the subject's girlfriend and visual and verbal contact with the subject at the windows, FBI Chicago SAs [redacted] entered the apartment, with SAs [redacted] in the lead. SAs [redacted] followed. SAs [redacted] cleared the front room and made their way to the back bedroom and bathroom area through a kitchen/dining area. As SA [redacted] entered the kitchen/dining area, he observed a black male pointing a gun in the direction of the agents. SA [redacted] yelled "Gun! Gun! Gun!" and commenced firing at the threat. SA [redacted] fired five rounds at the subject. SA [redacted] turned to face the threat and fired two rounds. [redacted] fell to the ground after being struck by a bullet in his right index finger and dropped his weapon. [redacted] was transported to the hospital with non life-threatening injuries. No FBI personnel were injured in the shooting.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

DETAILS:

Chicago Division Squad VC-1 conducted the fugitive investigation from 88A-CG-C113806, a fugitive control file at the request of the Cook County Sheriff's Office (CCSO). VC-1 utilizes the control file for all out-of-division fugitive arrests. SA [redacted] is the fugitive coordinator for the Chicago Division.

VC-1 is comprised of agents, and task force officers from Chicago Police Department and the CCSO. SSA [redacted] is the VC-1 squad supervisor. In addition to his squad supervisor duties, SSA [redacted] is the Chicago SWAT supervisor and a former member. VC-1 has many agents with extensive tactical training experience. SA [redacted] is the Senior SWAT Team Member, with more than thirty years of experience. SA [redacted] and SA [redacted] are members of Chicago SWAT. SA [redacted] and SA [redacted] were recently selected as reserve members of Chicago SWAT. SA [redacted] has five (5) years of tactical team experience as a US Marshal. VC-1 is the Division's primary resource for conducting and overseeing the apprehension of violent subjects. VC-1 executed at least 38 arrest warrants in 2006 without incident.

SA [redacted] conducted an investigation and determined [redacted] was living at [redacted] Chicago, IL. SA [redacted] conducted surveillance on the location in the days before the arrest. Upon receiving confirmation that [redacted] was residing at the address, an arrest plan was prepared by SA [redacted] The plan was approved by Chicago SSA [redacted] Squad VC-1. The arrest was planned for Wednesday, April 5, 2006 at 6:00am.

A pre-arrest briefing was conducted on Wednesday, April 5, 2006, at approximately 5:55am, by SA [redacted] in the vicinity of [redacted] Chicago, IL. SA [redacted] provided a briefing to the arrest team members. The briefing included information on the subject's criminal history, description of target location, and warning regarding previous history of resisting arrest. The written arrest plan and briefing identified [redacted] as armed and dangerous. The pre-arrest briefing was attended by eleven (11) members of the VC-1, Violent Fugitives Task Force. The arrest team consisted of ten (10) FBI Agents and one (1) Chicago Police Department Detective.

b6
b7C

b6
b7C

Personnel of the arrest team and their assignments were as follows:

b6
b7C

| | | |
|---|---|---|
| SA | [redacted] | Case Agent-Entry |
| SA | | Approach-front security |
| SA | | Entry |
| SA | | Entry |
| SA | | Entry |
| SA | | Front security |
| SA | | Perimeter security |
| SA | | Perimeter security |
| SA | | Perimeter security |
| TFO | [redacted] | Perimeter security |
| SA | | Perimeter security |
| SA | | |

* SA [redacted] was the on-scene commander and is the Chicago Division Senior SWAT Team Member.

The entry/arrest team arrived at the arrest location at approximately 6:00am. SAs [redacted] and [redacted] obtained the assistance of a neighbor in gaining access to the building and obtaining corroboration that [redacted] resided in the apartment. SA [redacted] and [redacted] noticed the apartment had a locked steel security gate and a standard frame door. After SA [redacted] and SA [redacted] gained access to the apartment building, SA [redacted] called for assisting agents to enter the building. SA [redacted] entered the [redacted], SA [redacted] and SA [redacted] with the entry and arrest. apartment building to assist SA [redacted] moved to the front of the building to provide support. SA [redacted] The remainder of the team took positions along the perimeter of the multi-unit apartment building.

Shortly after 6:00am, SAs [redacted] and [redacted] knocked on the door. A female spoke to the agents through the locked door. SAs [redacted] indicated they were the "police" and asked for her to open the door. After a few minutes [redacted] girlfriend, opened the frame door and spoke to the agents through the metal gate. During this time agents on the perimeter of the building observed a black male at the windows. SA [redacted] spoke to the male at which time the man indicated he lived in [redacted]. The man had a distinctive mole on his forehead similar to the description provided of [redacted] at the pre-arrest briefing. Radio transmissions to all members of the team indicated the subject was in the apartment [redacted] eventually opened the metal gate door for SAs [redacted] and

b6
b7C

[redacted]. While SA [redacted] and SA [redacted] spoke to [redacted] at the front door, SA [redacted] saw a person move towards what he believed to be the rear of the apartment/bedroom area.

The agents entered the apartment, with SAs [redacted] and [redacted] in the lead. SAs [redacted] and [redacted] followed behind SA [redacted] and near SA [redacted]. SAs [redacted] and [redacted] cleared the front room and made their way to the back bedroom and bathroom area through a kitchen/dining area. As SA [redacted] entered the kitchen/dining area, he observed a black male pointing a gun in the direction of SAs [redacted] and [redacted]. SA [redacted] yelled "GUN! GUN! GUN!" and commenced firing at the threat. SA [redacted] fired five rounds at the subject. SA [redacted] turned to face the threat. As SA [redacted] turned he observed a man illuminated by the muzzle flash of a gun. SA [redacted] saw a gun in the subject's hand. He fired two rounds at the subject. [redacted] fell to the ground after being struck by a bullet in his right index finger and dropped his weapon. When the shooting ended, Steward was also on the floor near [redacted] unharmed. No FBI personnel were injured during the shooting.

b6
b7C

As he lay on the floor in the kitchen, agents searched [redacted] for other weapons and to determine the extent of his injuries. Agents placed the handcuffs on [redacted] left hand. Due to his injury, agents could not handcuff his right hand; therefore [redacted] left hand was handcuffed to his belt loops.

SA [redacted] retrieved [redacted] weapon and ensured it was out of his reach. SA [redacted] racked the slide three (3) times until the slide locked. As SA [redacted] was clearing the gun, three (3) 9mm rounds of ammunition were expelled from the gun into the kitchen sink. After the slide was locked, [redacted] placed the gun in the sink away from [redacted] and [redacted]. The gun was determined to be a Ruger 9mm. A subsequent search of the apartment recovered a live round of ammunition in the dining area. In total, fourteen (14) rounds of live 9mm ammunition were recovered in the apartment. One (1) round was recovered in the dining area, the remaining thirteen (13) rounds were recovered in the kitchen sink and in the gun.

After ensuring [redacted] was no longer a threat, SA [redacted] called for medical assistance. A CPD Detective at the scene utilized the CPD radio to advise shots had been fired and medical assistance was needed at the scene. Emergency medical personnel responded within minutes. [redacted] was treated by paramedics inside the apartment. The extent of his injuries were such that he was able to walk out of the building to the ambulance. Records indicate [redacted] was transported to St. Bernard's Hospital

b6
b7C

at approximately 6:30am for treatment, and later transported to Mount Sinai Hospital for surgery.

SA [redacted] took control of [redacted] after the shooting. SA [redacted] ensured she was not injured and moved her to the front living room area. SA [redacted] conducted a thorough search of [redacted] for weapons and handcuffed her. [redacted] was crying and visibly upset following the shooting. SA [redacted] then conducted a complete search of the bedroom and bathroom area, clearing each room in a methodical manner. After ensuring there were no more subjects in the apartment, SA [redacted] retrieved [redacted] daughter from the bedroom area. He subsequently removed the handcuffs from [redacted] and allowed her to be with her daughter, under the constant supervision of FBI or CPD personnel. b6 b7C

[redacted] was later removed from the scene and taken to the local precinct for questioning by CPD detectives and FBI agents. [redacted] provided a statement to CPD and FBI personnel. During her statement she denied knowing [redacted] had a weapon in the apartment or knowledge of the outstanding arrest warrant.

At approximately 6:15am SA [redacted] notified SSA [redacted] and A/ASAC [redacted] ASAC Monroe was the Acting SAC on the day of the shooting. SA [redacted] also notified Assistant Division Counsel [redacted] SSA [redacted] ASAC Monroe, and CDC Krupkowski responded to the scene. A/ASAC [redacted] also arrived at the scene. Shortly after the shooting SA [redacted] retrieved SAs [redacted] and [redacted] weapons.

Upon arriving at the scene, ASAC Monroe coordinated with senior CPD officials regarding the control of the crime scene and subsequent investigation. CPD Deputy Superintendent [redacted] was the on-scene commander for CPD. Deputy Superintendent [redacted] informed ASAC Monroe the CPD would relinquish control of the investigation to the FBI as all the parties involved in the shooting were FBI agents. CPD provided physical security to the area for the entire day. CDC Krupkowski advised FBI agents on scene they were not required to provide statements to the police at that time. CDC Krupkowski informed the agents of the availability of representation from the FBI Agent's Association. b6 b7C

FBI Chicago ERT conducted an exhaustive search of the apartment, which included a ballistic trajectory analysis, recovery of evidence, crime scene photos, crime scene video, detailed sketches, and evidence logs. The ERT search and analysis determined seven (7) rounds were fired by SA [redacted] and [redacted] combined. The trajectory analysis indicates SA [redacted] fired

five (5), .40 caliber, rounds at the subject. It is likely SA [redacted] shot and wounded the subject. SA [redacted] fired two rounds, .45 caliber, at the subject. The forensic evidence does not indicate SA [redacted] struck the subject. All the rounds were accounted for in the physical search by ERT. Based upon an accounting of the recovered 9mm ammunition from [redacted] weapon, it was determined the subject did not fire his weapon. A copy of the ERT reporting is included with this report.

The subject was struck in the index finger of his right hand. The subject received immediate medical attention from FBI personnel on the scene. Emergency personnel responded to the scene and treated the subject within minutes of the shooting. As the injuries were limited to his hand, the subject was instructed to walk out of the apartment by emergency medical personnel. The subject was transported to St. Bernard's hospital for treatment by ambulance. After treatment in the emergency room, it was determined the subject required surgery and was transported via ambulance to Mount Sinai Hospital, by medical personnel. The subject was operated on by Dr. [redacted] a plastic and hand surgeon at Mount Sinai. According to Dr. [redacted] upon entering [redacted] the fingertip, the bullet traveled along the inside of [redacted] finger and entered his hand at the web space between his index and middle finger. The bullet fragmented as it traveled through [redacted] hand and a portion of the fragments exited his hand on the top near the middle finger, wrist area. Dr. [redacted] indicated it was likely the subject would not regain full use of his index finger, but otherwise was expected to recover fully. Squad VC-1 personnel guarded [redacted] during his medical treatment. A Squad VC-1 Task Force Officer was present in the operating room during [redacted] surgical procedure. The CCSO took custody of [redacted] following his surgery. [redacted] was subsequently released from the hospital and was housed at a CCSO facility.

b6
b7C

Dr. [redacted] stated he asked the subject what happened. The subject told Dr. [redacted] that he had a gun and had been shot in the hand while holding his hand up near his face. The subject had other scrapes and scars on his body on April 5, 2006. The doctor asked the subject if those injuries were from the shooting. The subject indicated he had other scars and marks from previous fights and incidents. Dr. [redacted] did not find any other injuries on [redacted] resulting from the shooting. [redacted] did not mention any other physical complaints related to the shooting.

b6
b7C

Damage to the apartment was confined to the kitchen area. Specifically, the refrigerator, stove, walls, and back door were damaged in the shooting. Several rounds passed through

the refrigerator, stove, or partial wall. With permission from the building owner, ERT removed shell fragments from the walls for ballistic testing. Testing by the laboratory is ongoing at the time this report was prepared.

Chicago Squad CE-9 was assigned to conduct an Assault on a Federal Office (AFO) investigation of [redacted] SA [redacted] is the case agent. Assistant United States Attorney [redacted] for the Northern District of Illinois will pursue charges against [redacted] for the AFO and related gun charges. Interviews of [redacted]'s girlfriend, neighbors, landlord, and related persons were conducted. Results of those interviews are included in this report. [redacted] medical records were subpoenaed by investigators and are attached to this report

b6
b7C

Chicago Principal Firearms Instructor (PFI) [redacted] was contacted regarding the firearms training for SAs [redacted] and [redacted] PFI [redacted] provided records of firearms scores for both agents. SA [redacted] and SA [redacted] successfully completed all firearms training for 2005. Both agents demonstrated a high degree of proficiency in operating their bureau issued weapons. SA [redacted] completed his first quarter qualification for 2006 on March 30, 2006. SA [redacted] has yet to complete the first quarter qualification for 2006 due to a heavy investigative work load and operational matters. Copies of the firearms scores are attached to this report.

The Shooting Investigation Team (SIT) interviewed all agents and TFOs on the arrest team. SAs [redacted] and [redacted] signed FD-927 WARNING AND ASSURANCE TO EMPLOYEE REQUESTED TO PROVIDE INFORMATION FOLLOWING A SHOOTING INCIDENT. Signed Sworn Statements were obtained from: SA [redacted], SA [redacted], SA [redacted], SA [redacted], SA [redacted], SA [redacted], SA [redacted], SA [redacted] and SA [redacted]. FD-302s were prepared following the interviews of ASAC Monroe, A/ASAC SSA [redacted] SSA [redacted] and TFO [redacted] FD-302s were also prepared by summarizing interviews and the collection of certain investigative materials.

# 2006

Savage-1994

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/16/2007

To: Inspection Attn: AD Kevin L. Perkins

From: Inspection
Contact: [redacted] Extension 4-1837

Approved By: Perkins Kevin L
Clemens Michael
[redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271971-D

b6
b7C

Title: SHOOTING INCIDENT
CRITICAL INCIDENT RESPONSE GROUP (CIRG)
HOSTAGE RESCUE TEAM (HRT)
12/06/2006

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/06/2006, involving Special Agent (SA) [redacted] During a training exercise by the HRT, SA [redacted] fired one round from his Bureau-issued Colt M-4, .223 Caliber, Special Purpose Rifle, killing Supervisory Special Agent (SSA) Gregory J. Rahoi. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Inspector [redacted] dated 02/09/2007.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

Since September 2005, HRT Operators have been routinely imbedded within the Department of Defense (DOD) Special Forces (SF) units in Iraq to conduct special site exploitations. On 12/06/2006, in anticipation for deployment to Iraq, the CIRG, Operations and Training Unit (OTU), conducted live fire, fire and maneuver training for thirteen HRT Operators and three Helicopter pilots assigned to the Tactical Helicopter Unit (THU). The Unconventional Law Enforcement Operations (ULEO) training was conducted on Range 24 at Fort A.P. Hill, Virginia. According to the OTU, the training scenarios used on 12/06/2006, were developed using actual experiences of HRT Operators in Iraq and

were reportedly similar to training exercises used by DOD SF units.

The training exercise was planned and supervised by members of the CIRG, OTU SSA [redacted], SSA [redacted] and SSA [redacted]. Prior to the beginning of the training exercise, SSAs [redacted] and [redacted] provided safety briefings which included helicopter safety, medical emergencies, firearm safety, target awareness, communications, and range operations. The exercise included the use of two types of targets, the fixed military target known as an Ivan, and an FBI target known as LaRue. The Ivan was described as a green plastic three-dimensional silhouette of a human upper torso which was approximately three and one half feet tall, and range controlled to pop-up after being knocked down when hit by a bullet. They were fixed to the ground and could not be moved. The LaRue targets were steel plates, painted red and white, approximately eighteen inches high and twelve inches wide and fell when hit by a bullet. LaRue targets were equipped with motors which allowed the target to automatically stand back up after being hit and were movable.

b6
b7C

Range 24 was approximately three miles long and 200 yards wide. The range consisted of variable terrain with various size vegetation and ran east to west with an obvious tree line the entire length on both sides. A gravel road ran down the middle of the range cutting it into north and south sides. Field of fire was briefed to the HRT Operators as 180 degrees forward or tree line to tree line which was different than the 360 degrees of coverage used during a real operation. HRT Operators were specifically advised not to fire from the helicopters and to use fans of fire when firing live ammunition down range when other HRT Operators were positioned down range.

The first scenario briefed to the HRT Operators involved the group breaking into three teams of three operators and one team of four operators with a helicopter transporting each team separately to three different locations on the range. At each location, team members would exit the helicopter and move to a fixed position clearly marked on the ground by a mannequin, and would engage both pre-positioned Ivan and LaRue targets. Once the targets were engaged from the fixed position, the team would return to the helicopter, continuing to engage targets as they appeared before re-boarding the helicopter. The helicopter would then fly to the two other marked locations where the drill would be repeated. The completion of all three drills was considered the end of one evolution. This scenario took most of the morning and occurred without any significant events.

A second scenario referred to as a Combat Search and Rescue (CSAR) training exercise was briefed and executed in the

afternoon. The CSAR training exercise called for two teams of six and seven. The scenario was a downed helicopter in Iraq with an injured HRT Operator still on board and the teams' mission was to rescue him. Each team would be flown separately by helicopter in the approximate same area on Range 24 as was used in the morning exercise. At the designated location, team members would exit the helicopter and using live fire, fire and maneuver moving to the crash site which was a pre-positioned helicopter frame. The team would engage both Ivan and LaRue targets as they moved, would rescue the survivor of the downed helicopter, and again using live fire, fire and maneuver engaging targets move back to the helicopter and be airlifted out of the area. The same targets in the same locations used in the morning exercises were used. There were two sets of Ivan targets on both the north and south sides of the gravel road approximately one hundred yards apart. The teams used the north and south side of the gravel road to move to the crash site. This scenario occurred without any significant event.

The last scenario was identical to the previous Combat Search and Rescue exercise. The only change was that all thirteen HRT Operators would be used. No targets were added, deleted, or moved for the final run. The scenario was briefed to SSA [redacted], who was the designated overall Team Leader for the exercise. TL [redacted] divided the group into three teams, with Team 1 consisting of three Agents, Team 2 consisting of four Agents, and Team 3 consisting of five Agents.

The plan devised by TL [redacted] was briefed to the entire team and consisted of Teams 1 and 2 being inserted via Bell Helicopter 412 and Team 3 being inserted via Bell Helicopter 407. The insertion would be simultaneous, approximately two hundred yards east of the simulated crash site. Team 2 would be positioned to the north edge of the range, Team 3 to the south, and Team 1 would be in the center. The teams were instructed to employ a bounding overwatch method movement which was described as a minimum of one team providing cover fire while a minimum of one team moved forward or down range. Once at the crash site, Team 3 would establish a position to the west of the target location, the direction from which TL [redacted] had been briefed there was enemy movement. Team 2 would secure the crash site and prepare any casualties for movement. Movement back to the helicopters would be conducted in reverse of the movement to the crash site, with Team 2 responsible for transporting the casualty via a litter back to the helicopter. TL [redacted] was responsible for command and control of the individual teams including the positioning of the teams. Each individual Team Leader was responsible for the movement and positioning of the individual team members within each team. TL [redacted] would communicate with the two other Team Leaders, SSA [redacted] and SSA Rahoi, with a

b6
b7C

combination of radio calls, hand and arm signals, and verbal commands.

At approximately 3:30 p.m., the plan was executed and continued as planned until Team 2 had secured the crash site, assessed the casualty's condition, and was preparing to return to the helicopter. A tactical timeout was called and Range Technician [redacted] replaced the mannequin as the casualty on the litter. After the casualty was prepared for transport, Team 2 provided four team members to carry the litter to the helicopter. TL [redacted] and SA [redacted] collapsed toward the east to provide cover for those carrying the litter. SAs [redacted] and [redacted] positioned themselves near a concrete retaining wall around a set of Ivan targets approximately one hundred yards east of the crash site. SAs [redacted] and [redacted] were facing east providing nominal cover to the rear. b6 b7C

As the litter, four members of Team 2, TL [redacted] and SA [redacted] moved east passing SA [redacted] and SA [redacted]'s position, TL [redacted] instructed them to adjust their position from facing east to facing west which required a 180-degree adjustment. It was noted in his statement that SA [redacted] recalled being instructed by TL [redacted] to turn from the easterly direction he was covering and turn to the west and "pick up the rear." SA [redacted] was not absolutely positive of the verbiage used by TL [redacted] but interpreted his words to mean, "turn around and cover the rear area." When given rear security responsibility by TL [redacted] SA [redacted] believed there was no individual west of his position down range.

SA [redacted] recalled hearing information in a radio transmission indicating an enemy force was approaching from the west. Believing that he and SA [redacted] were the last group to the rear or west and covering down range, SA [redacted] thought his field of fire was 180 degrees or the tree line on his left to the tree line on his right. SA [redacted] observed the simulated downed helicopter in plain view. He scanned with his naked eye left and then right and when he scanned back left, he saw what he believed to be two Ivan targets. The Ivan targets did not move and appeared to have the same spacing and height as other Ivan targets he had previously engaged. SA [redacted] then saw what he believed to be an Ivan target through the optical scope on his rifle. He noted he had an unobstructed view of the Ivan targets in high grass at the top of a berm, similar to the way other Ivan targets on the range were positioned. SA [redacted] who was not wearing sunglasses, looked in a westerly to southwesterly direction with the sun at tree top level causing significant sun glare. As he acquired the target he yelled to SA [redacted] "targets left." SA [redacted] did not hear SA [redacted] respond and fired one shot, keeping his sight on the target. He noticed the b6 b7C

target did not fall like the other Ivan targets and immediately realized he had hit another HRT Operator.

According to SA [redacted] he recalled SA [redacted] yelling to him, "any targets on the left." He believed SA [redacted] was asking if he saw any targets on the left remaining to shoot and he replied, "no." SA [redacted] later spoke with SA [redacted] and learned SA [redacted] had stated, "targets left" meaning SA [redacted] observed Ivan targets on his left and was calling them out as part of the scenario. Immediately after responding to SA [redacted] SA [redacted] heard the gunshot from SA [redacted] position and immediately thereafter heard, "real world medical," called on the radio. Both Agents immediately ran to render aid to SSA Rahoi.

b6
b7C

According to TL [redacted] he recalled only instructing SA [redacted] to adjust his and SA [redacted] position from facing east to facing west which required them to make a 180-degree adjustment. TL [redacted] stated, "I communicated that Team 1 was set, meaning that we were in a position to provide covering fire (over watch) for Team 3's movement (bound) to the east."

Team 3 was still on the north side of the gravel road approximately 125 yards southwest and down range of SAs [redacted] and [redacted] Three members of the team, using the bounding overwatch method, moved in an easterly direction leaving SSA Rahoi and SA [redacted] still in the position 125 yards southwest and down range of SSA [redacted] and SA [redacted] SSA Rahoi was closest to the gravel road in a kneeling position. SA [redacted] was approximately ten feet to SSA Rahoi's left in a prone position. Both Agents were in knee high grass. SA [redacted] heard SA Rahoi state, "We're going to move back." SSA Rahoi began to stand up from his kneeling position and as he did, SA [redacted] heard a shot and heard SSA Rahoi state, "real world medical," and saw SSA Rahoi fall to the ground.

b6
b7C

After SA [redacted] shot was fired, it was quickly determined that SSA Rahoi had been wounded. Medical aid was rendered and it was determined SSA Rahoi required being airlifted to the nearest medical facility. SSA Rahoi was immediately transported by the 412 helicopter to Mary Washington Hospital in Fredericksburg, where he was pronounced dead.

The Medical Examiner determined SSA Rahoi suffered a gunshot wound on the right side of the upper back. Bullet fragments passed through his chest wall breaking three ribs, damaging the upper lobe of his right lung, caused multiple perforations of the right subclavian artery and vein, as well as a laceration of the ascending aorta.

On 04/13/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael

S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Practical Applications Unit, TDD. SSA [redacted] and Management Program Analyst (MPA) [redacted] Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Prior to the discussion of this incident by SIRG members, Inspector [redacted] Inspector-in-Charge of the investigation of the shooting incident, provided an in-depth overview of the positions of all personnel involved in the training scenario, the appearance of the range where the scenario was taking place, and answered questions posed by SIRG members. Inspector [redacted] expressed the opinion that SSA Rahoi's death was the result of a tragic training accident resulting from the misidentification of a target.

b6
b7C

Inspector [redacted] opined that although the same targets in the same locations were used throughout the day's training exercises it was reasonable that SA [redacted] misidentified SSA Rahoi as a target. In an attempt to recreate SA [redacted]s view through the optical scope on his rifle, photographs were taken looking through the scope at approximately the same time of day as the actual shooting. An Ivan target placed 125 yards away in SSA Rahoi's approximate position was photographed. This photograph was compared to a photograph taken a few minutes later of a

mannequin wearing clothing identical to SSA Rahoi's shirt, vest, and helmet in the same position. A comparison of the photographs indicated looking through SA [redacted] scope, the Ivan target and the mannequin dressed in SSA Rahoi's clothing appeared very similar. Additionally, SSA Rahoi and SA [redacted] were positioned side by side on the top of a berm similar to the Ivan targets.

Inspector [redacted] pointed out all team members had been briefed on the planned movements of each team. However, SA [redacted] was positioned facing away from the HRT operators as they moved up and down range and although the HRT operators and RSOs were equipped with radios there were no communications pointing out SSA Rahoi's position down range from SA [redacted] b6 b7C

Inspector [redacted] noted three trained Range Safety Officers (RSO) were present during the training exercise. One was designated as the RSO for this specific training exercise. The RSOs were providing information to the Team Leaders concerning simulated enemy troop movements and which targets were still in play. They were not interjecting themselves in the team's movements.

Inspector [redacted] also discussed the lack of a written operations plan for each training exercise. He advised the OTU had no standard practice of preparing written operations plans; however, a risk assessment was provided in this instance due to the requirements of Fort A. P. Hill. The risk assessment contained a brief description concerning the training to be conducted; however, it did not adequately describe the CSAR scenario in which SSA Rahoi was fatally wounded. It was also noted by Inspector [redacted] that all HRT Operators must successfully complete a five month New Operator Training Course (NOTS) prior to being selected as a HRT Operator. After the completion of NOTS, the CIRG, HRT, does not maintain additional training records which detail the type and quantity of tactical training received by individual HRT Operators.

SIRG members began a lengthy discussion of the incident. One member asked if this type of training was appropriate for Agents being deployed to Iraq. The Special Weapons and Tactics Unit, TDD, representative advised that the training was indeed necessary and essential. Other members emphasized the fact that a proper target must be identified and not assumed and that training dictates that proper target acquisition must be accomplished before pulling the trigger of a weapon.

The OGC representative questioned if the position of the designated Range Safety Officer (RSO) would have been better if one had been placed with each team as a safety precaution. It

was also questioned if the presence of more than one RSO should be mandated during this type of training exercise.

SIRG members also discussed the fact that no medical personnel were available to meet the landing helicopter upon arrival at the hospital. Once the decision was made to take SSA Rahoi to Mary Washington Hospital due to its close proximity and the condition of SSA Rahoi, call outs were made over the radio by Contract Pilot [redacted] advising anyone to make contact with the hospital, advise them of their arrival, and repeated the medical needs required upon their arrival. According to SA [redacted] the helicopter pilot, upon landing at Mary Washington Hospital's landing zone located on the roof of the parking garage, no medical personnel were there to meet them. Personnel on the helicopter carried SSA Rahoi to the parking garage elevator where they were greeted by medical personnel with a stretcher. b6 b7C

The last issue discussed by the SIRG pertained to the presence of Los Angeles Police Department photographer [redacted]. Members noted that the presence of a photographer should have received management approval.

SIRG members also adopted the following five recommendations of the Shooting Incident Review Team: 1) That SAC, CIRG ensure clear and proper communications are stressed to all HRT Operators during training scenarios; 2) That SAC, CIRG continue to provide safety briefings prior to all training exercises which stress situational awareness, fields of fire and target acquisition; 3) That SAC, CIRG require HRT Operators, when conducting live fire training scenarios, to wear some type of distinguishing clothing or markings to further differentiate targets from HRT Operators during training; 4) That SAC, CIRG develop and deploy a system to document, track, and evaluate all training received by HRT Operators; and 5) That SAC, CIRG institute a policy requiring all live fire training scenarios be approved by a Unit Chief or higher.

At the conclusion of the lengthy discussion, SIRG Chairman Clemens asked SIRG members to vote on the following question: "Was SA [redacted] negligent in his actions of pulling the trigger of his weapon and if so, was he deserving of any disciplinary action?" Board members unanimously voted that SA [redacted] was not negligent in his actions and recommended that no administrative action be taken against him as a result of his involvement in this incident. b6 b7C

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Set Lead 2: (Action)

b6
b7C

CIRG

AT QUANTICO, VA

That SAC, CIRG ensure clear and proper communications are stressed to all HRT Operators during training scenarios.

Set Lead 3: (Action)

CIRG

AT QUANTICO, VA

That SAC, CIRG continue to provide safety briefings prior to all training exercises which stress situational awareness, fields of fire and target acquisition.

Set Lead 4: (Action)

CIRG

AT QUANTICO, VA

That SAC, CIRG require HRT Operators, when conducting live fire training scenarios, to wear some type of distinguishing clothing or markings to further differentiate targets from HRT Operators during training.

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 05/16/2007

**Set Lead 5: (Action)**

CIRG

AT QUANTICO, VA

That SAC, CIRG develop and deploy a system to document, track, and evaluate all training received by HRT Operators.

**Set Lead 6: (Action)**

CIRG

AT QUANTICO, VA

That SAC, CIRG institute a policy requiring all live fire training scenarios be approved by a Unit Chief or higher.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] CIRG
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted], Room 3204
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted], Room 7326
1 - Mrs. [redacted], Room 7861

b6
b7C

♦♦

(Rev. 05-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 02/22/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
Office of Inspections
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael S

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271292-D

**Title:** SHOOTING INCIDENT
CLEVELAND DIVISION
07/12/2006

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/12/2006, involving Special Agent (SA) [redacted]. While attempting to execute the arrest of fugitive [redacted], SA [redacted] fired two rounds from his Bureau-issued Glock, Model 22, .40 caliber pistol. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted], dated 06/20/2007.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

**Details of the Shooting Incident**

On 07/12/2006, SA [redacted] accompanied by two Task Force Officers (TFOs), attempted to locate and arrest [redacted] who was wanted for armed car jacking as well as a parole violation. [redacted] was involved in a high-speed chase with the Cleveland Police Department the previous week; however, he eluded capture.

Investigation conducted by the Cleveland Safe Streets Task Force (SSTF) determined [redacted] was in possession of a maroon vehicle and identified his possible location as a hotel located on Euclid Avenue in Cleveland.

On the morning of 07/12/2006, investigating Agents determined that a vehicle matching the description of the vehicle [redacted] was supposedly driving, was parked at the hotel. SA [redacted] and the TFOs observed a subject matching [redacted] description exit a hotel room with a female. The male entered the driver's door of the suspect vehicle and the female entered the passenger door. As the subjects were leaving the area, SA [redacted] positioned his vehicle in an attempt to block the suspect's vehicle. SA [redacted] and the TFOs identified themselves as law enforcement officers and ordered the driver to stop the vehicle and raise his hands. [redacted] initially complied with law enforcement personnel commands and raised his hands; however, the vehicle continued to move forward at a slow speed. SA [redacted] and the TFOs continued to order [redacted] to stop the car, place it in park, and exit the vehicle. At that point, [redacted] suddenly sped up forcing TFO [redacted] to jump out of the path of the vehicle. As the vehicle headed toward SA [redacted] TFO [redacted] fired one round at [redacted] While attempting to remove himself from the vehicle's path, SA [redacted] fired two rounds at [redacted] before the vehicle struck him in the right leg.

b6
b7C

TFO [redacted] drove into the parking lot and attempted to place his vehicle in a blocking position near the exit of the hotel parking lot. TFO [redacted] exited his vehicle and took cover behind the driver's door as [redacted] was driving toward TFO [redacted] and SA [redacted] sped past SA [redacted] vehicle and rammed into TFO [redacted] vehicle, knocking him to the ground. The collision disabled [redacted] vehicle and he was taken into custody.

Neither [redacted] nor his passenger was hit by any of the rounds fired; however, the passenger of the vehicle was cut by broken glass from the vehicle's windshield.

SA [redacted] and TFO [redacted] were treated at a local hospital and released.

b6
b7C

On 02/15/2008, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division (INSD), chaired the meeting and was a non-voting member. The following voting members were in attendance: [redacted] Deputy Chief, Gang Squad, Criminal Division, United States Department of Justice (USDOJ); [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; [redacted] Inspector, Office of Inspections (OI), INSD; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD);

UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Indian Country/Special Crimes Unit, Violent Crimes Section, Criminal Investigative Division; UC [redacted] Practical Applications Unit, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of General Counsel; and SSA [redacted] Gangs/Criminal Enterprise Section, CID. Management Program Analyst (MPA) [redacted] Inspection Management Unit, OI, INSD, a non-voting member, was also in attendance.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted]

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 02/22/2008

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. Casey, Room 5096
1 - Ms. [redacted] Room 3999
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 3043

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 04/12/2007

To: Inspection Attn: AD Kenneth W. Kaiser

From: Inspection
Contact: [redacted] Extension 4-1837

Approved By: Kaiser Kenneth W
Clemens Michael
[redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271788-D

b6
b7C

Title: SHOOTING INCIDENT
NEW YORK FIELD OFFICE
02/24/2006

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/24/2006, involving Special Agent (SA) [redacted] While conducting surveillance, SA [redacted] was involved in an exchange of gunfire with two subjects involved in a separate gun battle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of former Assistant Special Agent in Charge (ASAC) Matthew D. Heron, dated 03/01/2006.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 02/24/2006, members of the New York Joint Terrorism Special Operations Team #9, comprised of New York City Police Department (NYCPD) detectives and New York Field Office SAs, were involved in the surveillance of a subject concerning an ongoing terrorism investigation.

b6
b7C

Team members were conducting individual checks of locations in various boroughs of New York to determine the exact location of the subject. In the early evening hours, Detective (Det.) [redacted] contacted team members and advised he had located the target subject in the vicinity of East 95th Street and Avenue D in the Canarsie section of Brooklyn. Team members proceeded to the identified location and established surveillance

of a residence in the area. A 30-minute rotating "eye" was established and each team member who did not have the primary surveillance took a position in the surrounding area to wait for the primary position.

At approximately 8:45 p.m., Det. [redacted] contacted team members via radio and advised of a suspicious red Volkswagen Jetta in the vicinity of East 96th Street. Det. [redacted] also advised two black males exited the vehicle and were walking west on Nolans Lane toward East 95th Street. Although law enforcement personnel were unsure if the two individuals were directly involved in the surveillance, team members continued to relay information concerning their movements. Det. [redacted] also advised participants the suspicious vehicle moved to the area of Avenue D and East 95th Street at a high rate of speed after the two subjects exited the vehicle. SA [redacted] observed the Jetta move to the corner of East 95th Street and Avenue D while other team members observed the two subjects approach a restaurant on the corner. As the two subjects approached the location, another subject, subsequently identified as [redacted] exited a store and the three exchanged gunfire. b6 b7C

SA [redacted] moved his vehicle into the driveway of a parking lot, identified himself as an FBI Agent, and displayed his shield. As two of the three subjects turned and began firing at SA [redacted] he assumed a defensive position in his vehicle and returned fire at the subjects resulting in one subject fleeing on foot. The subject vehicle slowly rolled South on East 95th Street and struck a parked car; however, no subjects exited the vehicle.

Three subjects were arrested at the scene of the incident, with one having a graze wound on the leg. A fourth subject was arrested at the North Shore University Hospital in Long Island, where he was treated for gun shot wounds to the wrist and shoulder.

Kings County Assistant District Attorney [redacted] advised the District Attorney's Office would not seek to charge or indict SA [redacted] regarding his involvement in the shooting incident. b6 b7C

A declination of prosecution dated 05/19/2006, was issued by the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 01/25/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in

attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Assistant SC [redacted] Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Practical Applications Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and UC [redacted], Investigative Law Unit, Office of the General Counsel (OGC). SSA [redacted] Management Program Analyst (MPA) [redacted] and MPA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Members opined that SA [redacted] should be commended for involving himself in a dangerous situation to protect innocent civilians. This will be brought to the attention of the Assistant Director in Charge of the New York Field Office.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 04/12/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted], Room 3204
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted], Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861
♦♦

b6
b7C



Savage-2012

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/18/2007

**To:** Inspection **Attn:** AD Kenneth W. Kaiser

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Kaiser Kenneth W
Clemens Michael

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271285-D

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
04/05/2006

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/05/2006, involving Special Agents (SAs) [redacted] and [redacted] During the execution of an arrest warrant for an Armed Robbery fugitive, SA [redacted] fired two rounds from his Glock Model 21 pistol, and SA [redacted] fired five rounds from his Glock Model 22 pistol, resulting in an injury to the subject's finger. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge (ASAC) Gregory Alan Fowler, dated 04/24/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

During the execution of an arrest warrant for an Armed Robbery fugitive, two Agents fired shots at the armed subject resulting in an injury to his finger.

b6
b7C

At the request of the Cook County Sheriff's Office, SA [redacted] conducted an investigation of a subject wanted for Armed Robbery from the State of Mississippi. During the investigation, SA [redacted] determined the subject, [redacted] was living in an apartment located in Chicago. SA [redacted] conducted surveillance on the subject's purported address and upon confirming [redacted] was residing at the address, prepared an arrest

plan. The arrest plan was approved and an arrest was planned for 04/05/2006.

SA [redacted] provided a briefing to arrest team members on the morning of 04/05/2006, which included information regarding the subject's criminal history, description of the target location, and a warning regarding [redacted] previous history of resisting arrest. [redacted] was identified by SA [redacted] as being armed and dangerous.

On 04/05/2006, at approximately 6:00 a.m., the entry/arrest team arrived at the subject's location and corroborated that [redacted] resided in the apartment. The Agents observed the apartment had a locked steel security gate and a standard frame door. SAs [redacted] and [redacted] gained access to the apartment building and requested other Agents to enter. SAs [redacted] and [redacted] entered the apartment building to provide assistance with the entry and arrest while SA [redacted] remained in the courtyard area. The remaining team members took positions along the perimeter of the building.

b6
b7C

Shortly after 6:00 a.m., SAs [redacted] and [redacted] knocked on the door of the subject's residence. A female spoke to the Agents through the locked door and SA [redacted] advised her they were the "police" and requested that she open the door. [redacted] identified as [redacted] girlfriend, opened the frame door and spoke to law enforcement personnel through the metal gate. Simultaneously, Agents located on the perimeter of the building observed a black male at the window. SA [redacted] spoke to the male subject who indicated he resided in [redacted] The man had a distinctive mole on his forehead, similar to the description provided of [redacted] at the pre-arrest briefing. Information was provided by radio to all members of the team that the suspect was inside the apartment.

[redacted] eventually opened the metal gate door of the apartment for the Agents. While SAs [redacted] and [redacted] talked to her at the front door, SA [redacted] observed someone move toward what he believed to be the rear of the apartment/bedroom area.

b6
b7C

The four Agents entered the apartment, cleared the front room, and proceeded to the back bedroom and bathroom area. As SA [redacted] entered the kitchen/dining area, he observed a black male pointing a gun in the direction of SAs [redacted] and [redacted] SA [redacted] yelled, "Gun! Gun! Gun!" and fired five rounds at the subject. As SA [redacted] turned, he observed a man illuminated by the muzzle flash of a gun with a gun in his hand. SA [redacted] fired two rounds at the subject causing [redacted] to fall to the ground and drop his weapon after being struck by a bullet in his right index finger.

After ensuring [redacted] was no longer a threat, SA [redacted] requested medical assistance. Emergency medical personnel responded within minutes, treated the subject on the scene, and transported him to St. Bernard's Hospital. [redacted] was later transported to Mount Sinai Hospital for surgery. Although doctors advised a full recovery was expected, they cautioned [redacted] would probably not regain full use of his index finger. The Cook County Sheriff's Office assumed custody of [redacted] upon his release from the hospital. b6 b7C

On 06/08/2006, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SAs [redacted] and [redacted] in this shooting incident.

On 07/13/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: former Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted], Attorney, Civil Rights Division, USDOJ; Richard A. McFeely, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted], Assistant SC, CD-1, Counterintelligence Division; [redacted], Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD) [redacted] Chief, Defensive Systems Unit, TDD; [redacted], UC, Special Weapons and Tactics Operations Unit, Critical Incident Response Group; [redacted] UC, Operational Skills Unit, TDD; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Washington Field Office; and [redacted], General Attorney, Investigative Law Unit, Office of the General Counsel (OGC). [redacted] and [redacted] Management Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against either Agent as a result of their involvement in this shooting incident. b6 b7C



Savage-2016

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 04/18/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted] USDOJ
1 - Mr [redacted], USDOJ
1 - Mr. [redacted] Room 5046
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦



Savage-2017

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/24/2007

**To:** Inspection **Attn:** AD Kenneth W. Kaiser

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Kaiser Kenneth W
Clemens Michael [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271748-D

b6
b7C

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
07/26/2006

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/26/2006, involving Special Agent (SA) [redacted] who recently retired from the FBI. During the attempted arrest of an attempted murder suspect, SA [redacted] fired one round from his personally owned Remington 12 gauge shotgun, injuring the fleeing suspect. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 11/08/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 07/24/2006, [redacted] was involved in an attempted murder in Fort Lauderdale, Florida. A vehicle and physical description of [redacted] was provided to Detective [redacted] a fugitive detective in Fort Lauderdale assigned to the Miami Division's Violent Crimes squad. Detective [redacted] was advised of the violent nature of [redacted] offense, the fact that [redacted] was armed with a firearm, and that [redacted] had recently been released from prison.

b6
b7C

On 07/26/2006, Detective [redacted] and SA [redacted] were in [redacted] unmarked police vehicle, when [redacted] received information that [redacted] was in a specific location in the Fort

Lauderdale area. Detective [redacted] notified the Fort Lauderdale Police Department dispatcher of [redacted] possible location and requested the assistance of marked police vehicles to respond to the area. Two uniformed officers responded to the location, quickly located the subject's vehicle and began to follow the vehicle for a distance without operating the vehicle emergency lights and siren. As the vehicle stopped at a residence on 25th Street, later determined to be the subject's mother's residence, the officers initiated a felony traffic stop.

b6
b7C

During the traffic stop, SA [redacted] fired one round at the subject who fled in his vehicle. The two uniformed officers, Detective [redacted] and SA [redacted] as well as additional marked police units, pursued the fleeing suspect. After striking an uninvolved citizen, [redacted] crashed his vehicle and fled on foot. [redacted] was pursued several blocks where he was taken into custody by SA [redacted] and other Police Department officers after a violent struggle.

[redacted] was transported to the Broward General Hospital for treatment of a gunshot wound to his upper right arm.

On 10/03/2006, a report was received from the Broward County State Attorney's Office indicating [redacted] was charged with three counts including attempted first degree murder, possession of a firearm by a convicted felon, and felony criminal mischief. Additionally, Detective [redacted] was advised no criminal charges would be filed against SA [redacted]

On 03/20/2007, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 04/13/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law

b6
b7C



Savage-2019

Unit, Office of the General Counsel (OGC); and SSA [redacted] Practical Applications Unit, TDD. SSA [redacted] and Management Program Analyst (MPA) [redacted] Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by former SA [redacted] was justified and in conformance with the FBI's deadly force policy.

The only observation made by SIRG members pertained to SA [redacted] personally owned weapon (POW). SA [redacted] POW Remington 870 shotgun used in this incident was not a currently approved POW. Miami Division's FD-418 specified that [redacted] POW shotgun had a 14 inch barrel. As SA [redacted] has since retired, it would be illegal (a felony weapons violation) for him to possess a shotgun with a barrel length of less than 18 inches, without the proper Bureau of Alcohol, Tobacco, and Firearms registration and tax stamp. [redacted] should not have been permitted to utilize an unauthorized POW shotgun, nor should it have been fitted with a 14 inch barrel. Both of these issues, if accurately reported, pose potential problems for both the Miami Division and [redacted] The Miami Division should inspect retired SA [redacted] POW shotgun used in this incident to determine the actual barrel length. If the barrel length of the weapon is in fact 14 inches, Miami should ascertain whether that barrel is Bureau property. Miami should further determine whether [redacted] is in possession of a Bureau owned 14 inch shotgun barrel that he may have, or had, installed on this shotgun. This matter will be discussed with the Special Agent in Charge of the Miami Division.

b6
b7C



Savage-2020

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 04/24/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

For information due to the retirement of SA [redacted] on 01/03/2007.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted] Room 3204
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦



Savage-2021

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/30/2007

To: Inspection Attn: AD Kevin L. Perkins

From: Inspection
Contact: [redacted] Extension 4-1837

Approved By: Perkins Kevin L
Clemens Michael
[redacted]

Drafted By: [redacted] lrr

b6
b7C

Case ID #: 297-HQ-A1271462-D

Title: SHOOTING INCIDENT
COLUMBIA DIVISION
10/20/2006

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/20/2006, involving Special Agent (SA) [redacted] During the arrest of federal fugitive [redacted] SA [redacted] fired one round from his Bureau-issued Glock, Model 22 pistol, striking the subject in the chest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Inspector [redacted] dated 01/25/2007.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 11/23/2004, the Columbia Division initiated a violent gang investigation focusing on a local group of the Bloods Street Gang. In January 2006, a federal indictment was returned charging several members with violations of Title 21. On 07/18/2006 [redacted] along with fifteen other individuals, was also indicted for Title 21 violations. Investigation revealed [redacted] regularly carried or possessed weapons, had previously discussed executing a firebomb attack on a Police Department Safe Streets Task Force Officer, and made statements to a police officer that he would not return to jail.

On 10/20/2006, SA [redacted] of the Columbia Division received information from Sergeant [redacted] of the Columbia Police Department that [redacted] was reportedly near his sister's residence located in the Colony Apartments in Columbia. Due to SA [redacted] involvement in trial preparation, he relayed the information to SA [redacted] who re-contacted Sergeant [redacted] Sergeant [redacted] advised the subject was just observed on [redacted] Street and described the clothing he was wearing. SAs [redacted] and [redacted] drove to the location to verify the information provided by Sergeant [redacted]. b6 b7C

Upon their arrival at the identified location, SAs [redacted] and [redacted] attempted to enter the nearby Columbia Police Department Substation to view CCTV coverage of areas within the apartment complex. Discovering the substation was locked, the Agents drove to Bailey Street in an attempt to locate [redacted] Failing to locate the subject, the Agents decided to drive through the area a second time and observed an individual fitting the physical description of [redacted]. The individual, who was wearing the same clothing described by Sergeant [redacted] was standing in a parking lot in front of [redacted] SAs [redacted] and [redacted] proceeded back to the police substation and contacted Supervisory Special Agent (SSA) [redacted] and SA [redacted] for assistance. SA [redacted] arrived at the substation and SA [redacted] sketched the spot where he and SA [redacted] saw the subject. The Agents made a tentative arrest plan while awaiting the arrival and approval of the plan by SSA [redacted]

SSA [redacted] arrived at the substation and was briefed on the arrest plan. SSA [redacted] approved the plan which called for the four Agents to drive toward [redacted] in a single unmarked car as though they were potential drug purchasers. They would quickly exit the vehicle and surprise [redacted] in order to effect his arrest. The Agents, wearing tactical vests marked with prominent FBI letters, proceeded to the location of the subject. Unable to locate [redacted] the Agents b6 b7C proceeded to the police substation to discuss other options available to assist in the location of the subject. A decision was made to go to [redacted] sister's apartment to determine if she knew the subject's location. The Agents drove into the parking lot of the apartment complex and quickly approached the apartment covering both the front and rear of the unit.

At approximately 5:45 p.m., SAs [redacted] and [redacted] proceeded to the front of the apartment while SSA [redacted] and SA [redacted] moved to the back of the residence to cover the back door.

Moments prior to the Agents reaching the apartment, an unknown male approached the partially open door of the apartment

and warned the subject of the approaching Agents. [redacted] moved from the living room area of the apartment into the kitchen, leaving four individuals, including twin one-year old boys, inside the living room. As SAs [redacted] and [redacted] approached the open door, they observed two young children playing in front of the apartment. SA [redacted] told the children to go inside the apartment and they proceeded into the door next to the subject location. SA [redacted] observing the subject inside the unit at [redacted] drew his weapon and yelled, "FBI, put your hands up." SA [redacted] entered the apartment and moved immediately to the right along the front wall and toward the center of the room. As SA [redacted] approached the front door, he also observed the subject and instructed [redacted] to put his hands up. Initially [redacted] was noncompliant with the Agents' commands but subsequently raised his left hand, kept his right hand below waist level, and bladed himself toward SA [redacted]. Observing the subject's movements, SA [redacted] yelled, "watch out." SA [redacted] could not clearly see [redacted] right hand but observed him moving his right hand toward his waist. Believing [redacted] was drawing a weapon, SA [redacted] fired one round from his pistol striking the subject in the chest.

b6
b7C

While SAs [redacted] and [redacted] cleared the unit, SA [redacted] applied emergency first aid to [redacted] s wound and Emergency Medical Support (EMS) was requested. EMS personnel arrived minutes later and transported [redacted] to the Palmetto Richland Memorial Hospital where he was treated for his gunshot wound.

The State of South Carolina Solicitor's Office reviewed the case file and determined SA [redacted] was justified in firing his weapon and advised no criminal charges would be filed in this matter. By letter dated 05/03/2007, the United States Department of Justice, Civil Rights Division, advised a criminal investigation was not warranted in this matter.

On 05/15/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted], Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted]

b6
b7C

Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Practical Applications Unit, TDD; SSA [redacted] Washington Field Office; and [redacted] General Attorney, Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271462-D, 05/30/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted]z, Room 3204
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], CIRG
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
(Attention: Ms. [redacted]
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861
♦♦

b6
b7C



Savage-2026

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: CIRG
Date: 05/12/2005

Case ID #: 297-HQ-A1270955-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BOSTON DIVISION
MARCH 24, 2005

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 03/24/2005, FBI Special Agent (SA) [redacted] Boston Division, shot and wounded [redacted] Date of Birth (DOB) of [redacted] during an arrest in Boston, Massachusetts (MA). SA [redacted] was the only shooter during the incident and [redacted] was the only person wounded. According to witnesses, [redacted] received gun shot wounds to the chest and arm and was treated at Boston Medical Center. [redacted] injuries were not life threatening and he survived.

DETAILS:

[redacted] was the subject of a pending Boston Division bank robbery investigation [redacted] CITIZENS BANK, 435 BROOKLINE AVE, BOSTON, MA; 03/01/2005 - 91A-BS-95110) and a local warrant for his arrest had been obtained from the Roxbury District Court in Suffolk County (Warrant Number 0502CR001137) on 03/23/2005, after he had been identified by the Bank Robbery Task Force (BRTF) as the individual responsible for that robbery. During that robbery, [redacted] had brandished a pistol and threatened to shoot the teller.

b6
b7C

[redacted] was developed as a suspect following an episode of the Fox 25 television show, "Massachusetts Most Wanted." An individual called in to that program and provided information which assisted in identifying [redacted] as the bank robber. The caller warned the police that, [redacted] is your man...and he could have a gun."

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

The caller also stated that [redacted] may currently reside at his girlfriend's residence at [redacted] Dorchester, MA. [redacted] had a significant criminal history, including armed robbery, assault and battery of a police officer, assault with a dangerous weapon, witness intimidation, and was a suspect in numerous other Boston Division bank robberies. [redacted] also known as (aka), [redacted] Date of Birth (DOB) [redacted] place of birth: Florida, Social Security Account Number (SSAN): [redacted] FBI Number [redacted] was further described as a black male, approximately 5'10" and weighing 280 pounds. b6 b7C

On 03/23/2005, Det. [redacted], Malden Police Department (MPD); Det. [redacted] Boston Police Department (BPD); and Det. [redacted] Cambridge Police Department (CPD), obtained an armed robbery arrest warrant issued in the Roxbury District Court of Suffolk County for [redacted] SA [redacted] assisted Det. [redacted] and Det. [redacted] by writing the operations plan for the arrest on 03/23/2005. The plan contained maps of the local area, communications plan, an arrest photograph of [redacted] and his girlfriend, the identities and team assignment of all of the members participating in the surveillance/arrest, and descriptive data of the two dwellings where [redacted] may be located.

The operations plan was reviewed and approved by BRTF Acting Supervisory Special Agent (A/SSA) [redacted] and Acting Assistant Special Agent In Charge (A/ASAC) [redacted] on the morning of 03/24/2005. SA [redacted] briefed the operations plan to the participating members on the morning of 03/24/2005, at approximately 8:30 am. He read verbatim the DOJ Deadly Force Policy to all of the participants and advised that [redacted] was to be considered Armed and Dangerous. SA [redacted] also provided an overview of [redacted] extensive criminal history, to include the fact that [redacted] was previously arrested for assault and battery of a police officer and had attempted to run over several firemen and a policeman while fleeing the scene of a traffic stop in 2001. b6 b7C

On 03/24/2005, the BRTF, which included members of the CPD, BPD, MPD, Massachusetts State Police (MSP), as well as two FBI Agents from another squad, attempted to effect the arrest of [redacted] The primary plan was to arrest [redacted] outside one of the two known residences. If he was positively identified inside a residence, both surveillance/arrest teams would converge on the one location before an entry was made utilizing a tactical team from either FBI or BPD. The BRTF preferred not to effect the arrest in a vehicle. However, it it was necessary and time

permitting, the BRTF planned to request marked units from BPD for assistance. Primary communications was over FBI Channel A-2.

At about 9:30 am, 12 law enforcement officers and Agents from the Boston Division of the FBI set up two surveillance/arrest teams in the vicinity of the following locations: 1) [redacted] girlfriend's house at [redacted] floor, Dorchester, MA; and 2) [redacted] mother's house at [redacted] Mattapan, MA. Team one, responsible for the residence at [redacted], consisted of Det. [redacted], MPD and Lt. [redacted] MSP in one vehicle; SA [redacted] and Det. [redacted] CPD in a second vehicle; and SAs [redacted] and [redacted] in the third vehicle. Team two, responsible for the residence at [redacted] consisted of SAs [redacted] and [redacted] in one vehicle; Det. [redacted] BPD and A/SSA [redacted] in a second vehicle, and SA [redacted] in a third vehicle. All law enforcement personnel wore badges or vests identifying themselves as law enforcement officers. The weather was clear and not a factor. b6 b7C

Both surveillance/arrest teams positioned themselves outside of the aforementioned residences. Det. [redacted] and A/SSA [redacted] advised the BPD of the operation while in route to their surveillance/arrest location. For about two hours, SA [redacted] provided surveillance information regarding the activity at the [redacted] residence. She observed at least three or four individuals enter and exit the house. The Floyd Street residence had very little surveillance activity. At approximately 11:30 am, SA [redacted] transmitted over the radio that a heavy black male resembling [redacted] had exited the [redacted] residence and climbed into a late model silver Toyota Camry. She asked FBI Boston radio room to run the license plate in an attempt to identify the vehicle owner as she called out the vehicle's direction of movement on Goodale Road. As the silver Toyota Camry drove past Det. [redacted] and A/SSA [redacted] parked on Goodale Road, both were able to verify that the driver looked like [redacted]. This was broadcast over Bureau radio to the other unit's involved in the arrest plan. As the vehicle made a left onto Blue Hill Avenue, the BRTF surveillance vehicles from the vicinity of Goodale Road were following [redacted]. As the car moved toward Floyd Street, A/SSA [redacted] transmitted over the radio that the team should start to position their vehicles to effect a felony car stop in case that was necessary. b6 b7C

Once on Floyd Street, [redacted] momentarily stopped and then made a wide, slow, right hand turn onto Lucerne Street. SAs [redacted] and [redacted] were following directly behind [redacted] car

and they were followed by Lt. [redacted] and Det. [redacted]. At this point, most BRTF members advised the SIRT that they believed [redacted] was aware of the vehicle surveillance. [redacted] continued on Lucerne Street and made a right turn onto Callender Street. As soon as he had made the turn, [redacted] pulled his car to the right side of the road, almost to a stop. Using the Bureau radio, A/SSA [redacted] directed SAs [redacted] and [redacted] to cut him off. SAs [redacted] and [redacted], with [redacted] driving, quickly passed by [redacted] and cut off the travel lane on Callender Street, positioning their vehicle some twenty to thirty feet in front of [redacted] Lt. [redacted] and Det. [redacted] car also passed [redacted] and stopped at an angle within feet of [redacted] driver's side front bumper. Lt. [redacted] advised that he felt SAs [redacted] and [redacted] had left too much room between their vehicle and [redacted], which would allow [redacted] to escape if he desired.

b6
b7C

BTRF members jumped out of their vehicles with weapons drawn and identified themselves by yelling, "Police", "FBI", "hands up, get your hands up." BRTF members were wearing bullet-proof vests with police and FBI or police badges around their necks at the time. [redacted] initially raised his hands. It was necessary for Det. [redacted] to shut the door of his own vehicle in order to move into position approximately two to three feet in front of [redacted] drivers-side front fender. Det. [redacted] continued to issue commands for [redacted] to show his hands. He observed [redacted] raise his hands as SA [redacted] attempted to open [redacted] driver side car door. He then advised that he saw [redacted] eyes 'get real big', and then [redacted] suddenly lowered his hands. [redacted] car immediately started moving forward and jumped over the curb and onto the side walk. Det. [redacted] stated that it was necessary for him to jump out of the way of the vehicle to prevent from being hit by [redacted] car and pinned between [redacted] vehicle.

SA [redacted] was positioned on the passengers-side of [redacted] vehicle attempting to open [redacted] car door and Det. [redacted] was approaching from the rear passenger side. SA [redacted] was wearing his Bureau issued body armor/bullet proof vest, holster, and had his badge displayed on a chain around his neck at the time of the incident. SA [redacted] advised that [redacted] vehicle began to move while his hands were still raised and then [redacted] suddenly dropped his hands. When the car started moving and he saw [redacted] hands go down toward his waist, SA [redacted] thought [redacted] was reaching for a weapon and fearing for his life, he fired. Other than yelling at [redacted] to raise his hands and stop the car, SA [redacted] does not recall saying anything else; however, some BRTF members recall hearing

b6
b7C

SA [redacted] yell, "He's reaching, he's reaching." They then heard and/or observed approximately six rounds fire from SA [redacted] weapon toward [redacted]

Evidence Response Team (ERT) analysis and SA [redacted] statement indicate that SA [redacted] fired a total of six rounds, all fired in quick succession. The first two rounds were fired through the front passenger side window, two more were fired through the rear passenger side window, and the last two were fired through the rear window. SA [redacted] advised that although he had been moving along side [redacted] s car when it began to move, he was stationary when he fired. SA [redacted] continued to fire until he could no longer see [redacted] in the driver's seat. [redacted] car continued to travel up on the sidewalk and struck a fence and came to a stop. b6 b7C

[redacted] opened the door and fell out onto the ground. Det. [redacted] moved to the car and reached inside [redacted] vehicle and put the transmission in park. [redacted] asked, "Why did you shoot me? I'm not armed."

Boston Emergency Medical Services (EMS) and BPD were immediately notified of the incident by Det. [redacted] through the BPD radio system and responded within minutes. SA [redacted] notified the Boston Field Office using his Bureau radio. Lt. [redacted] hand-cuffed [redacted] after [redacted] rolled out of the vehicle and onto the ground. Both Lt. [redacted] and SA [redacted] [redacted] rendered medical assistance to [redacted] until EMS arrive. SA [redacted] was escorted to A/SSA [redacted] Ford Crown Victoria vehicle immediately after the shooting incident. SA [redacted] and A/SSA [redacted] approached him and asked how he was doing. SA [redacted] stated, "I can't stop shaking." He was asked if he wanted to go to the Hospital and he replied, "Yes." He left the scene of the incident in an ambulance but then declined hospitalization en route and was taken to the Boston office of the FBI. b6 b7C

Interviews of non-law enforcement personnel were conducted at the scene during the neighborhood canvass conducted by both the BPD and FBI. In summary, the witnesses, who were residents in the area, noted hearing the commotion caused by the operation, but none were direct witnesses to the shooting incident. In order not to duplicate interviews, the SIRT adopted the interviews conducted by BPD and the Boston Division.

At the hospital, [redacted] was overheard admitting heroin use earlier that morning to an attending nurse by BPD Officer [redacted] A hypodermic needle was found among his

belongings by SA [redacted] during an inventory of [redacted] belongings. [redacted] made an unsolicited statement to SAs [redacted] and [redacted] of the Boston FBI office stating words to the effect, "I know my hands were down but they shot me five times." b6 b7C

The FBI Boston Evidence Response Team, working with the BPD Evidence Team, processed the incident scene and vehicle driven by [redacted] All ballistic materials were sent to the FBI Laboratory.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspection Division
Date: 04/05/2006

b6
b7C

Case ID #: 297-HQ-A1270919-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
ATLANTA DIVISION
APRIL 04, 2005

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred while an FBI Agent, two Georgia State Patrol (GSP) Troopers and a Burke County Sheriff's Office (BCSO) Investigator attempted to arrest John Clifton Manyfield on a Federal Unlawful Flight to Avoid Prosecution (UFAP) warrant. The UFAP warrant was obtained pursuant to a Sacramento Police Department warrant charging Manyfield with murder, attempted murder and weapons violations. The Medical Examiner determined Manyfield died of a gunshot wound to the chest.

DETAILS:

The Atlanta Division's involvement in this matter was based on a telephonic fugitive lead out of Sacramento Division on 03/31/2005, followed by an EC with the same date. The lead advised that a fugitive, John Clifton Manyfield, was in Burke County, Georgia. Manyfield was wanted by the Sacramento Police Department for murder, attempted murder and weapons violations. Sacramento advised that Manyfield was a known gang member. Sacramento b7D further advised they had a [redacted] Manyfield at a number which came back to an address of 839½ Manderson Circle, Hephzibah, Georgia.

b6
b7C

A subsequent phone call from Sacramento to Atlanta determined Manyfield was currently at the residence. SAs [redacted] and SSRA [redacted] were en route to the Burke County

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Sheriff's Office (BCSO) to plan an arrest of Manyfield. Initially a verbal plan was devised wherein law enforcement would establish a rally point near the residence and a call would be placed to the location directing him to come out. This plan was telephonically briefed to ASAC Harry Bowen and he concurred.

Prior to arriving at the BCSO the group was notified telephonically that Georgia Bureau of Investigation (GBI) SA [redacted] was in foot pursuit of a bank robbery suspect approximately a half mile from their current location. SSRA [redacted] decided to break off from the initial plan and lend whatever assistance was needed in locating the fleeing bank robbery suspect. After a four hour search for that suspect met with negative results, the group proceeded to the BCSO and briefed Sheriff's Deputies about fugitive Manyfield. After speaking with Sheriff's Deputies it was determined they were involved in a missing juvenile investigation at the 839½ Manderson Circle address and had spoken to some residents at the location earlier in the day. Upon learning this, the plan was revised and it was decided the best approach was to conduct a ruse interview at the house in an attempt to determine if Manyfield was at the residence. SSRA [redacted] directed SA [redacted] to contact Sacramento [redacted] fugitive to determine if he was at the location. [redacted] determined Manyfield had left the home for the night. The investigation was discontinued until the following day. b6 b7C b7D

On April 1, 2005, SSRA [redacted] telephonically contacted ASAC Bowen and advised him of the revised plan and the same FBI Agents returned to the BCSO in order to facilitate the arrest plan. SSRA [redacted] once again directed SA [redacted] to contact Sacramento and have the source initiate contact with Manyfield. After numerous unsuccessful attempts by the source to contact Manyfield, SSRA [redacted] cancelled the operation for the day. [redacted] b6 b7C b7D

On Monday April 4, 2005, SA [redacted] was notified by FBI Sacramento that [redacted] Manyfield and that he (Manyfield) was presently at the 839½ Manderson Circle address. SA [redacted] contacted SSRA [redacted] who was on Annual Leave, relayed the details of his conversation with Sacramento and informed SSRA [redacted] since he [redacted] was at least three hours away he would contact BCSO and let them initiate the arrest. SSRA [redacted] agreed with his plan and advised him to use whatever resources he needed and to inform him of any significant developments.

After another change of plans, FBI SAs [redacted] and [redacted] and assisting law enforcement personnel from GSP, BCSO, and GBI met at the intersection of [redacted] and [redacted] roads in Burke County, Georgia. SA [redacted] briefed those present on fugitive John Clifton Manyfield, advised them that he was armed and dangerous, and passed out wanted bulletins with color photographs. SA [redacted] than informed the teams they would proceed with the arrest plan devised previously wherein the front entry team would use a ruse of seeking further information regarding a report of a missing child from the suspect residence. This front team consisted of BCSO Investigators [redacted] and FBI SA [redacted] The rear perimeter team would cover the rear of the residence. Two GSP Troopers, [redacted] and [redacted] were instructed to set up a "road check" at Duckhead Road and Allen Road. b6 b7C

As the two teams of investigators proceeded toward the residence, Troopers [redacted] and [redacted] were notified by other officers that they wanted them to check an oncoming gray Jeep Cherokee which was approaching their location. Troopers [redacted] and [redacted] approached the Jeep on foot from the rear. Trooper [redacted] approached the driver's side of the car, driven by [redacted], the fugitive's mother, and Trooper [redacted] approached the passenger side occupied by John Clifton Manyfield. Trooper [redacted] noticed the passenger matched the description of the fugitive and asked him for identification. The passenger claimed to have no identification on him. Trooper [redacted] then asked his name, at which time Manyfield gave his brothers first name and failed to give a last name. Ms. [redacted] immediately realized something was wrong and provided Manyfield's last name to the Troopers.

Trooper [redacted] then proceeded to the patrol car to retrieve the photograph of the fugitive. He returned to the passenger side of the front quarter panel handed Trooper [redacted] the photograph and informed him the passenger was the murder suspect. Trooper [redacted] walked back to the passenger side of the Jeep as Trooper [redacted] drew his weapon and backed up. Trooper [redacted] instructed Manyfield to take off his seatbelt and step out of the vehicle. Manyfield, who was clearly agitated and nervous, moved his right hand slowly to unlock the seatbelt. At the same time his left hand moved towards the center console. Trooper [redacted] then heard Manyfield whisper to the driver "just go". As Trooper [redacted] reached in the window and grabbed Manyfield's right arm, Manyfield attempted to depress the accelerator with his left hand. Trooper [redacted] announced "Taser" and shot Manyfield with the Taser gun lodging the probes in the right mid-back. Simultaneously, Trooper [redacted] re-holstered his weapon b6 b7C

returned to the driver's side door, pulled Ms. [redacted] out of the car and reached into the car to turn off the ignition. Manyfield immediately re-started the car and again depressed the accelerator revving the engine. It was reported this happened several times. The Taser was re-activated a second time, after which Manyfield grabbed the wire leads and apparently disconnected them from the Taser. Trooper [redacted] then applied the Taser directly to Manyfield's body and pulled the trigger. Following this "press contact" Manyfield grabbed the Taser in one hand and Trooper [redacted] left arm in the other hand and began to pull Trooper [redacted] inside the Jeep. As Trooper [redacted] freed his left arm and attempted to pull himself back out of the vehicle, both men still had hold of the Taser. Trooper [redacted] then produced his Taser gun at which point he was immediately grabbed by Ms. [redacted] and pulled to the back end of the Jeep.

b6
b7C

During this sequence of events, Investigator [redacted] and SA [redacted] approached the passenger side of the Jeep. Investigator [redacted] was able to see the Taser had already been fired and Trooper [redacted] continued to be engaged in a struggle with Manyfield. Both Investigator [redacted] and SA [redacted] drew their weapons and as Manyfield revved the engine, [redacted] went around the front of the Jeep to try and turn off the ignition. SA [redacted] remained in position to the right of Trooper [redacted].

As Trooper [redacted] holstered his Taser and began to move back toward the driver's door he heard the gunshot fired by SA [redacted] Investigator [redacted] heard the gunshot as he reached into the Jeep to turn off the ignition. Trooper [redacted] was attempting to pull himself as far back away from Manyfield as he could when he heard the shot fired by SA [redacted]

Only one round was fired, from outside the passenger side front window of the Jeep, striking Manyfield in the upper, inner quadrant of the right chest above the nipple. At the time SA [redacted] fired his weapon, Manyfield still had hold of the Taser. Officers immediately asked for an ambulance. Emergency Medical Technicians continued life saving measures on Manyfield however, his pulse stopped prior to arriving at the hospital. The Medical Examiner determined Manyfield died of a gunshot wound to the chest.

b6
b7C

SAC Jones requested that GBI process the shooting scene and conduct the investigation. All witnesses of the shooting were interviewed by GBI. SA [redacted] weapon, a Glock, model 22, .40 caliber weapon, serial number DZW441US, was also turned over to GBI for forensic testing. SA [redacted] declined to give a voluntary statement on advice from his counsel. A copy of GBI's

b6
b7C

investigation was provided to the FBI and is included in this report. The GBI file was presented to District Attorney [redacted] Augusta Judicial Circuit, on September 7, 2005, for his review. Mr. [redacted] concluded there were no violations of Georgia criminal law and closed this file administratively.

TABLE OF CONTENTS


I. SIGNED SWORN STATEMENTS

SA [redacted] . . . . . 1
SSRA [redacted] . . . . . 2

II. FD-302s

ASAC HARRY W. BOWEN III . . . . . 3
SAC GREGORY JONES. . . . . 4
DA [redacted] 04/07/05 INTERVIEW . . . . . 5
DA [redacted] 05/02/05 INTERVIEW . . . . . 6
SA [redacted] (GBI) . . . . . 7
DOCUMENTING RECEIPT OF FIREARMS TRAINING
& LEGAL TRAINING SIGN IN SHEETS . . . . . 8
DOCUMENTING RECEIPT OF SHOOTING SCENE PHOTOS
AND MEDICAL EXAMINERS PHOTOS . . . . . .9
DOCUMENTING RECEIPT OF SHOOTING SCENE
VHS VIDEO TAPE . . . . . 10

III. GEORGIA BUREAU OF INVESTIGATION REPORT

ATTACHED FOLDER . . . . . 11

IV. INVESTIGATIVE DOCUMENTS

COPY OF WANTED POSTER FOR MANYFIELD. . . . . 12
TRAUMA MEDICAL RECORDS OF MANYFIELD. . . . . 13
ARREST WARRANT FOR MANYFIELD . . . . . 14

V. ELECTRONIC COMMUNICATIONS

SACRAMENTO EC WITH LEAD TO ARREST MANYFIELD . . . 15
FD-418, REPORT OF FIREARMS DISCHARGE . . . . . 16
EC RE ATLANTA DEADLY FORCE LEGAL INSTRUCTION . . 17
EC ENCLOSING DISTRICT ATTORNEY'S REPORT . . . . . 18

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/19/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Cloyd Daniel Lee
Mertz Kimberly R

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1270955-D

**Title:** SHOOTING INCIDENT
BOSTON DIVISION
04/29/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/29/2005, involving Special Agents (SAs) [redacted] and [redacted]. During the execution of arrest warrants, SA [redacted] and SA [redacted] fired one round each from their Bureau-issued Springfield .45 caliber pistols, killing an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against either Agent as a result of their involvement in this shooting incident. b6 b7C

**Administrative:** Reference Electronic Communication of SA [redacted] dated 05/02/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 04/29/2005, while serving two arrest warrants, two members of the Boston Special Weapons and Tactics (SWAT) Team shot and killed an aggressive pit bull dog.

According to SA [redacted] at the command to execute the warrant, he exited the SWAT van and assumed position five in the line of operators. The team leader knocked and announced the presence of the FBI and the intent to serve a warrant. After a period of time, with no response from the residence, the team leader called for a breaching operator to effect entry into the residence.

As the door opened, a large white pit bull dog immediately rushed towards the breaching operator. SA [redacted] heard a gunshot and believed another SWAT operator fired at the dog. Investigation determined SA [redacted] fired the first round into the back neck area of the dog. The pit bull continued down the front steps toward SA [redacted] and other SWAT team personnel. Concerned for the safety of himself and other team members, SA [redacted] fired one round into the dog causing the dog to fall to the ground. Law enforcement personnel proceeded into the residence and effected the arrest of two subjects.

On 07/05/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland III, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Chief Inspector Kimberly K. Mertz, Office of Inspections, Inspection Division; [redacted] Special Legal Counsel, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Charles J. Cunningham, Section Chief (SC), Transnational Criminal Enterprise Section, Criminal Investigative Division; Acting Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] SWAT Operations Unit, Critical Incident Response Group; UC [redacted], CD-6, Counterintelligence Division; UC [redacted] National Firearms Program, TDD; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] Program Manager, Operational Skills Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only non-voting attendee present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy. This discussion resulted in a recommendation that no administrative action be taken against either Agent as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1270955-D, 10/19/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
(Attention: Mr. [redacted]
1 - Mr [redacted] SDOJ
1 - Ms. Mertz, Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. Rooney, Room 3867
(Attention: Mr. Cunningham)
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] uantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] uantico
(Attention: Mr [redacted]
1 - Ms. [redacted] Room 7326
1 - Mrs [redacted], Room 7861
♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/04/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Cloyd Daniel L
Mertz Kimberly K

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271699-D

**Title:** SHOOTING INCIDENT
LAS VEGAS DIVISION
05/05/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/05/2005, involving Special Agent (SA) [redacted]. During the execution of a search warrant, SA [redacted] fired one round from his Colt AR-15, .223 caliber carbine killing an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of SA [redacted] dated 05/12/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 05/05/2005, during the execution of a search warrant, SA [redacted] was assigned to be the sixth person in the line of Agents to enter the residence. As Agents approached the residence, the door was open. SA [redacted] observed an individual, subsequently identified as [redacted] sitting on the sofa in the front room of the residence. SA [redacted] ordered [redacted] out of the house at gunpoint. [redacted] obeyed all commands issued by the Agents and as he walked out of the house, his pit bull dog came outside with him. As [redacted] was ordered on the ground, the dog became agitated and began barking an running around in an aggressive manner. The dog, continually jumping, barking, and growling moved toward Supervisory Special Agent [redacted] who was in a position on the east side of the house. [redacted] was then ordered to get his dog under

control or he would be shot. [redacted] responded by asking the Agents, "What am I going to do?" He also made a comment to the effect that his dog was not mean and would not bite.

The dog, becoming more aggressive and refusing to obey commands, charged toward SA [redacted] SA [redacted] fired one round from his weapon fatally injuring the dog.

On 10/13/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector Kimberly K. Mertz, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief, Violent Crimes Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Acting UC [redacted] CD-6A, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Operational Skills Unit, TDD; SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. Therefore, a recommendation was made that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271699-D, 11/04/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] DOJ
1 - Mr. [redacted] USDOJ
1 - Ms. Mertz, Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. Rooney, Room 5155
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIC [redacted]

Office: FBI Headquarters

Date: 01/19/2006

Case ID #: 297-HQ-A1270919-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
ATLANTA DIVISION
05/05/2005

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 05/05/2005, FBI Special Agent (SA) [redacted] Atlanta Division, along with Conyers, Georgia Police Department officers [redacted] and [redacted] fatally wounded MORGAN CHIGAWA, Date of Birth (DOB) 07/02/1979, during an arrest in a Ramada Inn parking lot in Conyers, Georgia.

**DETAILS:**

On 05/02/2005, two black males robbed the Regions Bank in Phenix City, Alabama, taking in excess of $10,000 in cash. During the course of the bank robbery one subject fired one round from a weapon he was carrying. The office of origin for this matter was the Mobile Field Division of the FBI. On the same day, a champagne colored Mazda 626 sedan, Georgia license [redacted] associated with the robbery, was located at the Peachtree Mall in Columbus, Georgia.

A surveillance was initiated by the Columbus Police Department on the vehicle. During the course of the surveillance two groups of black males, one group of four and one group of two, were observed in the vicinity of the vehicle. As both groups moved closer to the Mazda, Columbus Police officers announced their presence and ordered the individuals to the ground. An individual from the group of two males immediately engaged the officers, firing three rounds, seriously wounding one officer. The

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

twc males fit the description of the subjects responsible for the Phenix City bank robbery earlier that day. They were subsequently identified as Morgan CHIGAWA, DOB 07/02/1979, and [redacted] DOB [redacted] CHIGAWA was also identified as the individual who shot the Columbus police officer.

The Columbus Resident Agency of the Atlanta Division and the Columbus Police Department initiated an investigation into the shooting. As a result of their investigation, leads were developed in the Atlanta area as to the possible whereabouts of [redacted] and CHIGAWA. These leads were the result of interviews of several family and friends of [redacted] and CHIGAWA. SA [redacted] contacted a former girlfriend of [redacted] on the evening of 05/03/2005 and obtained a telephone number that had contacted her answering machine earlier that day. SA [redacted] determined the telephone subscriber was a pay telephone in Conyers, Georgia, located outside of a convenience store.

On 05/04/2005, SA [redacted] contacted the convenience store owner. The owner recognized CHIGAWA from a photograph provided by SA [redacted] as a person who came into his establishment the day before. The owner further described the champagne colored Mazda associated with the subject. SA [redacted] contacted the Conyers Police Department (CPD) and provided photographs and information regarding the subjects. By this time, both subjects were wanted on state aggravated assault charges as well as federal Bank Robbery charges.

On 05/04/2005, at approximately 6:15 p.m., SA [redacted] received a telephone call from [redacted] SA [redacted] notified his supervisor, SSA [redacted] who in turn contacted ASAC Arthur David Webster. ASAC Webster informed SAC Gregory Jones who authorized the use of the division's SWAT team to effect the subjects' arrest.

A rally point was established in the vicinity of the apartment. At approximately 8:30 p.m., SAs [redacted] and [redacted] conducted an oral briefing to individuals present to include SAC Jones and ASAC Webster. The SWAT teams remained in place until approximately 12:30 a.m., when the operation was suspended by SAC Jones after it was apparent the subjects would not appear at the apartment.

On 05/05/2005, at approximately 6:45 a.m., SA [redacted] received a telephone call from the CPD advising they had located the champagne colored Mazda at the Ramada Inn in Conyers, Georgia. The CPD informed SA [redacted] they had established a

surveillance on the vehicle. SA [redacted] and the CPD agreed that the CPD would arrest the subjects in the event the subjects departed before SA [redacted] and the Atlanta SWAT team arrived.

While enroute to the Ramada Inn SA [redacted] contacted his supervisor, SSA [redacted], and discussed using the SWAT team to conduct the arrest of the subjects. Both SA [redacted] and SSA [redacted] contacted members of Atlanta Division's squad C-7 and advised them to meet at a rally point in a parking lot north of the hotel. SSA [redacted] notified ASAC Webster, who in turn notified SAC Jones. SAC Jones authorized use of the SWAT team to effect the arrest. SA [redacted] the SWAT Team Leader, was apprized of the scenario and notified his team members to meet at the rally point. b6 b7C

At approximately 8:00 a.m., SA [redacted] arrived at a rally point adjacent to the Ramada Inn where he met with members of the CPD, to include Captain [redacted] Captain [redacted] advised SA [redacted] he had spoken with the manager of the hotel who advised there were no guests registered under the names of CHIGAWA and [redacted] with a Georgia identification. SA [redacted] and Captain [redacted] went back into the hotel office and subsequently determined an individual by the name of CHIGAWA from Ohio had registered at the hotel on the evening of 05/04/2005 and was in room 226. The manager further advised that CHIGAWA had paid with cash for one night and that checkout was 12:00 noon. The manager positively identified CHIGAWA from the flyer and advised he appeared to be under the influence of alcohol when he checked in.

SA [redacted] requested a key (electronic pass card) to a room so he could view the layout and door structure in preparation for the arrest. All rooms in the hotel faced directly out to the parking lot. SA [redacted] and Captain [redacted] accessed room 106 on the first floor and remained in the room where they initiated surveillance of the Mazda 626, located in the parking lot below room 226. SA [redacted] remained in contact with SSA [redacted] and other Agents via radio.

At approximately 8:30 a.m., members of Atlanta's Squad C-7 began arriving at the location. SAs [redacted] and SSA [redacted] met at the rally point while SA [redacted] remained in the hotel room with Captain [redacted] SSA [redacted] instructed SAs [redacted] and [redacted] driving a Toyota 4Runner, to position their vehicle approximately 50 yards across the street from the hotel to act as a blocking vehicle in the event the subjects attempted to leave via the north entrance of the Ramada Inn parking lot. Behind their vehicle was an unmarked blue Crown Victoria with CPD Detective [redacted] GBI SA [redacted] along with CPD Detective [redacted] were positioned in a Chevrolet Blazer at the b6 b7C

opposite end (south) of the parking lot. SA [redacted] and Captain [redacted] continued their surveillance from room 106. SA [redacted] was in radio contact with SSA [redacted] and FBI SA members of the perimeter team, while Captain [redacted] was in contact with GBI SA [redacted] and CPD Detective [redacted] in the Blazer.

At approximately 9:00 a.m., members of the Atlanta SWAT team began arriving at the rally point, along with SSA [redacted] the SWAT Coordinator, and ASAC Webster. An oral briefing was planned by SSA [redacted] and SA [redacted] to discuss the arrest scenario. However, SA [redacted] reported via radio that subject CHIGAWA had departed his room prior to the briefing. b6 b7C

SA [redacted] transmitted on his radio that CHIGAWA had departed his room, and was proceeding down the stairs, and that SAs [redacted] and [redacted] were moving to block the subject's vehicle. SA [redacted] stopped his vehicle in a position to block the Mazda, and SA [redacted] exited the vehicle with his weapon drawn just as CHIGAWA was entering his vehicle. SA [redacted] positioned himself several feet away from CHIGAWA's vehicle and, according to SA [redacted] repeatedly shouted, "FBI, FBI." At that moment, SA [redacted] and Captain [redacted] ran from room 106 along the first floor walkway to CHIGAWA's vehicle. SA [redacted] arrived on the driver's side towards the rear of the vehicle simultaneously as CHIGAWA drove away and around SA [redacted] vehicle heading south in the parking lot.

The vehicle traveled approximately 20 yards when it was struck in the front driver's side by the Blazer driven by GBI SA [redacted] At this time, SA [redacted] Captain [redacted] and SA [redacted] were in pursuit on foot. SA [redacted] positioned himself immediately adjacent to CHIGAWA's passenger side front door, while SA [redacted] approached the rear passenger door, with Captain [redacted] positioned forward of the front passenger side of the vehicle. GBI SA [redacted] exited the Blazer and moved to a position of cover near a hotel column. Detective [redacted] remained behind the Blazer's passenger side front door. SA [redacted] moved his vehicle behind CHIGAWA's vehicle and positioned himself behind the vehicle's front driver side door.

SAs [redacted] and [redacted] Captain [redacted] and Detective [redacted] began issuing verbal commands to CHIGAWA. SA [redacted] shouted, "FBI, do not move," while Captain [redacted] shouted, "Put your hands up." GBI SA [redacted] shouted several times for CHIGAWA to, "Show your hands." Detective [redacted] reported telling CHIGAWA twice to, "Show your hands." Additionally, he recalled other law enforcement officials giving similar commands. b6 b7C

As they were giving CHIGAWA verbal commands, SA [redacted] Captain [redacted] Detective [redacted] and GBI SA [redacted] advised they

saw CHIGAWA reach in the vicinity of his belt area. At that moment SA [redacted] announced, "He has a gun, he has a gun." SA [redacted] Captain [redacted] and Detective [redacted] reported observing a weapon in CHIGAWA's hand. Captain [redacted] and Detective [redacted] reported the weapon in CHIGAWA's left hand. SA [redacted] could not recall in which hand CHIGAWA held the weapon. Immediately upon observing the weapon, SA [redacted] Detective [redacted] and Captain [redacted] fired upon CHIGAWA. GBI SA [redacted] did not fire his weapon. SA [redacted] did not fire his weapon, advising that he believed if he fired his weapon, other agents would be in his crossfire. SA [redacted] did not observe CHIGAWA with a weapon. b6 b7C

During the ensuing shooting, SA [redacted] expended his rounds until his weapon was in the lock back position. He subsequently announced that he was out of ammunition and requested cover as he moved away from the vehicle. SA [redacted] subsequently moved to the driver's side of the Mazda and announced, "There was a gun." A revolver was observed by SA [redacted] and GBI SA [redacted] laying under shattered glass on the floor between the driver's door and the seat. A .38 caliber five shot revolver was recovered by GBI crime scene specialists from the vehicle between the driver's side front door and the seat, under broken glass. The weapon had all five rounds remaining in the cylinder indicating that CHIGAWA did not fire his weapon during the shooting incident.

During the shooting event, SA [redacted] was struck in the thigh with a round that penetrated and exited his leg. GBI forensics determined that the round in all probability was fired by CPD Detective [redacted] located on the opposite side of the subject's vehicle and across from SA [redacted]

After the shooting, the SWAT team executed the arrest of [redacted] who had exited room 226. [redacted] arrest occurred on the stairway landing located immediately south of the room. Shortly after the shooting, Emergency Medical Services (EMS) arrived at the scene and began providing medical attention to SA [redacted] was subsequently transported to a local hospital were he was treated and released. The EMSs pronounced CHIGAWA dead at the scene. b6 b7C

Immediately following the shooting, ASAC Webster telephonically advised SAC Jones, who was enroute to the scene, that shots had been fired during the apprehension of the subjects, and that SA [redacted] had been shot in the leg. SAC Jones arrived moments later and instructed SSA [redacted] to take possession of SA [redacted] weapon and magazine. SAC Jones then had SA [redacted] transported to the Atlanta office by two SAs after the scene was secured.

SAC Jones contacted Acting ASAC [redacted] instructing him to activate the Division's Shooting Response Plan and to notify FBI Headquarters of the shooting. SAC Jones remained on the scene coordinating responsibilities between the FBI, CPD and the GBI.

b6
b7C

GBI forensic specialists collected a total of 18 shells: five (5) .40 caliber shell casings in the area where Detective [redacted] was positioned; eight (8) .45 caliber shell casings in the vicinity of SA [redacted] and five (5) .40 caliber shell casings in the area of Captain [redacted]. An autopsy of the deceased indicated the fatal shots in all likelihood came from SA [redacted] .45 caliber weapon.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: San Antonio Division
Date: 02/16/2005

Case ID #: 297-HQ-A1271464-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
DALLAS DIVISION
JANUARY 21, 2005

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident resulted from the Dallas Division SWAT Team effecting the warrant arrest of a violent offender alleged to have been involved in 60 armed "take over" robberies of banks and businesses. During the arrest, the violent offender, [redacted] was shot once in the shoulder and once in the hip after attempting to escape arrest using his vehicle. Mr. [redacted] was treated and released from the hospital the same day. No Agents were injured. The four SWAT Team members who fired their weapons declined to be interviewed until compelled. At the time of this report, the Department of Justice (DOJ) has declined to compel the Agents' statement. [redacted] retained legal counsel and has not been interviewed.

b6
b7C

DETAILS:

Beginning in early 2002, the Dallas Division initiated an investigation into a group suspected of multiple robberies within the Dallas and Houston Divisions. This group was suspected in over 60 bank and business robberies. The media dubbed the group the "Take Over Bandits" because of the take over style of robberies they committed.

The typical modus operandi (MO) of the Take Over Bandits was to steal a car and within 24 to 48 hours commit a robbery. Investigation showed that the subjects carried AK-47/SKS type assault rifles and semi-automatic

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

handguns. The subjects were always covered with masks, dark clothing, gloves and wore ballistic body armor. During the course of the robberies the subjects physically assaulted customers, employees and law enforcement officers working in the bank as security. Up until November 4, 2004, no witnesses had seen the subjects without their masks. No prints had been recovered from vehicles, banks or businesses. A 7.62 mm round was recovered after it had been racked out of one of the assault rifles during a Dallas bank robbery.

On November 4, 2004, the Take Over Bandits robbed the American First National Bank, in Richardson, Texas. The robbery was a take over style robbery and the subjects used hand guns and AK-47 type assault rifles. As consistent with their other robberies, the subjects fled in a stolen car and traveled approximately two blocks where they had placed another stolen vehicle as a switch vehicle.

While fleeing in the stolen vehicle, the subjects encountered an off-duty Richardson police officer who was driving an unmarked vehicle. As the subjects passed the off-duty officer, the subjects fired shots from a fully automatic assault rifle disabling the off-duty officer's vehicle. The off-duty officer immediately reported this incident via police radio. Thereafter, Richardson police units responded to the area and were also fired upon multiple times by the subjects using automatic weapons.

During the ensuing pursuit, one Plano, Texas Police Department vehicle and five Richardson Police Department vehicles were disabled by rounds fired from at least one, possibly two, fully automatic AK-47 style assault rifles. Rounds were fired by the subjects from within the get-a-way vehicles as well as from the ground after leaving the vehicles. Car cameras from Richardson Police vehicles captured the pursuit and the various shooting events. Dozens of spent 7.62mm casings were recovered by Plano Police Department, Richardson Police Department and FBI Dallas along the route of the pursuit.

During the pursuit, in an attempt to evade arrest the subjects carjacked a vehicle and eventually struck another vehicle. The occupant/victim of the second vehicle was seriously injured. The occupant/victim was subsequently hospitalized and underwent surgery to remove a portion of his intestines.

With the first carjacked vehicle disabled, the subjects attempted to carjack a second vehicle with a woman and her baby inside. Upon seeing the baby, one of the subjects stated, " we

have a hostage." The subjects abandoned this effort when they could not start the vehicle. They then carjacked a third vehicle and were eventually able to elude police. Throughout this incident, the subjects continued to fire automatic weapons at police and drove in a manner which was a threat to all those they encountered.

During the course of the pursuit and the subsequent carjackings the subjects removed their masks. Victims of the carjackings and other witnesses had the opportunity to see the faces of at least two of the subjects. Subsequently, a photo line-up was used to identify [redacted] as one of the subjects.

On November 06, 2004, FBI Dallas held a press conference publicizing a photograph of [redacted] b6 b7C Later that day, [redacted] turned himself in at the Slaton, Texas Police Department [redacted] was taken into custody and charged with attempted capital murder by the Richardson Police Department.

A search warrant was served at [redacted] Odessa, Texas apartment by FBI El Paso and Texas Department of Public Safety. The search revealed a ballistic vest with "POLICE" lettering, ammunition in 7.62 mm and .50 caliber sizes, AK-47 parts, a hand grenade and a booklet showing how to convert an AK-47 to fully automatic.

On November 10,2004, [redacted] was indicted in the Eastern District of Texas on three counts of Title 18, Section 2119, Carjacking and three counts of Title 18, Section 924(c); using a firearm in the commission a felony. [redacted] was also indicted in the Northern District of Texas on one count of Title 18, Section 2113(a)(d); Bank Robbery and Title 18, Section 924(c). In addition, [redacted] was indicted by a state grand jury in Collins County, Texas on four counts of attempted Capital Murder.

b6 b7C b7D

On January 18, 2005, FBI Agents interviewed [redacted]

[redacted]

On January 18, 2005, armed with information gleaned from the interview, the Dallas Division's Special Operations Group (SOG) was able to locate and begin surveillance of [redacted]

[redacted] During the next three days, Dallas SOG was able to develop a pattern activity for [redacted] They learned that [redacted] wife and two children were residing with him in an apartment located at [redacted] Mesquite, Texas. b6 b7C

On January 19, 2005, FBI Agents drafted affidavits for the arrests of [redacted] and [redacted] on the same day, after review by the United States Attorney's Office for the Eastern District of Texas the affidavits and complaints were forwarded to United States Magistrate Judge Don D. Bush for review.

At 9:00 a.m., Friday, January 21, 2005, a briefing was held in the Dallas FBI office concerning the matter. In attendance were Special Agent in Charge (SAC) Guadalupe Gonzalez, Acting Assistant Special Agent in Charge (A/ASAC) [redacted] ASAC Rick Coward, ASAC Dan Dubre, Chief Division Counsel (CDC) Jay Gregory, ADC [redacted] SSA [redacted] Acting Supervisory Special Agent (A/SSA) [redacted] SA [redacted] and SA [redacted]. During the briefing, a case update was provided by case agent SA [redacted] A written SWAT operations plan prepared by Acting SWAT Team Leader [redacted] was presented to SAC Gonzalez. This plan called for a dynamic entry into [redacted] apartment in Mesquite, Texas. However, after discussing [redacted] propensity for violence and the high probability his children and wife would be in the apartment, SAC Gonzalez decided that [redacted] arrest would be effected after he left his vehicle and before he reached his apartment. It was also decided the arrest would not be made until a federal arrest warrant for [redacted] had been issued. Acting SWAT Team Leader [redacted] was instructed to formulate a tactical plan which would safely allow the SWAT Team to arrest [redacted] before he reached his apartment in Mesquite, Texas. SA [redacted] was designated Acting SWAT Team Leader due to the Division's SWAT Team Leader, SSA [redacted] being TDY out of the Division. b6 b7C

At approximately 11:00 a.m., Friday, January 21, 2005, the Dallas SWAT Team lead by Acting SWAT Team Leader [redacted] responded and staged in a parking lot in close proximity to [redacted] apartment complex in Mesquite, Texas. At this time, Acting SWAT Team Leader [redacted] telephonically briefed his assault plan to Acting ASAC [redacted] who verbally briefed SAC Gonzalez. Both SAC Gonzalez and Acting ASAC [redacted] approved the SWAT arrest plan.

The arrest plan, as explained to Acting ASAC [redacted] directed SOG to follow [redacted] back to his

apartment complex in Mesquite, Texas. After an arrest warrant had been obtained, and with SWAT Team members in position, [redacted] would be allowed to park his vehicle at the apartment complex. Two SWAT vehicles would be used to block the vehicle from behind. Additional SWAT vehicles and members would be placed at parking lot exits to further prevent the subject's possible escape. The arrest team, which consisted of seven SWAT Team members would be stationed in a van located approximately 20 yards from the subject's apartment. Once [redacted] had parked his vehicle, the arrest team would quickly approach the vehicle from behind to make the arrest of [redacted] before he was able to make his way to his apartment. Additional Agents and Task Force Officers would be stationed around the area as perimeter security. SWAT Team members would wear their black FBI SWAT uniform with "FBI" embroidered on the back and front of their ballistic body armor. Agents assigned outside perimeter would were FBI Raid jackets. All Agents would wear ballistic body armor.

b6
b7C

After receiving verbal approval from Acting ASAC [redacted] SA [redacted] verbally briefed the SWAT Team as to their specific assignments. SA [redacted] then made contact with SOG Pilot SA [redacted] and it was decided that SOG would continue to control the surveillance of [redacted] until he arrived in the apartment parking lot in Mesquite, Texas. At that time, the surveillance and the command of the situation would be turned over to SA [redacted] Communications would be done via Bureau radio.

Thereafter, Dallas SOG continued to surveil [redacted] In the early afternoon of Friday, January 21, 2005, Acting ASAC [redacted], Acting SSA [redacted] and Case Agent [redacted] were advised by SOG that [redacted] was being observed getting a tire changed at a local business. Acting ASAC [redacted] discussed with SA [redacted] the feasibility of making the arrest of [redacted] at the tire store or other potential location other than the [redacted] apartment. Due to concerns of [redacted] moving before the SWAT Team could get into position to safely make the arrest and the fact that the federal search warrant had not been obtained this idea was abandoned.

b6
b7C

At approximately 2:00 p.m., Friday, January 21, 2005, based on a complaint, SA [redacted] obtained a warrant for the arrest of [redacted] charging him with violation of Title 18, USC, Section 2119, Car jacking, and Title 18, USC, Section 924 (c) use of a weapon in the commission of a violent felony. A search warrant for [redacted] residence [redacted] Mesquite, Texas was also obtained.

At approximately 2:30 p.m., Friday, January 21, 2005, Acting ASAC [redacted] and SSA [redacted] drove to Mesquite, Texas, were Acting ASAC [redacted] assumed the role of On Scene Commander for the arrest of [redacted]. Acting ASAC [redacted] was an active Salt Lake Division SWAT Team member from 1988 until 1993 and received specialized SWAT training. SSA [redacted] assumed the role of On Scene Supervisor. Acting ASAC [redacted] and SSA [redacted] stationed themselves in a Big Lots Department Store approximately 250 yards from [redacted] apartment in Mesquite, Texas. Stationed along with them were three Dallas Division Hostage Negotiators, two Electronic Technicians, and Dallas SWAT Team Members. During this time, Acting ASAC [redacted] was in constant telephone and radio contact with SA [redacted], Acting SSA [redacted] components of the SWAT Team, specifically, SA [redacted] and SOG. Via radio, Acting ASAC [redacted] and the other staged components could overhear the surveillance of [redacted] as he approached his apartment. b6 b7C

At approximately 4:45 p.m., Friday, January 21, 2005, via radio, SOG advised SWAT and command components that [redacted] was approaching his apartment. Minutes thereafter, as [redacted] in his vehicle, entered the apartment complex parking lot the command of the situation was turned over to SA [redacted] As [redacted] parked his vehicle approximately 25 yards away from his apartment SA [redacted] via radio, called for blocking vehicles to move up into position at the entrances of the apartment complex parking lot. One of these vehicles driven by SA [redacted] and SA [redacted] which had been designated to block [redacted] vehicle, proceeded to a blocking position directly behind [redacted] vehicle. With the blocking vehicle already in position, SA [redacted] gave the order to execute the plan. SWAT Team members SA [redacted], SA [redacted], SA [redacted], SA [redacted], SA [redacted], SA [redacted] and SA [redacted] deployed in a van parked approximately 25 yards from [redacted] vehicle exited the van. At the same time, SA [redacted] who had been in the blocking vehicle rushed to [redacted] vehicle, breaking out the passenger side window in an attempt to distract [redacted] SA [redacted] converged on the vehicle from the left side opening the driver's door. He was able to place his hands on [redacted] shoulder in an attempt to extract him from the vehicle. During this time, Dallas SWAT Team members, clad in black with FBI embroidered on the front and back of the uniforms repeatedly verbally identified themselves as FBI Agents and called for [redacted] to exit his vehicle. b6 b7C

Instead of complying, [redacted] broke away from SA [redacted] and accelerated his vehicle forward from a parked position jumping the curb onto a grass and sidewalk area. Agents now within two to three feet, on both sides of the vehicle, in a semi-circle position around the vehicle, stepped away to avoid being hit as the vehicle continued to accelerate at a high rate of speed. Later, in a Signed Sworn Statement to the SIRT, SA [redacted] stated, "I released my grip on the subject in fear of being hit by the car." The vehicle veered sharply left in an apparent attempt to escape. Immediately thereafter, SA [redacted] SA [redacted] SA [redacted] and SA [redacted] fired upon the vehicle. Interviews with [redacted] and [redacted] who were in the apartment complex at the time and eyewitnesses to the shooting incident corroborated these details.

b6
b7C

A subsequent Dallas Response Team(ERT) shooting scene investigation revealed that agents fired a total of 22 rounds. Twenty of those rounds impacted [redacted] vehicle. One round struck a nearby tree and a second round struck a wall in the subject's apartment. All 20 rounds impacted the vehicle on the driver's side. One round struck [redacted] in the left shoulder and a second round struck him in the left hip. [redacted] vehicle traveled approximately 30 yards before striking and going through the brick apartment wall. During a later search of [redacted] vehicle, a 1997 Nissan Altima bearing Texas License Plate [redacted] no weapons were found.

According to the Dallas ERT investigation, 20 .223 caliber rounds were fired from Bureau issued Colt M-4A1 Carbines carried by SA [redacted] SA [redacted] and SA [redacted] Two .40 caliber rounds were fired from a Bureau issued Glock 22 .40 caliber handgun carried by SA [redacted] Dr. [redacted] an emergency room doctor, assigned to the Dallas Division SWAT Team immediately responded providing first aide to [redacted]

b6
b7C

Immediately thereafter, SWAT Team members executed the search warrant at apartment [redacted] Mesquite, Texas. The search warrant revealed [redacted] wife, brother and two young children inside the apartment. Investigation also revealed [redacted] and [redacted] young grandson [redacted] parked in a vehicle immediately adjacent to [redacted] vehicle during the shooting incident. During subsequent interviews these witnesses indicated at the time of arrest they recognized SWAT Team members as law enforcement and could hear SWAT Team members ordering [redacted] out of his vehicle.

Immediately after the shooting, an ambulance was summoned and responded within a few minutes. [redacted] was transported to the Baylor Hospital in Dallas, Texas for treatment. SA [redacted] and SA [redacted] were assigned to accompany [redacted] to the hospital. After approximately four hours, [redacted] was treated and released. Thereafter, he was taken to the Grayson County jail in Denton, Texas. Interviews with the emergency room doctor, Dr. [redacted] indicated [redacted] was struck once in the left shoulder. The wound was described as a through and through wound. [redacted] was also struck in the left hip by a bullet fragment. This fragment was not removed. Baylor Hospital officials advised that federal health care privacy laws precluded them from providing [redacted] medical records. b6 b7C

The weather at the time of the incident according to the National Oceanic and Atmospheric Administration, National Weather Forecast Office was 74 degrees, 10 miles per hour wind out of the South, with occasional clouds.

Immediately after the incident, Acting ASAC [redacted] telephonically contacted SAC Gonzalez who immediately responded to the scene along with CDC Jay Gregory and took command of the situation. In route to the shooting scene, CDC Gregory kept both the United States Attorney's Office for the Northern and Eastern Districts of Texas apprised of the situation. Both were kept informed due to the arrest and search warrants being issued in the Eastern District of Texas and the shooting incident occurring in the Northern District of Texas. Mesquite, Texas Police Department was contacted by SAC Gonzalez and CDC Gregory and it was agreed that FBI Dallas would be allowed to investigate the shooting scene.

Immediately following the shooting incident, SA [redacted] SA [redacted] SA [redacted] and SA [redacted] were directed by Acting ASAC [redacted] to moved to the Big Lot Department Store parking lot approximately 250 yards from the shooting scene. At that point, SA [redacted] was instructed by Acting ASAC [redacted] to conduct a ammunition count with the shooters. Upon his arrival, SAC Gonzalez met with the four SWAT Team members ascertaining their well being and instructing them to leave the scene and travel back to the Dallas office. Once at the Dallas office four SWAT Team members met with CDC Gregory where he explained their Constitutional Rights. All four Agents, invoked the right to speak with an attorney prior to being interviewed. The four shooters were then allow to leave the office. b6 b7C

At approximately 11:00 p.m., Friday, January 21, 2005, Dallas ERT cleared the shooting scene in Mesquite, Texas.

On the morning of Saturday, January 22, 2005, CDC Gregory contacted SSA [redacted] Office of General Counsel (OGC) and authority was given from the Department of Justice (DOJ) for emergency legal representation for the four Agents involved in the shooting. Thereafter, Attorney [redacted] was retained to represent all four Agents. b6 b7C

At approximately 1:00 p.m., Saturday, January 22,2005, members of the Shooting Incident Review Team (SIRT)arrived and met with SAC Gonzalez, Acting ASAC Mikulewicz, and CDC Gregory discussed the shooting team's protocol. It was determined that the shooter's weapons were not in the custody of the Dallas office. The weapons used included four Colt M4A1 carbines and one Glock 22 .40 caliber handgun. By approximately 6:00 p.m., Saturday, January 22, 2005, all weapons had been recovered from the Agent shooters and were in the possession of the Dallas office.

On Wednesday, January 26, 2005, IIP [redacted] was advised by Attorney [redacted] that his clients SA [redacted] SA [redacted] SA [redacted] and SA [redacted] would not be providing a statement unless compelled. Contact with Chief Inspector Kimberly Mertz, Inspection Division and SSA [redacted], OGC indicated the DOJ would not compel the Agents' statement at that time.

On Thursday, January 27, 2005, [redacted] had his initial appearance in the Eastern District of Texas, Sherman, Texas. During this hearing Attorney [redacted] was appointed legal counsel for [redacted] Repeated attempts to arrange an interview of [redacted] by the SIRT met with negative results. b6 b7C

[redacted] remains charged based on the a complaint filed in the Eastern District of Texas with three counts of violation of Title 18, USC, Section 2119, carjacking and three counts of Title 18, Section 924(c) using a firearm in the commission of a felony. The USAO for the Northen District of Texas is considering charging [redacted] with Assault on a Federal Officer. [redacted] remains a fugitive.

On February 10, 2005, Request Coordinator [redacted] FBI Laboratory, Evidence and Control Unit (LAB# 050203010) received the weapons and spent casings used in the shooting incident. The Laboratory will conduct an analysis to determine how many of the spent casings found at the shooting scene were fired by each weapon.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/22/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
Bland Andrew R III

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1270961-D

**Title:** SHOOTING INCIDENT
BUFFALO DIVISION
02/16//2005

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/16/2005, involving Special Agent (SA) [redacted] During the execution of a search warrant, SA [redacted] fired two rounds from his Bureau-issued Heckler & Koch, 10 millimeter, MP-5 carbine, killing an aggressive dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Acting Supervisory Special Agent [redacted] dated 02/17/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 02/16/2005, SA [redacted], along with members of the Buffalo Division's Safe Streets Task Force, were effecting a search at a residence in Buffalo. Upon arriving at the residence, SA [redacted] and other team members identified themselves and the purpose of them being on the premises. Law enforcement personnel determined the door was open and entry personnel opened the door where they were confronted by a black male, later identified as [redacted] who attempted to close the door. b6 b7C

SA [redacted] entered into the kitchen area of the residence and instructed the occupant to raise his hands. The subject complied with the command and SA [redacted] proceeded to clear the remainder of the residence. Two pitbull-type dogs confronted SA [redacted] and one of the dogs immediately crossed the kitchen area toward him in an aggressive manner. SA [redacted] attempted to go around the dog and make entry into the dining room area; however, the dog positioned itself to block entry into the room and lunged at SA [redacted]. Believing that he, as well as other team members were in immediate danger of serious injury, SA [redacted] fired two rounds from his MP-5 killing the dog.

On 03/08/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland, III, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Kimberly K. Mertz, Chief Inspector, Office of Inspections, Inspection Division; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Acting Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] CD-6A, Counterintelligence Division; UC [redacted], National Firearms Program, TDD; UC [redacted] Special Inquiry and General Background Investigations Unit, Administrative Services Division; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted], Operational Skills Unit, TDD. The two non-voting attendees present were SSA [redacted] Hostage Rescue Team, Critical Incident Response Group; and [redacted], Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Therefore, a recommendation was made that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1270961-D, 04/22/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Bland, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. Mertz, Room 7837
1 - Ms. Harrison, Room 6050
(Attention: Ms. [redacted]
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦

# FBI
# Shooting Incident Report Summaries

# 2005

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/25/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted]

**Approved By:** Thornton Charlene B
Clemens Michael [redacted]
Figliuzzi C Frank [redacted]

b2
b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271801-D

**Title:** SHOOTING INCIDENT
OKLAHOMA CITY DIVISION
05/18/2006

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/18/2006, involving Special Agent (SA) [redacted] now assigned to the New Orleans Division. While attempting to assist another individual with an aggressive pit bull dog belonging to his neighbor, SA [redacted] fired one round from his Glock Model 22 pistol injuring the pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of SSA [redacted] dated 05/23/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 05/18/2006, at approximately 9:45 p.m., while inside his residence, SA [redacted] responded to a request for assistance from an individual identified as [redacted]. SA [redacted] followed [redacted] to the residence of SA [redacted] neighbor, [redacted] who was not at his residence.

Upon his arrival, SA [redacted] observed a medium sized dog pinned under a gap at the bottom of a wooden fence gate at the front of [redacted] residence. SA [redacted]

observed [redacted] pit bull dog, which was located on the inside of the fence, biting and chewing the pinned dog on the head and shoulder. SA [redacted] assumed the pinned dog belonged to [redacted] and assisted him in attempting to free the dog from the pit bull. The pit bull dog unsuccessfully attempted to force itself through a gap between the gate and the fence several times in an effort to attack [redacted] and [redacted] The gate was locked at the handle with a padlock; however, the bottom of the gate was flexible and moved considerably each time the pit bull lunged against it.

Knowing that the pit bull dog had previously attacked individuals and other animals by forcing its way through loose fence boards, SA [redacted] returned to his residence. He advised his wife to dial 911 for assistance and retrieved his Bureau-issued Glock 22 pistol for protection.

Upon returning to the [redacted] residence, SA [redacted] observed [redacted] attempting to open the gate. Due to the known danger of the pit bull, and believing [redacted] did not understand how dangerous the dog was, SA [redacted] cautioned him several times not to open the gate. SA [redacted] placed his pistol on the ground and unsuccessfully attempted to lift the gate enough for [redacted] to pull his dog from beneath the fence. [redacted] became more frantic regarding his dog's welfare and began looking over the top of the fence. [redacted] made several unsuccessful attempts to assist his dog by reaching under or through the gate. As SA [redacted] was pulling up on the fence gate in an attempt to assist [redacted] in the retrieval of his dog, the pit bull dog lunged against the fence, forced his head through an opening, and attempted to bite SA [redacted]

Due to the continued aggressive behavior of the pit bull dog, SA [redacted] believed the dog posed an imminent threat of serious bodily harm to [redacted] as well as himself. SA [redacted] positioned himself in front of the gate and fired one shot from his pistol. The dog retreated into an area of the back yard while SA [redacted] and [redacted] pulled his dog from under the fence. SA [redacted] shined a flashlight into the back yard and observed the pit bull dog alive and standing.

SA [redacted] returned to his residence, telephoned 911 a second time, and advised he had discharged his weapon at the dog.

Officers from the Lawton Police Department and Animal Control arrived approximately thirty minutes after SA [redacted] second phone call. The Animal Control Officer

b6
b7C

b6
b7C

attempted to render aid to the pit bull but could not gain access to the back yard because of the padlocked gate. Officers left a note for Mr. [redacted] to contact the police upon his return home.

[redacted] dog was taken to an animal hospital for treatment. The dog's left front leg and one ear were completely chewed off, a portion of the dog's snout was bitten away, and one eye was hanging from its socket. Due to the seriousness of the dog's injuries, [redacted] requested that the dog be euthanized.

On 05/20/2006, [redacted] telephoned the Oklahoma City Division and requested to speak to SA [redacted] supervisor regarding the incident. [redacted] asked SSA [redacted] what action would be taken regarding SA [redacted] shooting his dog. [redacted] advised the bullet from SA [redacted] weapon struck his dog above the eye and exited behind his ear, damaging the soft tissue. SSA [redacted] advised [redacted] of FBI procedures regarding the shooting of an animal. Although [redacted] seemed satisfied with the explanation, he contacted the Lawton Chief of Police to pursue a complaint against SA [redacted]

On 05/22/2006, the Lawton Police Department advised the Comanche County District Attorney declined to pursue any charges against SA [redacted] stating no improper action was taken by him. [redacted] was issued a criminal citation for Ownership of a Dangerous Dog and SA [redacted] was issued a criminal citation for Cruelty to Animal.

On 05/23/2006, the Lawton City Prosecutor advised the Oklahoma City Division that [redacted] filed a complaint against SA [redacted] for shooting his dog. The City Prosecutor advised he was declining any prosecution against SA [redacted]

On 07/13/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector C. Frank Figliuzzi, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Attorney, Civil Rights Division, USDOJ; Richard A. McFeely, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Assistant SC, CD-1, Counterintelligence Division;

[redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); [redacted] Chief, Defensive Systems Unit, TDD; [redacted] UC, Special Weapons and Tactics Operations Unit, Critical Incident Response Group; [redacted] UC, Operational Skills Unit, TDD; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and [redacted] General Attorney, Investigative Law Unit, Office of the General Counsel (OGC). [redacted] and [redacted] Management Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. The only observation made by the SIRG was the fact that SA [redacted] s actions were commendable; however, he put himself in harms way by attempting to free the injured animal.

To: Inspection From: Inspection
Re: 297-HQ-A1271801-D, 08/25/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 7825
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Figliuzzi, Room 7837
1 - Mr. [redacted] Room 5046
1 - Mr. McFeely, Room 3867
1 - Mr. [redacted] Quantico b6 b7C
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] antico
1 - Mr. [redacted] uantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
(Attention: Ms. [redacted]
1 - Mrs. [redacted] Room 7861
1 - Ms. [redacted] Room 7861

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/09/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
Cloyd Daniel [redacted]

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271802-D

**Title:** SHOOTING INCIDENT
OMAHA DIVISION
10/26/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/26/2005, involving Special Agent (SA) [redacted] Upon leaving the Omaha Indian Reservation, SA [redacted] fired two rounds from his Bureau-issued Glock 22, .40 caliber pistol, killing a dog that had been seriously injured. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in the shooting incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 11/02/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

## Details of the Shooting Incident

On 10/26/2005, SA [redacted] was assisting with pre-trial interviews in a sexual assault matter which occurred on an Indian Reservation. While traveling to the reservation, SA [redacted] observed an injured dog laying on the side of the road. Due to time constraints, SA [redacted] did not stop and check on the dog; however, after completing the interviews and upon his departure from the reservation, he again observed the dog on the side of the road. SA [redacted] exited his Bureau vehicle to check on the dog, noting its breathing was labored and the dog could not use its hind legs. SA [redacted] contacted the Winnebago Tribal Police Department who advised they had received numerous reports of the injured animal; however, they

were unable to dispatch an officer to the scene. SA [redacted] advised the Police Department he would kill the dog if an animal control officer would respond to remove the carcass. With the concurrence of the Police Department, and subsequent contact with the Dakota County Sheriff's Office and a utility worker nearby, SA [redacted] fired two rounds into the dog's head, killing the injured dog.

On 12/01/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Kimberly K. Mertz, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief (ASC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; [redacted] ASC, CD-6, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Program Manager, Operational Skills Unit, TDD; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident. However, members opined that although SA [redacted] actions were humane, the shooting of the dog was not within the current deadly force policy. This matter will be brought to the attention of the Special Agent in Charge of the Omaha Division to ensure future compliance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271802-D, 03/09/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Manning, Room 1B045
(Attention: Mr [redacted]
1 - Mr. [redacted] Room 3867
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861
♦♦

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspection
Date: 02/15/2006

Case ID #: 297-HQ-A1271511-D

b6
b7C
b7D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
HOUSTON DIVISION
11/03/2005

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 11/03/2005, as part of the Mara Salvatrucha - 13 (MS-13) initiative, the Houston Division executed a "Reverse Home Invasion." [redacted] and Houston Police Department (HPD) undercover employees (UCEs), five subjects were led to believe a residence in Pasadena, Texas contained 20 kilograms of cocaine. After [redacted] five armed subjects forcibly entered an unoccupied residence controlled by the FBI with the intent to steal what they believed was 20 kilograms of cocaine. As pre-positioned Agents approached the residence one subject pointed his weapon at Agents. In response, Agents fired their weapons, killing the subject. The four remaining subjects attempted to exit the residence, firing at least one weapon as they tried to escape. Agents returned fire, striking and killing a second subject and seriously wounding two others. One subject was unharmed.

**DETAILS:**

As part of the Houston Division MS-13 Gang Initiative, the division was investigating a group believed to be responsible for a 7/19/2005 armed home invasion in Pasadena, Texas. As the subjects were fleeing the crime in a stolen vehicle, they fired handguns at the victims. During the subsequent investigation, three subjects were identified as participants in multiple carjackings, home invasions and other aggravated robberies

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

in the Houston area.

[redacted] subjects who later admitted to participating in several aggravated robberies. One of the subjects was later identified as Jose Antonio Pino, aka El Gordo. During the course of meetings [redacted] "home invasion" of a Houston drug supplier. El Gordo subsequently agreed to the plan.

On 10/14/2005, the Houston Division began to implement an investigative strategy which involved convincing El Gordo and his associates there were 20 kilograms of cocaine hidden in a Pasadena, Texas, residence, thereby giving the subjects the opportunity to conduct a home invasion to steal the cocaine. The plan called for [redacted] El Gordo as a potential buyer to two Houston Police Department (HPD) undercover employees (UCEs) posing as drug traffickers attempting to sell the cocaine. The UCEs would allow El Gordo to inspect one kilogram of cocaine at the target residence. It would be made clear to El Gordo that the cocaine would be left in the residence until he returned with the money to buy the cocaine. Agents would leave 18 kilograms of sham cocaine along with two kilograms of cocaine hidden in a closet in the target residence. El Gordo would leave the residence, return with his associates, and forcibly enter and attempt to steal the cocaine. b6 b7C b7D

Once the subjects had entered the residence and taken possession of the cocaine, they would be arrested. The arrest team would be hidden in various locations outside the residence, which would be equipped with audio and video capabilities for safety and evidentiary reasons. The residence would be modified to allow for only one entry/exit point. The entry/exit point would be equipped with a magnetic lock which could be remotely activated after the subjects had entered the residence. This would effectively lock the subjects inside.

The Houston Division obtained the use of a residence located at [redacted] Pasadena, Texas, for the operation. The target residence was an approximately 1000 square foot, five room, wood framed structure. This vacant residence was owned by a Houston Police Officer and had been used by the Houston Division in an almost identical successful operation approximately one year prior.

Beginning on 10/31/2005, Houston Division Technically Trained Agents (TTAs) [redacted] b7E

[redacted] b7E

On 11/01/2005, Houston Division Electronic Technicians (ETs) installed two magnetic locks on a wrought iron metal screen door located at the front of the target residence. The two magnetic door locks were wired to the CP. This configuration allowed the metal screen door, once closed, to be locked remotely from the CP. Other than the metal screen door, all other possible exits such as other doors and windows were covered with plywood.

On 11/01/2005, SAC Roderick L. Beverly, ASAC Dana M. Gillis, Chief Division Counsel (CDC) William C. Haman, SWAT Coordinator SSA [redacted] Acting SSA [redacted] SWAT Team Leader SA [redacted] and Case Agent [redacted] met to discuss and approve the written arrest plan prepared by SA [redacted] On the same date, Houston received FBIHQ approval for the use of show drugs in the operation. b6 b7C

Preparations continued at the target residence on 11/02/2005 through the afternoon of 11/03/2005. TTAs and ETs ensured the cameras, lights, PA and locks were in working order. The arrest team, made up of members of the Houston Division SWAT team, reviewed and rehearsed their mission. SAC Beverly and ASAC Gillis personally inspected the target residence and surrounding area.

At approximately 5:00 p.m. on 11/03/2005, a briefing was held at the FBI Office in Houston, Texas. All those involved in the operation were present, including command and control personnel, arrest team members, surveillance teams and HPD officers who would be providing perimeter security. The case agent, SA [redacted] provided the overall briefing. CDC Haman provided a briefing on the FBI's Deadly Force Policy. After the

initial briefing, the arrest team was introduced to the HPD UCEs and [redacted] for safety reasons. Soon thereafter, residents near the target residence were asked to voluntarily evacuate their homes for the duration of the operation.

By approximately 9:00 p.m. on 11/03/2005, the arrest team was in place at the target residence. At approximately 9:02 p.m., [redacted] Once inside the target location, El Gordo was allowed to inspect a kilogram of real cocaine as a prelude to his purchase of the cocaine. Immediately thereafter, El Gordo left the target residence and returned to the Jack in the Box. Surveillance then observed El Gordo and five other subjects get into two vehicles and begin to drive toward the target residence. [redacted] the subjects were armed with Uzzis and an AR-15 assault rifle. This information was immediately passed to the arrest team.

b6
b7C
b7D

Once in front of the target residence, three subjects exited one vehicle and two exited the second vehicle. The second vehicle then left the area. The second vehicle was later stopped by HPD and the driver was identified as [redacted] Arrest team members, who were still hidden but could see the subjects, reported the subjects were armed with four handguns and what appeared to be an AK-47 assault rifle. Surveillance observed the five subjects moving around the front and side yard of the target residence using hand signals. After approximately three minutes of surveying the area the subjects quietly approached the front door. A subject then kicked in the front door and entered the residence followed closely by two other subjects armed with hand guns. The fourth subject, armed with a handgun, hesitated at the front door for two seconds then entered the residence. Upon entering the residence the subjects began shouting in Spanish, "Don't move, don't move." All four subjects had their weapons drawn and appeared ready to fire. Arrest team members later reported hearing shots as the subjects entered the residence. Once the four subjects were in the target residence, the metal screen door eventually closed and was remotely locked from the CP by SA [redacted]

b6
b7C

Immediately after the four subjects entered the residence, there were discussions in the CP concerning the possibility that the door had not locked. These conversations were overheard by SA [redacted] SA [redacted] took his position covering the front door of the residence believing the subjects

had the ability to quickly exit the target residence.

The fifth subject, later identified as El Gordo, remained in the front yard of the residence watching the street. At this point, SA [redacted] correctly believing the front door was locked, gave the command, via radio, to execute the arrest plan. The arrest team, parked in vehicles across the street, immediately began arriving in the front yard of the residence. The vehicles were displaying red and blue emergency lights. Additionally, a siren was inadvertently activated for a split second. Apparently hearing and seeing the units arrive, El Gordo raised his handgun toward the street. SA [redacted] pre-positioned in the window of a vacant building approximately 15 feet east of El Gordo, fired two shots from his M-4 rifle. El Gordo immediately fell to the ground. In his Signed Sworn Statement (SSS), SA [redacted] stated, "I feared for my life as well as the lives of my fellow SWAT operators..." Later an HPD Crime Scene Unit (CSU) search found two .223 caliber cartridge casings near SA [redacted] position. b6 b7C

As SA [redacted] SA [redacted] and SA [redacted] approached in a vehicle with red and blue lights activated, they observed El Gordo just after he had been shot by SA [redacted] All three SAs were not aware El Gordo had been shot. El Gordo was now on his hands and knees, still armed with a handgun and moving toward their location. SA [redacted] stated in his SSS, "I then saw the subject continue to move in my direction and push himself up, as if he was going to stand." All three SAs shouted commands for El Gordo to stop moving and to drop his weapon. El Gordo did not comply and all three SAs fired their M-4 rifles. El Gordo was struck, which stopped his movement and eventually killed him. Later, a HPD CSU search produced five .223 caliber cartridge casings near SA [redacted], SA [redacted] and SA [redacted] positions. On 11/04/2005, an autopsy revealed El Gordo had been shot four times. El Gordo was struck three times in the abdomen and once in the right leg.

A review of video tapes from inside the residence indicated that after entering the target residence, the four subjects found the sham cocaine hidden in a closet. Immediately thereafter, shots were heard from outside. This noise caused the four subjects to react by moving toward the front door. One subject fired his handgun at least twice as he moved toward the door. The subjects approached the front door with their weapons drawn and tried to force the locked front door open. b6 b7C

After the first shots were fired, SA [redacted] used the PA system and began instructing the remaining four subjects, in both English and Spanish, "FBI. You're under

arrest. Stop shooting. FBI. Go back to the room where you went in."

Upon the command to execute, SA [redacted] exited the south entrance of the CP and was positioned behind a vehicle approximately 30 feet from the front door of the residence. As SA [redacted] approached his position he heard what he called in his SSS "two loud booms that I thought were rounds from a long gun. After the two distinctive booms, I heard other gunfire coming from the direction of the house." SA [redacted] observed a subject appear in the doorway who attempted to leave the target residence with a handgun in his right hand. b6 b7C

SA [redacted] stated that when he exited the CP he believed the front door had not locked and the subject could easily exit the target residence placing his life and the lives of his fellow Agents in danger. During interviews, SA [redacted] SA [redacted], SA [redacted] and SA [redacted] all pre-positioned in the CP, recalled some discussion in the CP concerning the door not being locked immediately prior to the command to execute. SA [redacted], who was positioned in a van near the target location recalled other arrest team members stating over the radio that the front door had not locked. Several other Agents stated in their SSSs that they heard over the radio that the door had been remotely locked. Later investigation indicated the door had locked.

SA [redacted] fired multiple rounds from his M-4 rifle in the direction of the subject in the doorway. The subject did not go down and SA [redacted] was unsure if he had hit him. The subject stepped out of SA [redacted] view at which time SA [redacted] changed magazines in his weapon. A few moments later the subject reappeared in the doorway. It did not appear to SA [redacted] the subject was following verbal commands being given to him in Spanish. SA [redacted] believed the subject was being told he was under arrest and to lay down his weapons. b6 b7C

SA [redacted] observed the subject on his knees, then down on his stomach doing "what appeared to be a low crawl position." SA [redacted] stated, "I saw the subject moving his right arm and hand in a non-compliant fashion as if he were reaching for something. At this point, since the subject still posed a threat to me and my team members, I fired again." A review of the video recording shows the subject, later identified as Juan Antonio Bautista, crawl into the front room of the residence were he appeared to reach for something immediately before he appeared to have been struck in the head by gunfire and killed. An autopsy conducted on 11/4/2005 revealed Bautista had been shot six times. He had received a wound in the top of his head, two in the right arm,

one in the left chest, one in his upper abdomen, one in his right thigh, and one in his right calf.

SA [redacted] approached the target residence in a vehicle from the southwest and then positioned himself behind a vehicle in front of the front door to the target residence. Immediately prior to assuming his position in front of the target residence, SA [redacted] heard numerous gunshots. SA [redacted] did not recognize the reports, believing the gunshots had not come from FBI weapons. SA [redacted] was able to see two subjects in or around the doorway. SA [redacted] stated in his SSS, "I then saw one subject, armed with a pistol, move from the left side of the doorway to the right in an obviously non-compliant manner. It was apparent to me at this point that this subject was not complying with the commands that I knew were being broadcast within the house." He further stated, "I believed the subject posed an imminent threat of bodily injury to the Agents located on the side of the house and I fired a single round." A search by HPD CSU produced 30 .223 cartridge casings in the area were SA [redacted] and SA [redacted] had positioned themselves. b6 b7C

SA [redacted] and SA [redacted] were positioned at the rear of the CP covering the rear of the target residence. Both agents heard via radio that five subjects had arrived at the target residence and at least one was carrying a "long gun." SA [redacted] stated in his SSS, "Based on my experience in the FBI, I know that these type of weapons are capable of sustaining rapid rates of fire and can penetrate our ballistic vests and shields." As SA [redacted] and SA [redacted] moved into position, they heard a siren, gunshots and an Agent's voice over the PA system announcing "FBI" and issuing commands to the subjects within the target residence. A short time later they observed one subject come to a back window and break it out with the barrel of his weapon and point the weapon in their direction. At approximately the same time, the Agents heard additional gun shots. SA [redacted] stated, "Since the subject posed an obvious, imminent threat to my life and the lives of the SWAT operators with me, as well as other law enforcement personnel in the vicinity, I fired at the subject." SA [redacted] fired his Glock 22 .40 caliber semi-automatic pistol. SA [redacted] fired his M-4 .223 caliber rifle. A HPD CSU search found four .223 caliber cartridge casings in the area were SA [redacted] had positioned himself. One .40 caliber cartridge casing was found were SA [redacted] had position himself. b6 b7C

Approximately two minutes after the above described gunfire, SA [redacted] using the PA system, was able to direct one of the subjects, later identified as [redacted] to a cellular telephone which had been left in the target residence.

Using the cellar telephone, SA [redacted] with the assistance of SA [redacted] was able to instruct the remaining three subjects on how to surrender and exit the target residence safely. Conversations were conducted in Spanish. After approximately 45 minutes, two subjects exited the residence and were arrested. They were later identified as [redacted] and [redacted] was seriously wounded and was unable to leave the residence under his own power. Immediately after the arrest team secured the target residence, paramedics were allowed in to administer first aide to [redacted] and [redacted] were later transported to nearby hospitals for treatment. A review of medical records from the Ben Taub Hospital revealed [redacted] suffered a gunshot wound to the upper left leg. A review of medical records from Memorial Hermann Hospital indicated [redacted] suffered a gun shot wound in the right chest area. b6 b7C

The HPD CSU search of the target residence immediately after the shooting incident produced the weapons carried by [redacted] and [redacted] They were described as follows: a Smith and Wesson .45 caliber semi-automatic pistol; a Smith and Wesson .357 caliber revolver; a Beretta 9 mm semi-automatic pistol; a Beretta, 9 mm semi-automatic pistol; and a Norinco 7.62 x 39 mm semi-automatic rifle. The .45 caliber semi-automatic pistol was reported stolen in a Houston area burglary. All the weapons appeared to have been loaded. The HPD CSU search also produced two 7.62 mm cartridge casings and two .45 caliber cartridge casings inside the residence indicating four rounds had been fired from the subjects' weapons while inside the target residence.

Further investigation conducted by HPD CSU revealed approximately 18 rounds struck the area of the front door of the residence. An additional three rounds struck the front of the target residence near the front window. The estimated trajectory of these 21 rounds indicated they were fired from SA [redacted] and SA [redacted] positions. Approximately three rounds struck the rear of the target residence. The estimated trajectory of these three rounds indicated they were fired from SA [redacted] and SA [redacted] positions. b6 b7C

Immediately following the shooting incident, [redacted] were arrested. On 11/03/2005, [redacted] and [redacted] were transported to the FBI Houston office where they were interviewed. [redacted] told SAs that he had been approached by [redacted]

pistol and promised to pay [redacted] $10,000.00 when the bag had been retrieved. Soon thereafter, [redacted] invoked his right to remain silent until he spoke to an attorney. [redacted] the 20 year old brother of [redacted] admitted to SAs he drove [redacted] and another individual to a residence but was unaware of any plans to commit a home invasion.

On 11/07/2005, [redacted] was contacted and interviewed by Houston Division SAs at the Memorial Hermann Hospital in Houston, Texas. [redacted] told the SAs he believed they had been set-up by the FBI. No further information concerning what led him to this belief was provided. [redacted] indicated to Agents that [redacted] aka [redacted] and [redacted] an unknown Hispanic male, had arranged the home invasion and they had provided the weapons. [redacted] told Agents he had not fired a weapon during the incident. b6 b7C

On 11/08/2005, [redacted] was again contacted at the Memorial Hermann Hospital and interviewed by HPD Detectives. [redacted] during this taped interview, told HPD Detectives he believed he was taking 25 pounds of marijuana from the residence. He also indicated no one was inside the house when they saw "lights" and heard someone yelling "FBI" and began dropping their weapons. [redacted] stated, "One of them got scared and broke a window to try to get out but the window had burglar bars on it... they (FBI) started shooting when the window was broken...he tried telling them (FBI) not to shoot because they had dropped their weapons and weren't armed."

On 11/08/2005, [redacted] was contacted at the Harris County Jail, Houston, Texas, and interviewed by HPD Detectives. [redacted] told detectives [redacted] (LNU) had arranged for him and three others to steal a bag for him. [redacted] was told he would be paid $3,000 for his services. [redacted] provided all the weapons for the home invasion. [redacted] stated during his taped interview, "When [redacted] ran out, they grabbed the bag that [redacted] wanted and they began receiving gunfire as they headed out... none of them fired their weapons until they began returning gunfire... he [redacted] never imagined that the police were the ones shooting at them... he [redacted] was in the back of the room and began shooting his gun, but only shot at the floor...he [redacted] still had his gun in his hand and he was shot in his leg." Later in the interview, [redacted] stated, "The police that were outside shooting were FBI...they were wearing their helmets and he could tell they were FBI...about a minute after the shooting stopped, he heard someone saying in a speaker inside the house, 'Don't move. FBI. Don't move. You are surrounded. You cannot escape." b6 b7C

Interviews of non-law enforcement personnel were conducted at the scene during the neighborhood canvass conducted by both the HPD and the SIRT. In summary, the witnesses, who were residents in the area, noted hearing the commotion caused by the operation, but none were direct witnesses to the shooting incident.

On 11/09/2005, [redacted] and [redacted] were charged in Texas State District Court with Aggravated Robbery and Burglary of a Habitation with intent to commit crime. All remain in custody pending indictment. The matter is being presented to the United States Attorney's Office for the Southern District of Texas. An opinion has not been rendered. b6 b7C

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/22/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted]

**Approved By:** Thornton Charlene B
Cloyd Daniel [redacted]
Figliuzzi C Fran[redacted]

b2
b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271970-D

**Title:** SHOOTING INCIDENT
WASHINGTON FIELD OFFICE
11/13/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/13/2005, involving Supervisory Special Agent (SSA) [redacted] While attempting to locate and arrest two bank robbery suspects, SSA [redacted] fired one round from his Glock Model 22, .40 caliber pistol, injuring an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of SSA [redacted] dated 04/10/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 11/13/2005, at approximately 7:00 p.m., SSA [redacted] and other members of his squad briefed an operational plan to utilize cellular tracking technology in an attempt to locate and arrest two bank robbery suspects.

While in the College Park, Maryland, area, Agents received a strong signal indicating one of the suspect's cellular telephone was nearby. At the same time, SSA [redacted] observed two individuals fitting the suspects' description walking down a street. As SSA [redacted] passed the individuals, it appeared they attempted to conceal their faces and immediately turned and walked toward a residence. SSA [redacted] circled the block and returned to the area where he previously saw the subjects; however, they could not be located. SSA [redacted] instructed other Agents to form a perimeter around the suspect residence as he and SA [redacted] proceeded to the rear of the residence and scaled a four-foot high chain link fence to take cover behind a shed in the yard. As they approached the shed SSA [redacted] was charged by a pit bull dog. SSA [redacted] fired one round striking the dog in the back.

SSA [redacted] immediately informed the other Agents on the scene that a shot had been fired resulting in injuries to a dog who was subsequently treated by a veterinarian.

On 05/05/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector C. Frank Figliuzzi, Office of Inspections, Inspection Division; [redacted] Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Kevin Favreau, Section Chief (SC), CD-4, Counterintelligence Division; [redacted] Assistant SC, Transnational Criminal Enterprise Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

With the exception of SSA [redacted] who recused himself from the discussion because of his involvement in this incident, members unanimously agreed that the use of deadly force by SSA [redacted] was justified and in conformance with the deadly force policy. This discussion resulted in a recommendation that no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 05/22/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
(Attention: Mr. [redacted]
1 - Mr. [redacted] USDOJ
1 - Mr. Figliuzzi, Room 7837
1 - Mr. Favreau, Room 4042
1 - Mr. Cunningham, Room 3548
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico b6 b7C
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861
♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: ASAC D. Shepard Rabbiner
ASAC Keith L. Bennett Office: Phoenix
Date: 06/06/2005

Case ID #: 297-HQ-A1271898 SUB D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHOENIX DIVISION
06/03/2005

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an attempted resolution to a stand-off by a barricaded subject.

On 05/12/2005, [redacted] arrived at the Gallup Resident Agency, Phoenix Division, alleging that her husband, [redacted] had severely beaten her. [redacted] then forced his wife into a vehicle, drove her from her home in Ft. Defiance, New Mexico to Navajo, New Mexico (NM) where he threatened to kill her and continued to beat her. On 05/16/2005, an Indian Country Domestic Violence case was opened on [redacted] b6 b7C

Also on 05/12/2005, [redacted] sought and received a Temporary Protection Order against [redacted] from the Family Court of the Navajo Nation Judicial District of Window Rock, Arizona.

On 06/02/2005, at approximately 2140 hours, Sheriff Deputy [redacted] of the McKinley County Sheriff's Office, McKinley County, NM, arrived at [redacted] Gallup, NM in an attempt to serve [redacted] with the aforementioned Temporary Protective Order.

---

[1] 198H-PX-76284. Investigation resulted in a federal criminal complaint against [redacted], obtained on 05/20/2005, for a violation of 18 USC §§1153, 1201 (Crimes Committed Within Indian Country/Kidnaping).

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

While making inquiries, Deputy [redacted] learned that [redacted] was at the residence. [redacted] was sitting on a couch and while Deputy [redacted] was talking with [redacted] reached for a pistol, ignoring Deputy [redacted] commands to stop. [redacted] stated, "you're not going to take me alive." Deputy [redacted] sought cover outside the residence. Deputy [redacted] then commanded [redacted] to drop the weapon and come out of the residence. Soon thereafter, [redacted] exited the residence with the pistol, and entered a pick-up truck parked nearby. While [redacted] was starting the vehicle, a male on the scene advised Deputy [redacted] that [redacted] had planned a "suicide by cop." [redacted] departed the area and led Deputy [redacted] and two later joining McKinley County units, on a vehicle chase. When [redacted] arrived at New Mexico state line at Window Rock, Arizona (AZ), the McKinley County units ended their pursuit. b6 b7C

As the McKinley County units ended their pursuit of [redacted] Officer [redacted] of the Navajo Nation Department of Law Enforcement (NNDLE) picked-up the pursuit in Window Rock, AZ. NNDLE Patrol Sergeant [redacted] in her vehicle, soon joined Officer [redacted] in the pursuit. Thereafter, Officers [redacted] and [redacted] joined in. Sergeant [redacted] learned from her dispatcher that [redacted] was armed. [redacted] later brandished the weapon during the pursuit. The four patrol cars continued to follow him to a residence located near mile post 5, route 112, Fort Defiance, AZ. Sergeant [redacted] who was familiar with [redacted] knew this to be the residence of [redacted] mother-in-law.

Route 112 is a north/south road. The residence sits on a field west of route 112, with the main door facing east. There are two possible entry points to the residence. The northern-most entry point was roped-off. b6 b7C

As the pursuit headed north down route 112, [redacted] ended the 35 mile-long pursuit by attempting to turn left and enter the southern-most, or first, driveway entrance to the property. His pick-up truck, however, became stuck just inside the perimeter fence. [redacted] exited his stuck vehicle and ran west towards the residence. Officer [redacted] powered his vehicle through the point where [redacted] got stuck and parked approximately 20 yards from the residence. Sergeant [redacted] Officer [redacted] and Officer [redacted] all parked near the east-side of the residence.

As [redacted] ran towards the residence, Officer [redacted] alighted from his vehicle and gave chase. However, Officer [redacted] stopped when he noticed that [redacted] could not gain entry into the residence and instead moved behind a pick-up truck parked parallel to, and in front of, the house.

When [redacted] was close to the pick-up, officers saw that he was holding a pistol to his head. The officers took positions of cover behind the parked units. [redacted] made several statements to officers including that he "wanted to end it all" and that he wanted to "see FBI Agent [redacted] began pacing back and forth, alternately pointing his handgun at himself and the officers while ignoring commands to drop the handgun.

b6
b7C

At some point during the stand-off, the Officers moved their vehicles to gain tactical advantage by setting-up the vehicles up in a more linear fashion. They were placed with the vehicle headlights facing [redacted] and the entrance of the residence. Efforts to diffuse [redacted] agitated state were unsuccessful. He continued to point his handgun at himself and police, pacing back and forth, alternately moving from behind the cover of the parked pick-up truck and then towards police. He appeared agitated and angry, yelling out statements such as "Life sucks," "I'm going to kill myself," "I'm a convicted felon and I'm not going back to prison," and "I'm going to shoot at you guys so you'll have to kill me." [redacted] calmed-down for short periods of time, but would also quickly return to an agitated state. During a few points in the stand-off with police, [redacted] made requests for Special Agent (SA) [redacted] to be present. The NNDLE contacted SA [redacted] and requested his presence.

SA [redacted] of the Phoenix Division's component of the Gallup Resident Agency (GRA) arrived at the scene at approximately 2330 hours. SA [redacted] had previous dealings with [redacted] Although not an FBI informant, [redacted] had provided SA [redacted] with information on area criminal activity. In addition, SA [redacted] was aware of a recently obtained federal criminal complaint against [redacted] SA [redacted] of the Albuquerque Division's component of the GRA arrived shortly after SA [redacted] SA [redacted] was the only Certified Crisis Negotiator in the GRA, having received his certification approximately one month prior to the shooting. Upon their arrival, they observed several NNDLE patrol vehicles set-up in the front yard of the residence, facing more-or-less west, with their headlights shining on [redacted]

b6
b7C

SAs [redacted] and [redacted] having contacted Senior Supervisory Resident Agent (SSRA) [redacted] the SSRA responsible for the Ft. Defiance, AZ area, and a Crisis Negotiator himself, began employing a mutually agreed upon strategy aimed at bringing the barricaded situation to a close.

SA [redacted] with guidance from SA [redacted] began talking with [redacted] trying to determine the source of his agitation. SA

began by telling that he should remember his family. SA explained to how tough it would be on his children if he were to get hurt. There was a long period of general conversation back and forth about family and about the reasons why should not hurt himself. Over time, these conversations cycled and recycled covering the same topics. Also during this time, would sit, stand, walk-around, all the while alternately pointing his pistol at himself and the law enforcement officers on the scene. At some point, was given a jacket because he stated he was cold. b6 b7C

At one point, advanced towards the vehicles, coming within 15 yards of SA cover vehicle. While advancing, he continued to alternately point his pistol at himself and the officers and agents. stopping his advance, stated that he didn't care if the officers had vests "because he had put Teflon on the bullets." At that point, SA told to stop waiving the gun around and to put the gun down. responded that he wanted SA there and if someone was going to kill him that he wanted it to be SA then stated that he wanted to talk with his wife and that if he could talk with her, he would put the gun down. During this time it was apparent that was getting agitated. While this was taking place, SA expressed to SA his discomfort with how close was coming towards them and the way in which was waiving his pistol at them. More commands from SA to caused to eventually back-down. He took a seat close to the residence By this time, it was approximately 0030 hours, 06/03/2005.

During repose, SA and SA decided to regroup and review their strategy. SA took advantage of the down-time and checked-in with SSRA SSRA and SAs and agreed that because nothing had occurred to change the negotiation approach and because time was on their side, they would continue to employ the same strategy and take as long as was needed to resolve the matter. Also during this period of time, SA took advantage of the break to address a cross-fire concern he had with the location of a few of the NNDLE officers positioned on the south-side of the perimeter. b6 b7C

Approximately 45 minutes after had settled-down, another wave of negotiations began. During this period, the bulk of the conversation centered around desire to see his wife. was making conflicting statements when SA tried to convince him not to hurt himself. On one occasion, when SA told that he should not hurt himself, stated that "the pain was too great". Shortly thereafter, however, responding

to the same statement by SA [redacted] stated that "it was against his principles as a Native American to hurt himself." During this period, [redacted] tried to negotiate an immunity agreement by telling SA [redacted] that if he could sign something that immunized him from the events of the evening, he would end the stand-off immediately. Knowing that an actual agreement of this kind was not feasible, SAs [redacted] and [redacted] agreed that lying to [redacted] about providing such an agreement was risky, because if [redacted] saw through the lie, there was no way of knowing how he would react.

During the course of the evening, from the beginning of the stand-off, until after the shooting, a number of additional members of the NNDLE arrived. Specifically, they were: Officers [redacted] b6 b7C and [redacted] and Sergeant [redacted] head of the tactical team. These officers participated during some stage of the stand-off in either a relief capacity, or as members of the NNDLE tactical team. In addition, an ambulance from the Ft. Defiance Indian Hospital was at the scene.

At approximately 0200 hours, an officer from the NNDLE advised SAs [redacted] and [redacted] that [redacted] two sons were on the scene. They had offered to talk to [redacted] SA [redacted] established that [redacted] and his sons did not get along. SA [redacted] therefore, opted against introducing [redacted] sons to the equation. They were placed to the far rear of the scene. Shortly thereafter, [redacted] entered into the parked pick-up truck and appeared to lock the doors. He sat on the passenger side of the truck, the side closest to the police vehicle perimeter. The time was approximately 0300 hours. Some time passed without dialogue. It is believed that [redacted] had fallen asleep in the truck.

While things were quiet, Sergeant [redacted] and other members of the NNDLE tactical team expressed their concern that the impending sunrise would place the officers and agents in greater danger because the light would expose them to [redacted] Therefore, Sergeant [redacted] raised the possibility of sending in dogs, less-than-lethal bean-bag projectiles, or tear gas, all in an effort to bring the matter to closure. While it was clear that both the FBI and the NNDLE had a stake in the outcome of this matter, because this stand-off was the result of a local police matter, the NNDLE still had primary jurisdiction. SAs [redacted] and [redacted] convinced the NNDLE to delay escalation of the stand-off as it appeared that [redacted] was asleep and nothing had occurred to necessitate escalation. Additional consultation between SSRA [redacted], SAs [redacted] and [redacted] resulted in the conclusion that it was necessary to wake [redacted] so that he did not

b6 b7C

have the tactical advantage of being rested while the agents and officers were becoming fatigued. Therefore, SA [redacted] used the air horn in his vehicle to wake [redacted]

[redacted] awoke and opened the pick-up truck door, again demanding to speak to his wife. SA [redacted] told [redacted] that if he put down his gun, he would personally arrest him and allow [redacted] to call anyone he wanted. [redacted] became angry and slammed the truck's door shut. At this moment, SA [redacted] sensed that the situation was changing for the worse. While [redacted] was in the pick-up, SA [redacted] stepped back to the rear of his Bureau vehicle and removed from a lock box his Bureau issued AR-15 rifle. He loaded and chambered a round into the weapon, and checked the weapon's sites and light. He then took a position standing on the passenger side of a Navajo police vehicle, using the engine block for cover. b6 b7C

At approximately 0430 hours, Sergeant [redacted] informed SAs [redacted] and [redacted] that, because sunrise was imminent, his tactical team was preparing to deploy a flash bang grenade to distract and disorient [redacted] and then launch tear gas into the back window of the pick-up truck to extract [redacted] SA [redacted] requested that Sergeant [redacted] make his plan the last option because SA [redacted] still wanted to try to talk [redacted] into surrendering. SA [redacted] also requested that Sergeant [redacted] let him know in advance when his people were going to do anything tactical so that there would be ample warning.

Before Sergeant [redacted]'s plan could be effectuated, [redacted] got out of the truck and again demanded to speak with his wife. SA [redacted] believed that [redacted] appeared to be under the influence of drugs, which he believed to be methamphetamine. Earlier, [redacted] had stated that he had methamphetamine with him and that he was going to ingest it.[2] SA [redacted]' belief was further solidified because [redacted] demeanor had changed, and he appeared to be desperate and ready for things to end. SA [redacted] believed that [redacted] based on his actions and statements, was trying to provoke the agents and officers to shoot him. b6 b7C

SA [redacted] consistently kept telling [redacted] to stop moving around, and to stop moving towards them. SA [redacted] issued multiple commands for [redacted] to put his gun down. While [redacted] was moving around, he alternated moving the pistol from a position of rest on his chest, to waving the pistol, to pointing it in the

[2] Medical records obtained later in the investigation revealed that a urine sample taken from [redacted] while he was being treated for the gunshot wound, indicated a presence of amphetamine.

direction of officers and agents. While walking back and forth, [redacted] would, at times, walk in a northerly direction. This placed the agents and officers in a position of high vulnerability, leaving them without sufficient cover.

At approximately 0500 hours, [redacted] was becoming increasingly fidgety. His breathing could be heard. It was apparent to many that the situation had deteriorated and one officer from behind SA [redacted] yelled that "something was going to happen." [redacted] then faced SA [redacted] had then placed himself north, where several officers were most vulnerable. [redacted] then moved his weapon off of his chest and began to turn it toward SA [redacted] SA [redacted] believed that he, or one of the other officers, was going to be shot. SA [redacted] had his weapon aimed at [redacted] chest. SA [redacted] believed that [redacted] left him with no safe alternative and, therefore, fired one round at [redacted] from his weapon. b6 b7C

After [redacted] was shot, his pistol fell out his hand. [redacted] then fell face forward to the ground and onto his stomach. [redacted] started to roll over onto his side and appeared to be moving toward his gun which was lying nearby. SA [redacted] started to move in toward [redacted] with his weapon aimed at him, in case he would have to shoot [redacted] a second time. At this time, there was a shot fired from behind and to the right of SA [redacted]. It was a bean-bag round fired by one of the NNDLE officers. The bean-bag struck [redacted] in the chest, knocking him back away from the gun. Other officers moved in on [redacted] .They secured the handgun[3] and handcuffed [redacted] Paramedics and officers then began to administer first aid. [redacted] was then immediately transported to the Ft. Defiance Indian Hospital. b6 b7C

SSRA [redacted] was immediately contacted when [redacted] was shot. He departed Flagstaff en route to the scene. While en route, SSRA [redacted] contacted ASAC Rabbiner of the Phoenix Division to advise him of the situation. Later, FBI ERT members arrived to process the scene.

Once [redacted] was stabilized at the hospital, it was learned that the round fired by SA [redacted] had passed through [redacted] hand, fragmented, and then passed into his stomach. He is expected to survive.

---

[3] The pistol's hammer was cocked and a round was in the chamber.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/08/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
Cloyd Daniel [redacted]

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271480-D

**Title:** SHOOTING INCIDENT
DETROIT DIVISION
08/09/2005

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/09/2005, involving Special Agent (SA) [redacted] During the execution of an arrest warrant, SA [redacted] fired one round from his Bureau-issued Glock, Model 22, 40 millimeter pistol, injuring an approaching dog who had bitten a Task Force Officer (TFO) on the scene. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in the shooting incident.

**Administrative:** Reference Electronic Communication of Assistant Special Agent in Charge (ASAC) John V. Gillies, dated 10/17/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 08/09/2005, members of the County of Macomb Enforcement Team (COMET) Violent Crimes Task Force were attempting to execute an arrest warrant on a subject wanted for Fraud.

As arrest team members approached the subject, who was positively identified in front of his residence, he backed away from law enforcement officers and entered his residence. A TFO followed the subject and was on the porch when the subject entered his residence. As the subject entered, a black dog was released from inside the home and attacked the

TFO, biting him twice on the upper leg/buttocks area. As a result of the dog biting him, the TFO fell to the ground; however, he pushed the dog away and entered the residence. As SA [redacted] approached the residence to assist the TFO, the dog began to growl and bark at him. SA [redacted] began backing up with the dog rapidly approaching him. Fearing for his safety, SA [redacted] fired one shot at the dog striking it in the shoulder area. The dog was immediately attended to by its owner and taken to a veterinary hospital for treatment. The dog's owner advised law enforcement authorities that the dog had received home protective security training and was trained to attack anyone who acted in a threatening manner toward her or the residence.

On 12/01/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Former Chief Inspector Kimberly K. Mertz, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief (ASC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; [redacted] ASC, CD-6, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Program Manager, Operational Skills Unit, TDD; and SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. This discussion led to the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271480-D, 03/08/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Room 3867
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted], Room 7861
♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/19/2007

**To:** Inspection **Attn:** AD Kenneth W. Kaiser

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Kaiser Kenneth W
Clemens Michael

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1270955-D

**Title:** SHOOTING INCIDENT
BOSTON DIVISION
09/22/2005

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/22/2005, involving Special Agent (SA) [redacted] During the arrest of a fugitive attempting to elude arrest, SA [redacted] fired three rounds from his Bureau-issued Glock Model 22, .40 caliber pistol, injuring the subject. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 11/03/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

In August 2005, SA [redacted] began working with the Manchester, New Hampshire, Police Department (PD) regarding the armed robbery of a market. The subject of the armed robbery used a sawed off shotgun during the robbery and escaped with $17,000 in cash. A federal arrest warrant was issued for [redacted] in connection with the robbery.

b6
b7C

SA [redacted] interviewed [redacted] girlfriend [redacted] about the robbery; however, she denied having any knowledge despite the fact that a vehicle registered to her, with a female driver, was seen leaving the robbery. [redacted] could not account for the location of her vehicle and reported it stolen after being interviewed by SA [redacted]

SA [redacted] interviewed [redacted] who advised [redacted] was a crack cocaine user and had been convicted of armed robbery, as well as the assault of a police officer. She explained that [redacted] attempted to run over police officers with his vehicle during his attempted arrest. [redacted]

[redacted]

b6
b7C
b7D

After discussing the situation, a decision was made to contact [redacted] and advise her they would not attempt to execute [redacted] however, the

[redacted]

[redacted]

SSRA [redacted] coordinated efforts to surveil the meeting between [redacted] and [redacted] at the church. Law enforcement officers were going to instruct [redacted] to attempt to obtain any information regarding the location of [redacted] Agents and Detectives involved in the matter were instructed to meet at the Quincy PD for a 4:00 p.m. briefing.

b6
b7C
b7D

SA [redacted] suggested that a surveillance of [redacted] apartment be initiated in anticipation of her leading law enforcement personnel to the subject before the 6:15 p.m., meeting with his sister. Upon approval of [redacted] suggestion, both he and SA [redacted] volunteered to conduct the surveillance.

SAs [redacted] and [redacted] departed the Bedford Resident Agency at approximately 11:00 a.m., and arrived in the vicinity of [redacted] apartment between 12:30 and 1:00 p.m. [redacted] vehicle could not be located at that time; however, between 2:00

and 2:30 p.m., SA [redacted] observed a white Mercury Marquis enter the apartment complex. SA [redacted] observed a white female, believed to be [redacted] enter a ground level apartment and contacted SA [redacted] of the events. SA [redacted] confirmed that [redacted] lived in a ground level apartment and it was determined the license plate on the vehicle matched the one registered to [redacted]

Between 2:30 and 3:00 p.m., SA [redacted] observed [redacted] vehicle exit the apartment complex. He and SA [redacted] followed the vehicle as [redacted] drove through a public park and proceeded to a shopping mall at a high rate of speed. SA [redacted] observed [redacted] exit her vehicle and enter the mall. [redacted] exited the mall between 3:15 and 3:30 p.m., and entered her vehicle. SA [redacted] contacted the owner/manager of a store inside the mall and confirmed [redacted] had not gotten [redacted] tuxedo. b6 b7C

Upon [redacted] exit from the mall, SAs [redacted] and [redacted] continued to follow her and watched as she entered the parking lot of the Extended Stay Hotel. The Agents drove past the hotel but could not see [redacted] vehicle. SA [redacted] immediately contacted SSA [redacted] who was with SA [redacted] at the Quincy PD to advise of the latest developments.

SA [redacted] drove SA [redacted] to the hotel and returned to a parking lot across the street from the hotel, where he was joined by additional Agents and detectives. The detectives left the parking lot area, however, stayed in the general vicinity of the Agents.

SA [redacted] advised he made contact with the hotel manager who verified [redacted] had checked into the hotel. She provided the hotel with an invalid address and a telephone number that was not current. SA [redacted] viewed a video provided by the manager and confirmed [redacted] checked into the hotel alone. SA [redacted] then requested the assistance of a second Agent inside the hotel.

After consultation with CDC Frank Davis and Assistant United States Attorney [redacted] a determination was made that there was not enough probable cause to enter the hotel room in an effort to locate and apprehend [redacted] SA [redacted] and SSA [redacted] discussed different scenarios that could be employed to successfully locate and arrest [redacted] A decision was made to keep the existing team of Agents and detectives at the hotel when [redacted] left and traveled to her meeting in Quincy. One ground unit and the Bureau airplane would be utilized to surveil her at the time of her departure. A second team of Agents and detectives located in Quincy would be responsible for covering the meeting between [redacted] and [redacted] sister. Additionally, SA b6 b7C

[redacted] planned to interview [redacted] after the meeting with [redacted] hoping to obtain enough information that would produce probable cause to obtain a search warrant for [redacted] hotel room.

Law enforcement personnel at the hotel received information from SA [redacted] that the hotel clerk who rented the room to [redacted] observed her standing at the hotel elevator with an unknown male. SA [redacted] also reported that [redacted] obtained change at the front desk to wash clothes in the basement of the hotel. SA [redacted] proceeded to the laundry room where he observed one dryer operating containing clothes belonging to a man and a woman. Additionally, SA [redacted] had previously heard a male voice coming from one of the rooms associated with [redacted] Shortly thereafter, SA [redacted] contacted SA [redacted] and advised him [redacted] was entering the driver's side of [redacted] white Mercury Marquis, with [redacted] entering the passenger side. SA [redacted] immediately decided to effect [redacted] arrest in the hotel parking lot. One of the Braintree detectives at the scene provided SA [redacted] with a walkie talkie to allow for communication with local law enforcement personnel. SA [redacted] announced over the Bureau radio that [redacted] was leaving the hotel and an attempt would be made to stop and arrest him in the parking lot.

SA [redacted] drove his vehicle toward the hotel looking for the subject vehicle. Seeing an unusual amount of heavy traffic as well as pedestrians in the area, SA [redacted] entered the parking lot and stopped his vehicle directly in front of the hotel lobby. The detectives entered the parking lot, however, stayed near the entrance. While searching for the subject vehicle's location in the parking lot, SA [redacted] recalled hearing words to the affect, "they're leaving the parking lot." SA [redacted] believed the information was relayed over the police radio. As SA [redacted] heard the information on the radio, he saw the subject vehicle traveling toward the parking lot exit. SA [redacted] drove his vehicle toward the parking lot exit and blocked the subject vehicle before it entered the street. SA [redacted] also identified the driver of the vehicle as [redacted] and observed him looking in his rearview mirror. SA [redacted] exited his vehicle and drew his weapon. While walking toward the subject vehicle, SA [redacted] believed he shouted, "FBI, stop the car" or similar words to that affect. SA [redacted] heard other voices shouting similar commands for the subject to stop the car. As SA [redacted] approached the subject vehicle, [redacted] was attempting to back his vehicle toward the police van which had stopped directly behind him. [redacted] left hand was on the steering wheel and his right hand and arm were behind the front passenger headrest. According to SA [redacted] was looking through the rear window but never gave any indication of complying with orders to stop the vehicle. SA [redacted] recalled

b6
b7C

b6
b7C

hearing the engine screaming as if [redacted] had pressed the gas pedal to the floor. Assuming [redacted] was attempting to escape, SA [redacted] believed he posed an imminent threat of death or bodily harm to himself, other Agents, and local law enforcement personnel. Having an unobstructed view of [redacted] SA [redacted] fired multiple shots at [redacted] who continued his escape efforts; however, seconds later he screamed in pain and turned around in the driver's seat. SA [redacted] approached the vehicle, opened the door, and pulled [redacted] out of the vehicle. [redacted] fell from the vehicle onto his back with his stomach area covered in blood. [redacted] was subsequently handcuffed and an Emergency Medical Team arrived within minutes and transported him for medical assistance. b6 b7C

Medical records of the suspect could not be obtained by the Shooting Incident Review Team and the subject was in an induced coma during the inquiry. However, subsequent information was received that the suspect fully recovered from the injuries he received as a result of the shots fired by SA [redacted]

No local prosecutive opinion was obtained regarding this shooting incident; however, on 06/21/2006, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 09/21/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: former Chief Inspector C. Frank Figliuzzi, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Attorney, Civil Rights Division, USDOJ; SC James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, TDD; [redacted] Chief, Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Operational Skills Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Deputy General Counsel, Investigative Law Branch, OGC, and [redacted] General Attorney, Investigative Law Unit, OGC, as well as SSA [redacted] and [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

With the exception of one SIRG representative, members opined that SA [redacted] reasonable use of deadly force was justified and in compliance with the deadly force policy. The dissenting voter questioned SA [redacted] statement of imminent danger considering no evidence existed that the subject aimed a weapon at law enforcement personnel. He emphasized the fact that the subject was only backing up and questioned whether the shots fired were to keep the subject from escaping or because imminent danger to law enforcement personnel existed. Other SIRG members reiterated the fact that [redacted] had advised Agents that he previously attempted to run over officers as they attempted to effect his arrest. b6 b7C

Other issues discussed by the SIRG pertained to inadequate planning and the lack of utilization of protective armor by Agents at the scene. SIRG members emphasized the fact that contingency and risk planning, as well as the Operations Plan for this incident, was inadequate. Members noted the operational plan failed to sufficiently document the "Law Enforcement Participants in the Operation," with regard to the execution of the plan. SIRG members were also cognizant of the fact that SA [redacted] advised he was not aware of an arrest plan being prepared since the operation was more of a surveillance than an arrest. It was further noted by the SIRG that the Braintree detectives provided a radio to SA [redacted] however, had no ability to communicate with other surveillance team members. Members opined that SA [redacted] made a unilateral decision to arrest [redacted] which was not previously discussed with team members. b6 b7C

The second issue centered around the fact that SA [redacted] and SA [redacted] were not utilizing their ballistic vests during the operation. SA [redacted] advised he intended to wear his vest; however, because of his constant interaction with law enforcement personnel, he did not have an opportunity to put it on before the incident.

The last observation made by the SIRG was the fact that although SA [redacted] did not fire his weapon during the incident, he was involved in the investigation and should not have conducted any witness interviews subsequent to the shooting.

Additionally, members noted the Braintree Police Department 911 tape indicated a phone call was received from the State Police who advised an individual identified as [redacted] witnessed some information regarding the incident. Although the individual's name and cell phone number were provided, there is no documented evidence that an interview was conducted of [redacted] b6 b7C

These observations will be discussed with the Special Agent in Charge of the Boston Division.

To: Inspection From: Inspection
Re: 297-HQ-A1270955-D, 04/19/2007

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Mr. Ford, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 7825
1 - Mr. [redacted] SDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC LOUIS J. CAPRINO Jr. Office: Los Angeles
Date: 03/15/2006

Case ID #: 297-HQ-A1271741-D
89B-LA-242730

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION;
09/30/2005

Character: ADMINISTRATIVE INQUIRY
INTERIM REPORT

b6
b7C

Synopsis: On 09/30/2005, Special Agents [redacted] credential number [redacted] and his partner [redacted] credential number [redacted] were on duty in their capacity as Los Angeles FBI Special Agents (SAs). The SAs were assisting the Los Angeles Police Department (LAPD) in a surveillance when they were involved in a shooting incident following an attempted robbery and carjacking of their Bureau vehicle. The background and facts of the case are as follows:

The LAPD contacted FBI Los Angeles at the beginning of September of 2005 reference numerous armed robberies of restaurants in the San Fernando Valley, a suburb of Los Angeles, California. They requested technical assistance and personnel in an effort to identify and apprehend the subjects. The FBI in Los Angeles opened a Hobbs Act investigation, file number 192B-LA-242506 as its underlying violation.

The subjects involved in the robberies had been targeting a particular area of the San Fernando Valley which is northeast of the City of Los Angeles. The robberies had been taking place most frequently on Thursday, Friday, and Saturday evenings. The decision was made to place approximately thirty (30) two person teams of SAs in surveillance vehicles. Each of these teams would be responsible for a section of the above identified area of the valley. The LAPD was providing

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

teams of their own as well as air units to respond to any robberies or problems which may occur. Each of these teams would have two radio channels in addition to coordinating the different movements of the teams in the field. It should be noted that this surveillance system had been in use on nine previous nights during the month of September 2005. The subjects of the investigation were not involved in any robberies during those previous nights.

SAs [redacted] and [redacted] were teamed up and were responsible for a group of restaurants near the intersection of Corbin Avenue and Vanowen Street. There were other teams conducting surveillance of restaurants adjacent to the area being covered by SAs [redacted] and [redacted] The various teams were all in place on 09/29/2005 at approximately 7:30 pm and were scheduled to stay out in the field until 09/30/2005 at 12:30 am.

SAs [redacted] and [redacted] were in a 2000 red four door Oldsmobile. SA [redacted] was driving and SA [redacted] was in the front passenger seat. A few minutes before midnight they had backed into a driveway of a closed business facing out onto Corbin Avenue just south of Vanowen Street. As it was a warm evening, SA [redacted] had the window of the driver's door open. Both SAs were dressed casually and there were no markings on the outside of the vehicle which signified it as a law enforcement vehicle.

At about one minute after midnight (now 09/30/2005), a green and grey 1993 Chevrolet S-10 Blazer pulled up next to the SA's vehicle. The vehicle was occupied by four Hispanic males. The driver of the Blazer, later identified as CESAR BALLESTEROS, exited his vehicle and immediately approached the driver's side of the FBI vehicle where SA [redacted] was seated. The subject reached in and grabbed SA [redacted] shirt with his left hand. The subject took his right hand and was reaching below on SA [redacted] s left side. SA [redacted] heard the subject state, "Give me your fucking ("money" or "car" as SA [redacted] could not recall) or I'll kill you!" SA [redacted] was wearing a bullet proof vest. He could not see a gun or knife at that moment but said it felt like one or the other was being pushed against his left side and chest.

b6
b7C

SA [redacted] is left handed and he was trying to access his weapon as well as making sure the subject did not take it from him. SA [redacted] was able to hear and observe the actions of the subjects and made the decision to stop the imminent

threat against their lives. He took his handgun, a Glock 9mm Model 17, and fired at least three rounds at subject BALLESTEROS. The rounds struck the subject in his upper left chest (the subject had been leaning down into the car) and in both of his hands (wrists). Subject BALLESTEROS yelled something and then began running north on Corbin Avenue towards Vanowen Street. He collapsed about 80 feet north of the scene and died. He had fallen face down in a stall of a self car wash facility.

Prior to BALLESTEROS running away, a second subject had exited the subject's vehicle. This individual had begun running around to the front (east side) of the FBI vehicle towards the direction of the passenger side of the car. SA [redacted] shot four times through the front windshield of the FBI vehicle. He struck the second subject, later identified as juvenile [redacted], in the right hand. [redacted] immediately ran north from the area as did the other two subjects who had been in the vehicle.

SA [redacted], after accessing his handgun, fired at least three rounds from inside the vehicle in an effort to shoot and stop BALLESTEROS. None of the rounds struck the subject. SA [redacted] following the shooting, drove south from the area to get out of the fire zone. After confirming SA [redacted] was not injured he communicated via the Bureau vehicle radio what had happened. SAs in nearby units immediately responded to their location. The LAPD also responded and set up a perimeter with the assistance of the FBI, but the other three subjects were not located at this time. The LAPD deployed scent dogs and SWAT team members throughout the area in an effort to locate and apprehend the remaining subjects. At this time none of the three were observed in the area.

b6
b7C

A handgun was located approximately fifteen (15) feet northeast of the subject's vehicle lying on the sidewalk. It was a .25 caliber Baretta, Model 950BS. There was no magazine in the weapon and it was not loaded. The weapon was later determined to have been stolen from Gautier, Mississippi.

Contact was made at the nearby hospitals when ER staff advised there was a juvenile named [redacted] at a local ER who had sustained a gunshot wound to his right hand. SAs and members of the LAPD responded to the hospital and the LAPD interviewed the subject. [redacted] admitted to having been at the location and that the driver of the vehicle was CESAR

BALLESTEROS, a 26 year old male. [redacted] also provided the names of the other two individuals in the subject vehicle, [redacted] and [redacted], both juveniles. The LAPD, with the assistance of the FBI, went to their residence and both were arrested. b6 b7C

The Los Angeles County District Attorney (LADA) has charged all three juveniles as adults. They have been charged with two counts each of attempted car jacking with the use of a firearm, attempted robbery with the use of a firearm, and Second Degree Robbery. They also are considering charging the three with "Provactive Murder" which means the death of one of their co-conspirators. The two FBI agents were the only witnesses to this crime.

The Los Angeles FBI Agent Involved Shooting (AIS) team responded to the scene and coordinated an investigative strategy with the LAPD. The FBI is conducting the Administrative aspects of this investigation and the LAPD and the Los Angeles County District Attorney is responsible for the charges brought against the three juveniles. The FBI and the LAPD often work together on these shooting investigations and there is an excellent working relationship.

Upon the arrival of the AIS team, both SAs [redacted] and [redacted] gave a basic statement which included a description of the subjects and the direction they fled. The statement they provided outlined what had happened but with little detail. Within a few minutes of the incident, Los Angeles Chief Division Counsel (CDC) Luis Flores arrived at the crime scene. He spoke separately with both of the SAs. Since there was a fatality, he secured permission from FBIHQ and DOJ to hire interim legal representation from DOJ for both SA [redacted] and SA [redacted]. Although both DOJ Attorneys were contacted the evening of the incident, neither of the DOJ Attorney representatives responded to scene. Later that morning, both attorneys spoke telephonically with SAs [redacted] and [redacted] and were advised not to make a statement unless it was compelled. b6 b7C

On 10/12/2005, Assistant United States Attorney (AUSA) [redacted] of the Los Angeles U.S. Attorney's Office (USAO), Central District of California was contacted reference the shooting incident. She was provided the facts of the incident as best as could be determined without a statement from the victims. She advised the USAO saw nothing in the incident which would lead them to filing any type of criminal charge against either SA [redacted] or SA [redacted]

On 10/2/2005, an autopsy was conducted on subject CESAR BALLESTEROS by the Los Angeles County Coroner's office. This autopsy was attended by SA [redacted] and SA [redacted]. The findings of the coroner indicate that subject BALLESTEROS was struck a total of three times, once in the upper left chest and once in each hand (wrist). The round through the subject's chest went through both of his lungs, his heart, and his liver. After this shot he was able to travel about 80 feet before collapsing and dying. This round was a 9mm round. b6 b7C

The FBI EAP responded to the location to assist SAs [redacted] and [redacted] Both the FBI vehicle and the subject vehicle were transported to the FBI Evidence Response Team offsite for processing.

The statements made by the three subjects, [redacted] and [redacted] do not coincide. [redacted] who sustained a gunshot to his right hand, admitted to being with BALLESTEROS, [redacted] and [redacted] at the crime scene. He was not being cooperative until he learned that BALLESTEROS had died at the scene. He then claimed all four them discussed robbing the vehicle and that they all agreed that they were going to do it. [redacted] gave information as to the whereabouts of [redacted] and [redacted] following being Mirandized by the LAPD, stated that he was with his friends and they were driving down an unknown street. He said that two unknown males started shooting at them for an unknown reason. [redacted] advised that he was with the above group and they were standing outside of their vehicle. At this time the shooting happened but he has no idea why they were being shot at by the males. b6 b7C

Given the fact that the available witnesses provided inconsistent statements and with no independent witnesses other than the victim FBI agents, the LADA advised statements from SAs [redacted] and [redacted] will be critical to their investigation. These statements were obtained on March 13, 2006. This following FBI Los Angeles being notified on February 24, 2006 that DOJ had declined any prosecution of the agents and that a compelled statement should be received from both agents.

In this case the LADA office has advised they plan on subpoenaing both SA [redacted] and SA [redacted] as victims/witnesses in their prosecution of the three remaining subjects. Their testimony was originally being requested by the LADA anywhere from the first to the middle of December 2005. The subject's attorneys have asked for a continuance until May of 2006.

b6
b7C

- P -

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/01/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
Bland Andrew R III

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271615-D

**Title:** SHOOTING INCIDENT
JACKSON DIVISION
02/28/2005

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/28/2005, involving Supervisory Senior Resident Agent (SSRA) [redacted] SSRA [redacted] assigned to the Oxford, Mississippi RA, fired five rounds from his Bureau-issued Glock Model 22, 40 caliber pistol, killing an aggressive pit bull dog at his residence. SIRG members recommended that no administrative action be taken against SSRA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Assistant Special Agent in Charge William V. Jenkins, dated 03/02/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 02/28/2005, SSRA [redacted], received a frantic telephone call from his wife who advised that a large dog foaming at the mouth was attacking their small family dog. Mrs. [redacted] also indicated that the dog attempted to get into their residence to bite her.

SSRA [redacted] responded to his residence and exited his Bureau vehicle. As he exited the vehicle, SSRA [redacted] heard deep growling inside the garage, and drew his weapon. As he proceeded toward the garage and yelled, he saw a large brown dog carrying his pet in its mouth. SSRA [redacted] identified the attacking dog as a pit bull and observed the dog drop his small dog and began to approach him. SSRA [redacted] fired one shot into the pit bull's head, however the dog continued to approach him. He fired four additional shots at the dog's head before the pit bull actually fell to the ground and died.

b6
b7C

Notification was made to Animal Control and to the local County Sheriff.

On 04/25/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland, III, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting SC Linda McKetney, Special Inquiry and General Background Investigations Unit, Administrative Services Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. The only non-voting attendee present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SSRA [redacted] was justified and in conformance with the deadly force policy. Therefore, a recommendation was made that no administrative action be taken against SSRA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271615-D, 06/01/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SSRA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Bland, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. Mertz, Room 7837
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/01/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene
Bland Andrew R III

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271285-D

b6
b7C

**Title:** SHOOTING INCIDENT
CHICAGO DIVISION
03/03/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/03/2005, involving Special Agent (SA) [redacted] During the execution of an arrest warrant, SA [redacted] fired five rounds from his Bureau-issued Springfield, Model 1911, 45 caliber pistol, killing an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of Supervisory Special Agent (SSA) [redacted], dated 03/09/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 03/03/2005, during the execution of multiple arrests involving gang members/associates, one subject was not located at his primary residence. Investigation determined that subject [redacted] could possibly be residing at his mother's residence located in Aurora, Illinois. The Chicago Division Special Weapons and Tactics (SWAT) Team was dispatched to the residence in Aurora, and obtained a voluntary consent to search. During the course of the search, SA [redacted] was clearing the kitchen area when a brown pit bull dog came running towards him in an aggressive and threatening manner. Fearing for his safety, SA [redacted] shot the dog five times, killing the dog. b6 b7C

The dog's owner advised Agents that the dog was very aggressive and was intent on harming SA [redacted]

On 04/25/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland, III, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Karla Dobinski, Trial Attorney, Civil Rights Division, Criminal Section, USDOJ; Bruce Delaplaine, Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Kimberly K. Mertz, Chief Inspector, Office of Inspections, Inspection Division; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting SC Linda McKetney, Special Inquiry and General Background Investigations Unit, Administrative Services Division; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. The only non-voting attendee present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. This discussion resulted in a recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

The only observation made by the SIRG members was wording contained in the EC submitted by the Chicago Division. According to the EC, follow-up interviews were conducted with the dog's owner but not enclosed in the report. Based on a 05/31/2005, telephone conversation with SSA [redacted], no additional interview was conducted with the dog's owner.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 06/01/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Bland, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. Mertz, Room 7837
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦

# 2005

Savage-1948

(Rev. 05-04-2007)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/26/2008

**To:** Inspection **Attn:** AD Kevin L. Perkins

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Perkins Kevin L
Clemens Michael

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271511-D

**Title:** SHOOTING INCIDENT
HOUSTON DIVISION
11/03/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/03/2005, involving Supervisory Special Agent [redacted] (currently assigned to the Criminal Investigative Division, FBIHQ), and Special Agents (SAs) [redacted] and [redacted] During the attempted arrest of subjects believed to be responsible for an armed home invasion, Agents fired multiple rounds resulting in the death of two subjects and seriously wounding two others. SIRG members recommended that no administrative action be taken against any of the Agents as a result of their involvement in this shooting incident.

**Administrative:** Reference report of former Inspector [redacted] dated 02/15/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

As part of the Houston Division Mara Salvatrucha-13 (MS-13) Initiative, the division was investigating a group believed to be responsible for a 07/19/2005, armed home invasion in Pasadena, Texas. As the subjects were fleeing the scene of the home invasion in a stolen vehicle, they fired weapons at the victims. During the subsequent investigation, three subjects were identified as participants in multiple carjackings, home invasions, and other aggravated robberies in the Houston area.

[redacted] conducting a "home invasion" of a Houston drug supplier. One of the subjects, identified as Jose Antonio Pino, aka El Gordo, agreed to the plan.

b6
b7C
b7D

On 10/14/2005, the Houston Division began to implement an investigative strategy which involved convincing Pino and his associates there were 20 kilograms of cocaine hidden in a Pasadena residence, giving the subjects the opportunity to conduct a home invasion to steal the cocaine. [redacted] introduce Pino as a potential buyer to two Houston Police Department (HPD) undercover employees (UCEs) posing as drug traffickers attempting to sell the cocaine. The UCEs would allow Pino to inspect one kilogram of cocaine at the target residence and tell Pino that the cocaine would be left in the residence until he returned with the money to buy the cocaine. Agents were to leave eighteen kilograms of sham cocaine, along with two kilograms of cocaine, hidden in a closet in the target residence. Pino would leave the residence, return with his associates, and forcibly enter and attempt to steal the cocaine. Once the subjects entered the residence and took possession of the cocaine, they would be arrested. The plan called for members of the arrest team to be hidden in various locations outside of the target residence which would be equipped with audio and video capabilities. The residence would be modified to allow for only one entry/exit point which would be equipped with a magnetic lock which could be remotely activated after the subjects entered the residence, effectively locking the subjects inside the residence.

The Houston Division obtained the use of a Pasadena residence for the operation. On 10/31/2005, cameras were installed in and around the residence and a public address system was installed inside the house which would allow Agents to give the subjects commands from the Command Post. Two infrared lighting devices were also installed to enhance low light recording conditions.

On 11/01/2005, two magnetic locks on a wrought iron metal screen door located at the front of the target residence were installed. These locks allowed the metal screen door, once closed, to be locked remotely from the Command Post. All other possible exits were covered with plywood.

On 11/01/2005, Houston Division Executive Management (EM), as well as the Chief Division Counsel, Special Weapons and Tactics (SWAT) Coordinator, SWAT Team Leader, two Supervisory Special Agents, and the Case Agent met to discuss and approve the written arrest plan. On the same day, the Houston Division

received FBIHQ approval for the use of show drugs in the operation.

Preparations continued at the target residence through the afternoon of 11/03/2005. The arrest team, consisting of members of the Houston Division SWAT team, reviewed and rehearsed their mission.

On 11/03/2005, at approximately 5:00 p.m., a briefing was held in the Houston Division. All personnel involved in the operation were present, including command and control personnel, arrest team members, surveillance teams, and HPD officers who would be providing perimeter security. Case Agent [redacted] provided the overall briefing, the CDC provided a briefing on the FBI's Deadly Force Policy, and the arrest team was introduced to the HPD UCEs and [redacted] A short time later, residents near the target house were asked to voluntarily evacuate their homes during the operation. b6 b7C b7D

At approximately 9:00 p.m., the arrest team was in place, [redacted] Once inside the target location, Pino was allowed to inspect a kilogram of real cocaine as a prelude to his purchase of the remaining cocaine. Pino left the target residence and returned to the restaurant. Surveillance observed Pino and five other subjects enter two vehicles and drive toward the target residence. [redacted] the subjects were armed with Uzzis and an AR-15 assault rifle. This information was immediately passed to the arrest team.

Once in front of the target residence, three subjects exited one vehicle and two exited the second vehicle. The second vehicle left the area and was subsequently stopped by the HPD. Arrest team members reported the subjects were armed with four handguns and what appeared to be an AK-47 assault rifle.

Surveillance observed the five subjects moving around the front and side yard of the target residence using hand signals. After surveying the area for approximately three minutes, the subjects quietly approached the front door. One subject kicked in the front door and entered the residence closely followed by two other subjects armed with handguns. The fourth subject, also armed with a handgun, entered the residence and the subjects began shouting in Spanish, "Don't move, don't move." All four subjects had their weapons drawn and appeared ready to fire. Arrest team members later reported hearing shots as the subjects entered the residence. Once the four subjects

were inside the target residence, the metal screen door eventually closed and was remotely locked from the Command Post.

Immediately after the four subjects entered the residence, there were discussions in the Command Post concerning the possibility that the door had not locked. Hearing the Command Post discussion, and believing the subjects had the ability to quickly exit the target residence, SA [redacted] took a position covering the front door of the residence. As he approached his position, SA [redacted] heard two loud booms that he believed were rounds from a long gun. After the two distinctive booms, he heard other gunfire coming from the direction of the house. Observing an armed subject appear in the doorway who attempted to leave the target residence, SA [redacted] fired multiple rounds from his M-4 rifle in the direction of the subject in the doorway. The subject did not go down and SA [redacted] was unsure if he had hit the subject. The subject stepped out of SA [redacted] view and a few moments later reappeared in the doorway. It did not appear to SA [redacted] the subject was following verbal commands being issued in Spanish. SA [redacted] advised he believed the subject was being told he was under arrest and to lay down his weapons. SA [redacted] observed the subject on his knees, then down on his stomach doing what appeared to be a low crawl position. According to SA [redacted] he saw the subject moving his right arm and hand in a noncompliant fashion as if he were reaching for something. At that point, SA [redacted] again fired his weapon. It was later determined the subject had been shot six times including being struck in the head by gunfire and killed.

b6
b7C

SA [redacted] approached the target residence in a vehicle from the southwest and positioned himself behind a vehicle located in front of the front door of the target residence. Prior to assuming his position, SA [redacted] heard numerous gunshots. He observed two subjects around the doorway and according to SA [redacted] he observed one subject armed with a pistol move from the left side of the doorway to the right in a noncompliant manner. Knowing the subject was noncompliant with commands and believing the subject posed an imminent threat of bodily injury to the Agents located on the side of the house, SA [redacted] fired a single round from his weapon.

b6
b7C

SAs [redacted] and [redacted] were positioned at the rear of the Command Post covering the rear of the target residence. Both Agents heard via radio that five subjects arrived at the residence with at least one carrying a "long gun." After hearing a siren, gunshots, and commands to the subjects, the Agents observed one subject come to a back window and break it with the barrel of his weapon and point the weapon in their direction. Fearing for their safety, as well as the safety of other Agents, SA [redacted] fired one round from his Glock, Model 22 pistol and SA [redacted] fired four rounds from his M-4, .223 caliber rifle.

Several minutes after the gunfire, SA [redacted] used the PA system and directed one subject, identified as [redacted] to a cellular telephone that had been left in the target residence. Using the cellular phone, SA [redacted] with the assistance of SA [redacted] instructed the remaining three subjects on how to surrender and exit the residence safely. Approximately 45 minutes later, two subjects exited the residence and were arrested. [redacted] was seriously wounded and unable to leave the residence under his own power. Immediately after the arrest team secured the residence, paramedics were allowed to enter to administer first aide to [redacted] and [redacted] were transported to nearby hospitals for treatment. b6 b7C

On 11/09/2005, [redacted] and [redacted] were charged with Aggravated Robbery and Burglary of a Habitation with intent to commit a crime.

On 05/04/2007, the United States Department of Justice, Civil Rights Division, advised there was insufficient evidence to warrant a criminal investigation into this matter.

On 05/15/2007, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: former Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted], Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Practical Applications Unit, TDD; SSA [redacted] Washington Field Office; and [redacted] General Attorney, Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force;

(2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Prior to the discussion of this incident by SIRG members, former Inspector [redacted] provided an overview regarding the facts of the investigation. Chairman Clemens provided several comments emphasizing the fact this was a fluid and dynamic operation with an adequate operations plan. Although the operations plan was determined adequate, he advised the SIRG that although not germane to the outcome of the incident, the probability existed that participants did not discuss the possibility of the fifth subject staying outside the target residence since the operations plan called for all five subjects to be locked down in the target residence. Chairman Clemens also noted the interpreter was issuing instructions for the subjects to come to the front of the residence and as they attempted to follow the instructions, a number of the Agents on the scene did not understand the instructions being provided because they were in Spanish. Members also recognized the fact that the interpreter issued commands based on a written script and instructions were not modified with the exchange of gunfire. Members noted these as contributing factors for plan disruption.

b6
b7C

The SWAT Operations Unit representative noted team members were not sure the door completely locked when the suspects entered the residence. During the review of a video of the incident, SIRG members observed the door open once after the subjects entered.

The WFO representative advised tactical commands should be given by experienced personnel and one USDOJ representative opined participants should respond and react to events as opposed to scripted instructions. SIRG members opined operations planning should include contingency planning, tactical experience, thorough discussion with the tactical team and the Command Post, and such information should be made clear to all participants of the operation. Members emphasized the fact that Agents firing their weapons through the front door did not speak Spanish and were unaware the subjects were being directed to come to the front door. The SAC of the Houston Division will be apprised of this observation.

The Firearms Training Unit, TDD, representative emphasized the subjects were heavily armed, very dangerous, and well organized. It was also noted the subjects discharged rounds before becoming engaged with law enforcement personnel.

SIRG members unanimously concurred that the use of deadly force by SSA [redacted] and SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against any of the Agents as a result of their involvement in this shooting incident. b6 b7C

The last observation made by SIRG members pertained to the fact that six of the weapons used by FBI personnel contained unauthorized ammunition. One M-4 rifle contained PMC .223 ammunition and five additional M-4s contained Lake City 01 (LC01) ammunition, which is not Bureau approved for service use. This discussion resulted in the recommendation that the SAC of Houston Division ensure all magazines are checked to ensure approved service ammunition is contained in all magazines.

To: Inspection From: Inspection
Re: 297-HQ-A1271511-D, 03/26/2008

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SSA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] and SA [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] oom 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] uantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted], Room 7326
(Attention: Ms. [redacted]
1 - Mr. [redacted] WFO
1 - Mrs [redacted], Room 7861
♦♦

b6
b7C

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/07/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Cloyd Daniel Lee [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271898-D

**Title:** SHOOTING INCIDENT
PHOENIX DIVISION
06/03/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/03/2005, involving Special Agent (SA) [redacted] During the attempted resolution to a stand off by a barricaded subject, SA [redacted] fired one round from his Bureau-issued Colt Model AR-15, .223 gauge rifle, injuring [redacted] SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agents (SSAs) [redacted] and [redacted] dated 06/08/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/12/2005, [redacted] entered the Gallup Resident Agency (GRA) alleging her husband, [redacted] had severely beaten her. According to the victim, after her husband beat her he forced her into a vehicle and drove her to Navajo, New Mexico, where he continued the beating and threatened to kill her. A Domestic Violence case was opened on [redacted] and a federal criminal complaint was obtained on 05/20/2005, for Crimes Committed Within Indian Country/Kidnaping. The victim received a Temporary Protection Order against her husband on 05/12/2005.

On 06/02/2005, at approximately 9:40 p.m., Deputy [redacted] of the McKinley County Sheriff's Office arrived at a

Gallup, New Mexico, address to attempt to serve [redacted] with the Temporary Protective Order.

Deputy White learned that [redacted] was located at the residence and sitting on a couch. While Deputy [redacted] was talking with [redacted] the subject reached for a pistol ignoring Deputy [redacted] commands to stop. [redacted] stated, "you're not going to take me alive." Deputy [redacted] sought cover outside the residence and commanded [redacted] to drop the weapon and come out of the residence. Shortly thereafter, [redacted] exited the residence with the pistol and entered a pick-up truck parked nearby. While [redacted] was starting the vehicle, a male individual on the scene advised Deputy [redacted] that [redacted] planned a "suicide by cop." [redacted] departed the area in the truck and led Deputy [redacted] who was joined by two McKinley County units, on a vehicle chase. Upon [redacted] arrival at the New Mexico state line at Window Rock, Arizona, the McKinley County units ended their pursuit. As the McKinley County units ended their pursuit, Officer [redacted] of the Navajo Nation Department of Law Enforcement (NNDLE) picked up the pursuit in Window Rock, and was subsequently joined by additional officers. Law enforcement officers learned that [redacted] was armed and brandished his weapon at law enforcement officers during the pursuit. The patrol cars continued to follow [redacted] to a residence located in Fort Defiance, Arizona, the residence of his mother-in-law.

The pursuit continued north on Route 112 until [redacted] ended the 35 mile long pursuit by attempting to turn left and enter the first driveway entrance to the property. His truck became stuck inside the perimeter fence forcing [redacted] to exit the vehicle and run towards the residence followed by the pursuit officers.

As [redacted] ran towards the residence, Officer [redacted] exited his vehicle and gave chase until he noticed [redacted] could not gain entry into the residence. At that point, Officer [redacted] moved behind a parked truck. As other officers saw [redacted] holding a pistol in his hand, they assumed positions of cover behind the parked police vehicles. [redacted] made several statements including he "wanted to end it all" and that he wanted to "see FBI Agent [redacted]" After these statements, [redacted] began pacing back and forth, alternately pointing his handgun at himself and the officers while ignoring commands to drop the handgun.

b6
b7C

During the stand off, the officers realigned their vehicles to gain a tactical advantage, placing the vehicle headlights facing [redacted] and the entrance of the residence. Efforts to diffuse [redacted] agitated state were unsuccessful. He continued to point his handgun at himself as well as the officers, pacing back and forth. [redacted] continued to appear agitated and angry yelling statements such as, "Life sucks," "I'm going to kill myself," "I'm a convicted felon and I'm not going

back to prison," and "I'm going to shoot at you guys so you'll have to kill me." At times [redacted] would calm down, but would quickly return to an agitated state. During the stand off, [redacted] made requests for SA [redacted] to be present. The NNDLE officers contacted SA [redacted] and requested he come to the scene.

SA [redacted] arrived at the scene at approximately 11:30 p.m., and was followed by SA [redacted] a certified Crisis Negotiator from the Albuquerque Division, who arrived a short time later. b6 b7C

SAs [redacted] and [redacted] contacted Supervisory Senior Resident Agent (SSRA) [redacted] who was responsible for the Fort Defiance, Arizona, area and also a Crisis Negotiator. The three Agents agreed upon a strategy aimed at bringing the barricaded situation to a close.

SA [redacted] with guidance from SA [redacted] began talking with [redacted] to determine the reason for his anger. During the conversation, [redacted] advanced towards the law enforcement vehicles, coming within 15 yards of SA [redacted] cover vehicle. He continued to alternately point his pistol at himself and law enforcement personnel. [redacted] stated that he did not care if the officers had vests "because he had put Teflon on the bullets." At that point, SA [redacted] told [redacted] to stop waiving the gun around and to put the gun down. [redacted] responded that he wanted SA [redacted] there and if someone was going to kill him he wanted it to be SA [redacted] stated he wanted to talk with his wife and that if he could talk with her, he would put the gun down. Becoming uncomfortable with how close [redacted] was coming towards them and the way he was waiving his pistol at them, SA [redacted] issued more commands to [redacted] causing him to eventually back down and take a seat close to the residence.

Approximately 45 minutes after [redacted] settled down, another wave of negotiations began. The discussion centered around [redacted] desire to see his wife. [redacted] attempted to negotiate an immunity agreement by telling SA [redacted] that if he could sign something that immunized him from the events, he would end the stand off immediately. b6 b7C

At approximately 2:00 a.m., an NNDLE officer advised SAs [redacted] and [redacted] that [redacted] two sons were on the scene and offered to talk to [redacted] After establishing the fact that [redacted] and his sons did not get along, SA [redacted] opted against introducing [redacted] sons to the situation. A short time later [redacted] entered into the parked truck and appeared to lock the doors. He sat on the passenger side of the truck without any dialogue to law enforcement officers.

Sergeant [redacted] and other members of the NNDLE tactical team expressed concern that sunrise would place the officers and Agents in greater danger because the light would expose them to [redacted] The possibility was raised of sending in dogs, less than lethal bean bag projectiles, or tear gas in an attempt to end the situation. Although the NNDLE had primary jurisdiction, SAs [redacted] and [redacted] convinced the NNDLE to delay the escalation of the stand off as it appeared [redacted] was asleep. Subsequent conversation between SSRA [redacted] and SAs [redacted] and [redacted] resulted in the conclusion that it was necessary to wake [redacted] so he did not have the tactical advantage of being rested while the Agents and officers were becoming fatigued. SA [redacted] used the air horn in his Bureau vehicle to wake [redacted]

[redacted] opened the truck door, again demanding to speak to his wife. SA [redacted] told [redacted] that if he put his gun down, he would personally arrest him and allow [redacted] to call anyone he wanted. SA [redacted] comments angered [redacted] causing him to slam the truck door shut. Feeling the situation was going to worsen, SA [redacted] stepped to the rear of his vehicle and removed his Bureau-issued AR-15 rifle from a lock box. SA [redacted] loaded and chambered a round into the weapon, checked the rifle's sites and light, and took a position standing on the passenger side of a police vehicle using the engine block for cover.

At approximately 4:30 a.m., Sergeant [redacted] informed SAs [redacted] and [redacted] that because sunrise was imminent, his tactical team was preparing to deploy a flash bang grenade to distract and disorient [redacted] and then launch tear gas into the back window of [redacted] truck. SA [redacted] requested that this plan be considered as a last option because he still wanted to attempt to talk [redacted] into surrendering.

Before the plan could be effected, [redacted] exited the truck and demanded to speak with his wife. SA [redacted] recognized [redacted] demeanor had changed and that [redacted] appeared to be desperate and ready for things to end. SA [redacted] also believed [redacted] was trying to provoke law enforcement personnel into shooting him.

SA [redacted] continually told [redacted] to stop moving around, to stop moving towards them, and to put his gun down. [redacted] continued to alternately move his pistol from a position on his chest, to waving the pistol, to pointing it in the direction of officers and Agents.

At approximately 5:00 a.m., [redacted] became increasingly fidgety and his breathing could be heard. It became apparent to the officers that the situation had deteriorated and one officer yelled that "something was going to happen". [redacted] faced SA [redacted] moved his weapon from his chest and began to turn it

b6
b7C

b6
b7C

toward SA [redacted] Believing that he, or one of the other officers was going to be shot, SA [redacted] aimed his gun at [redacted] chest and fired one round.

[redacted] pistol fell out of his hand and [redacted] fell face forward to the ground and onto his stomach. [redacted] started to roll over onto his side and appeared to be moving toward his gun which was lying nearby. SA [redacted] began moving toward [redacted] with his weapon aimed, when he heard a shot fired from behind him. The second round was a bean bag round fired by an NNDLE officer striking [redacted] in the chest, knocking him away from the gun. [redacted] was handcuffed and his handgun was secured. First aid was immediately provided by paramedics and law enforcement personnel, and [redacted] was transported to a local hospital for treatment.

On 07/25/2005, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 10/13/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted], Office of Inspections, Inspection Division; [redacted], Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted], Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted], Assistant Section Chief, Violent Crimes Section, Criminal Investigative Division; [redacted], Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted], National Firearms Program, TDD; Acting UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Acting UC [redacted] CD-6A, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Operational Skills Unit, TDD; SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted], Washington Field Office. [redacted], Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy, specifically commenting and commending the patience shown by SA [redacted] throughout the incident.

b6
b7C

The only issue identified by the Shooting Incident Review Team (SIRT) was the fact that SA [redacted] failed to utilize his ballistic vest during this operation. SIRG members concluded that the Special Agent in Charge (SAC) of the Phoenix Division should be advised to remind all Agents to utilize ballistic protective undergarments to ensure their personal safety when involved in this type of incident.

Noting that Deputy [redacted] arrived at [redacted] residence alone, SIRG members expressed concern for his safety knowing that a federal criminal complaint was obtained for [redacted] on 05/20/2005. SIRG members questioned whether or not Deputy [redacted] had conducted a National Crime Information Center (NCIC) check for [redacted] to determine his current criminal status. A subsequent telephone conversation with the Phoenix Division revealed that the federal criminal complaint obtained on 05/20/2005, was never entered into the NCIC by the Phoenix Division nor did Deputy [redacted] make an NCIC inquiry prior to his attempt to serve [redacted] with the Temporary Protective Order. Although not a factor in the outcome of this incident, the SAC of the Phoenix Division will be advised to remind Phoenix Division personnel of the importance of entering records into NCIC within the required 24 hour time frame.

To: Inspection From: Inspection
Re: 297-HQ-A1271898-D, 11/07/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr [redacted] USDOJ
1 - Ms [redacted] Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. Rooney, Room 5155
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 7861

♦♦

b6
b7C



Savage-1963

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/19/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
Cloyd Daniel [redacted]

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271741-D

**Title:** SHOOTING INCIDENT
LOS ANGELES FIELD OFFICE
09/30/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/30/2005, involving Special Agents (SAs) [redacted] and [redacted]. While conducting surveillance, SAs [redacted] and [redacted] were victims of an armed robbery/carjacking attempt by four subjects. Both Agents fired their weapons, killing one subject and injuring another. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge Louis J. Caprino, Jr., dated 11/02/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 09/30/2005, SAs [redacted] and [redacted] were assisting the Los Angeles Police Department (LAPD) in a surveillance pertaining to numerous armed robberies of restaurants in the San Fernando Valley. Investigation determined the robberies were most frequently conducted on Thursday, Friday, and Saturday evenings. A decision was made to place approximately thirty two-person teams of Agents in surveillance vehicles. The LAPD provided teams as well as air units to respond to any robberies or problems.

SAs [redacted] and [redacted] were responsible for a group of restaurants near the intersection of Corbin Avenue and Vanowen Street. A few minutes before midnight, SA [redacted] backed the Bureau vehicle into a driveway of a closed business and lowered the window on the driver's door. Minutes later, a green and gray 1993 Chevrolet S-10 Blazer, occupied by four Hispanic males, pulled up next to the Agents' vehicle. The driver of the subject vehicle exited and approached the driver's side of the Bureau vehicle where SA [redacted] was seated. The subject reached in and grabbed SA [redacted] shirt with his left hand and took his right hand and was reaching below on SA [redacted] left side. SA [redacted] heard the subject state, "Give me your fucking ("money" or "car") or I'll kill you. SA [redacted] could not see a weapon but stated it felt like either a gun or knife was being pushed against his left side and chest. b6 b7C

As SA [redacted] was attempting to access his weapon without the subject knowing, SA [redacted] heard and observed the actions of the subject and made a decision to stop the imminent threat. SA [redacted] fired at least three rounds from his Glock, Model 17, nine millimeter pistol, striking the subject in his upper left chest and both of his wrists. The suspect yelled and began running but collapsed approximately eighty feet from the scene and died.

Prior to the injured suspect running away from the scene, a second individual exited the suspect vehicle and ran towards SA [redacted] location. SA [redacted] fired four rounds through the front windshield of the Bureau vehicle, striking the second subject in the right hand. The injured subject, along with two additional individuals in the subject vehicle, ran from the scene. SA [redacted] fired at least three rounds from inside the Bureau vehicle; however, none of the rounds struck the subject. b6 b7C

After confirming that SA [redacted] was not injured, SA [redacted] advised other law enforcement personnel via radio of the incident. Agents in nearby vehicles immediately responded to the location as well as LAPD officers. An unloaded .25 caliber Baretta handgun was located on the sidewalk approximately fifteen feet away from the subject vehicle.

Investigation determined a juvenile by the name of [redacted] was located in a local emergency room with a gunshot wound to his right hand. During [redacted] interview, he admitted to having been at the location of the shooting and advised the driver of the vehicle was Cesar Ballesteros. [redacted] also identified the two additional individuals involved in the incident who were subsequently arrested.

On 12/19/2005, a declination of prosecution was received from the United States Department of Justice, Civil

Rights Division, regarding the actions of SAs [redacted] and [redacted] in this shooting incident.

On 05/05/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Kevin Favreau, Section Chief (SC), CD-4, Counterintelligence Division; [redacted] Assistant SC, Transnational Criminal Enterprise Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; Supervisory Special Agent (SSA) [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted], Washington Field Office. [redacted], Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy.

SIRG members made two observations pertaining to the shooting incident report submitted by the Los Angeles Field Office. The first observation pertained to the operations plan provided to all participants. Members opined that any reference to the deadly force policy should contain language mirrored from the current deadly force policy which was approved by the Attorney General on 07/01/2004.

The second observation made by the SIRG was the fact that personal background information relating to the Agents

involved in the incident was included in the report which was not germane to the investigation. Members emphasized that this information is discoverable in the legal realm and should not be included in future reports. These observations will be discussed with the Assistant Director in Charge of the Los Angeles Field Office.

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 05/19/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clovd, Room 7825
1 - Ms. [redacted] USDOJ
(Attention: Mr. [redacted])
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] Room 7837
1 - Mr. Favreau, Room 4042
1 - Mr. Cunningham, Room 3548
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦



Savage-1968

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/04/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Clovd Daniel Lee [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1270955-D

b6
b7C

**Title:** SHOOTING INCIDENT
BOSTON DIVISION
03/24/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/24/2005, involving Special Agent (SA) [redacted] During the attempted arrest of [redacted] an Armed Bank Robbery fugitive, SA [redacted] fired six rounds from his Bureau-issued Glock Model 22, .40 caliber pistol injuring the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 05/12/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

[redacted] was the subject of a pending Boston Division bank robbery investigation after he was identified by the Bank Robbery Task Force (BRTF) as the individual responsible for a bank robbery that occurred on 03/01/2005, in the Boston area. [redacted] was developed as a suspect in the bank robbery following an episode of the television show, "Massachusetts Most Wanted." An individual called the program and provided information regarding [redacted] and warned the police that, [redacted] is your man...and he could have a gun." The caller also provided information about a possible location of [redacted] in Dorchester, Massachusetts.

b6
b7C

On 03/23/2005, local police detectives obtained an armed robbery arrest warrant for [redacted] SA [redacted]

assisted the detectives by writing the operations plan for [redacted] arrest. The operations plan was reviewed and approved by the BRTF Acting Supervisory Special Agent (A/SSA) [redacted] as well as Acting Assistant Special Agent in Charge (A/ASAC) [redacted] on the morning of 03/24/2005. Following the approval, SA [redacted] briefed the plan to participating members reading verbatim the Department of Justice Deadly Force Policy to all attendees and advised [redacted] was to be considered Armed and Dangerous. SA [redacted] provided an overview of [redacted] extensive criminal history, including the fact that [redacted] was previously arrested for assault and battery of a police officer and had attempted to run over several firemen and a policeman while fleeing the scene of a traffic stop in 2001. b6 b7C

On 03/24/2005, the BRTF which included members of the Boston Police Department (BPD), the Cambridge Police Department (CPD), the Malden Police Department (MPD), the Massachusetts State Police (MSP), as well as two FBI Agents, attempted to effect the arrest of [redacted]. The primary plan was to arrest [redacted] outside one of the two known residences frequented by him. If [redacted] was positively identified inside a residence, both surveillance/arrest teams would converge on the location prior to entry being made utilizing a tactical team from either the FBI or the BPD.

Law enforcement officers and Boston Division Agents set up surveillance/arrest teams in the vicinity of [redacted] girlfriend's residence as well as his mother's residence. At approximately 11:30 a.m., SA [redacted] provided information from the surveillance team located at [redacted] mother's residence. SA [redacted] transmitted over the radio that a person resembling [redacted] exited the residence and entered a late model silver Toyota Camry. As the subject vehicle passed Detective [redacted] of the BPD and A/SSA [redacted] both verified the driver looked like [redacted] and broadcast the information to other units involved in the arrest plan. As the subject vehicle turned left onto Blue Hill Avenue, the BRTF surveillance vehicles followed. As the vehicle moved toward Floyd Street, A/SSA [redacted] transmitted over the radio that the team should begin positioning their vehicles to effect a felony car stop if necessary. Once on Floyd Street, [redacted] momentarily stopped and slowly made a right turn onto Lucern Street. Two Agents were following directly behind [redacted] vehicle followed by a second unmarked police vehicle. Task Force members advised they believed [redacted] was aware of the vehicle surveillance because he continued down the street and made a right turn. As soon as he made the turn [redacted] pulled his car to the right side of the road, almost to a stop. A/SSA [redacted] instructed SAs [redacted] and [redacted] to cut [redacted] off. SAs [redacted] and [redacted] quickly passed [redacted] and cut off the travel lane positioning their vehicle 20-30 feet in front of [redacted] b6 b7C

The unmarked police vehicle also passed [redacted] vehicle and stopped at an angle within feet of [redacted] driver's side front bumper.

The BRTF members exited their vehicles with weapons drawn, identified themselves by yelling, "Police," "FBI," "hands up, get your hands up." [redacted] initially raise his hands. Detective [redacted] continued issuing commands for [redacted] to show his hands. He observed [redacted] raise his hands as SA [redacted] attempted to open the driver's side door of [redacted] vehicle. According to Detective [redacted] at that point he saw [redacted] eyes "get real big," and [redacted] suddenly lowered his hands. [redacted] vehicle immediately started moving forward and jumped a curb onto the sidewalk. Detective [redacted] jumped out of the path of the vehicle to avoid being hit or pinned between [redacted] vehicle and a parked law enforcement vehicle. b6 b7C

SA [redacted] was positioned on the passenger side of [redacted] vehicle attempting to open the car door and Detective [redacted] was approaching the subject vehicle from the rear passenger side. According to SA [redacted] vehicle began to move while his hands were raised and he observed [redacted] suddenly drop his hands. As SA [redacted] observed the car moving and [redacted] hands dropping toward his waist, he believed [redacted] was reaching for a weapon. Fearing for his safety, SA [redacted] fired six rounds from his weapon. The first two rounds were fired through the front passenger side window, two additional shots were fired through the rear passenger side window, and the last two shots were fired through the rear window. [redacted] vehicle continued to travel on the sidewalk eventually striking a fence and coming to a stop.

[redacted] opened his vehicle door and fell onto the ground. Detective [redacted] moved to the subject vehicle and reached inside to put the transmission in park. [redacted] asked, "Why did you shoot me? I'm not armed."

Boston Emergency Medical Services and the BPD were notified of the incident and immediately responded to the scene. [redacted] was transported to a nearby hospital for treatment. Medical records regarding [redacted] injuries were not available for review by the Shooting Incident Review Team (SIRT). b6 b7C

The SIRT identified two areas of concern during the investigation of this shooting incident. The first item noted tactics employed by the BRTF at the time of [redacted] stop contained significant variations from tactics taught by the Practical Applications Unit, Training and Development Division (TDD). It was noted that the BRTF executed a variation of the standard felony car stop utilizing a blocking vehicle.

The second observation made by the SIRT was the fact that SA [redacted] failed to utilize his ballistic vest during this operation.

On 10/03/2005, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident. [redacted] Chief of Homicide, Suffolk County District Attorney's Office, declined to render a prosecutive opinion in this matter advising he would prefer to wait until the outcome of the internal FBI inquiry before reaching a prosecutive decision in this matter. b6 b7C

On 10/13/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief, Violent Crimes Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Acting UC [redacted] CD-6A, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Operational Skills Unit, TDD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy.

In response to the first issue identified by the SIRT, members of the SIRG discussed training provided and/or received by Boston Division Agents and task force personnel regarding car stops. The TDD representative stated that all field offices were advised by EC dated 10/04/2004, of the Field Tactical Training Curriculum for FY 2005 which included the requirement for defensive tactics and tactical training as required elements of mandated firearms qualification sessions for SAs. Noting that task force officers work on a regular basis with SAs and are involved in a number of confrontational and arrest situations, SIRG members recommended that task force personnel train as a team with squad SAs on a regular basis. Members recognized task force officers may not receive the same level of in-depth training as FBI personnel in defensive tactics and tactical training, particularly in the area of high risk vehicle stops. b6 b7C

The last issue identified by the SIRT was the fact that SA [redacted] failed to utilize his ballistic vest during this operation. According to SA [redacted] he was not wearing his body armor because he arrived on the scene from court and did not have time to stop to put on his ballistic vest. SIRG members concluded that the Special Agent in Charge of the Boston Division should be advised to remind all Agents to utilize ballistic protective undergarments to ensure their personal safety when involved in this type of incident.

To: Inspection From: Inspection
Re: 297-HQ-A1270955-D, 11/04/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. Rooney, Room 5155
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 04/13/2007

To: Inspection Attn: AD Kenneth W. Kaiser

From: Inspection
Contact: [redacted] Extension 4-1837

Approved By: Kaiser Kenneth W
Clemens Michael

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1270919-D

b6
b7C

Title: SHOOTING INCIDENT
ATLANTA DIVISION
04/04/2005

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/04/2005, involving Special Agent (SA) [redacted] During the attempted arrest of a violent fugitive attempting to elude arrest, SA [redacted] fired one round from his Bureau-issued Glock, Model 22, .40 caliber pistol, killing the subject. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of former Inspector [redacted] dated 04/05/2006.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 03/31/2005, the Atlanta Division received information regarding the location of a fugitive identified as John Clifton Manyfield. The Sacramento Division advised Manyfield, who was wanted by the Sacramento, California, Police Department for murder, attempted murder, and weapons violations, was in Burke County, Georgia. Sacramento also advised Manyfield was a known gang member and specific information was provided by a source that he was located in Hephzibah, Georgia.

SSRA [redacted] and four additional Agents traveled to the Burke County Sheriff's Office (BCSO) to plan an arrest of Manyfield. An initial plan, telephonically briefed and approved by former ASAC Harry Bowen, called for law enforcement

personnel to establish a rally point near the subject's residence and a call would be placed directing him to come out.

Prior to their arrival at the BCSO, the Agents were telephonically notified that Georgia Bureau of Investigation (GBI) SA [redacted] was in foot pursuit of a bank robbery suspect approximately one half mile from their location. SSRA [redacted] decided to break off from the initial plan and provide needed assistance in locating the fleeing bank robbery suspect. After an unsuccessful four hour search for the bank robbery suspect, the group continued to the BCSO and briefed BCSO Deputies about Manyfield. During the briefing, it was determined BCSO personnel were involved in a missing juvenile investigation at the same address as Manyfield was purported to be located. BCSO personnel advised the Atlanta Agents they had spoken to residents at that location earlier in the day. The arrest plan was revised and a decision was made to conduct a ruse interview at the location in an attempt to determine if Manyfield was at the residence. SSRA [redacted] directed SA [redacted] to contact Sacramento and have the source contact Manyfield to determine if he was at the location. Information was received stating Manyfield had left the home for the night and the investigation was discontinued until the following day.

b6
b7C

On 04/01/2005, Atlanta Agents and BCSO personnel returned to facilitate the arrest plan. After numerous unsuccessful attempts by the Sacramento source to contact the fugitive, the operation was discontinued for that day and the weekend.

On 04/04/2005, SA [redacted] was notified by the Sacramento Division that the source had contacted Manyfield and he was located at the residence. SA [redacted] contacted SSRA [redacted] and relayed the details of his conversation with Sacramento and informed [redacted] that he was at least three hours away from the BCSO. SA [redacted] advised he would contact the BCSO and let them initiate the arrest. SSRA [redacted] who was on leave, agreed with SA [redacted] plan and advised him to use whatever resources were needed and to keep him informed of any significant developments.

Due to a change in plans, SAs [redacted] and [redacted], as well as law enforcement personnel from the Georgia State Police (GSP), the BCSO, and the GBI, met at an intersection in Burke County. SA [redacted] briefed the group on Manyfield, advised them he was armed and dangerous, and distributed wanted bulletins with color photographs. SA [redacted] also advised the teams they would proceed with the previously devised arrest plan where the front entry team, consisting of SA [redacted] and two BCSO Investigators, would use a ruse of seeking further information about the missing child from the suspect residence. The rear

b6
b7C

perimeter team was designated to cover the rear of the residence, and GSP Troopers [redacted] and [redacted] were instructed to set up a "road check."

As the two teams proceeded toward the residence, the GSP Troopers were notified by other officers to check an oncoming gray Jeep Cherokee which was approaching the "road check" location. Troopers [redacted] and [redacted] approached the vehicle on foot from the rear, with [redacted] approaching the driver's side of the car and [redacted] approaching the passenger side. The vehicle was driven by the fugitive's mother, identified as [redacted]. Trooper [redacted] noticed the passenger matched the description of Manyfield and asked him for identification. When the passenger claimed to have no identification with him, [redacted] asked for his name. The passenger gave his brother's first name and did not provide a last name. [redacted] immediately realized something was wrong and provided Manyfield's last name to the troopers.

b6
b7C

Trooper [redacted] returned to his patrol car to retrieve the fugitive's photograph. [redacted] returned to the passenger side of the front quarter panel of the vehicle, provided Trooper [redacted] the photograph, and informed him the passenger was the murder suspect. Trooper [redacted] walked back to the passenger side of the suspect vehicle as Trooper [redacted] drew his weapon. [redacted] instructed Manyfield to remove his seatbelt and exit the vehicle. Manyfield, who was agitated and nervous, moved his right hand slowly to remove his seatbelt. Simultaneously, Trooper [redacted] heard Manyfield whisper to the driver, "just go.". As Trooper [redacted] reached in the vehicle window and grabbed Manyfield's right arm, the suspect attempted to depress the accelerator with his left hand. Trooper [redacted] announced "taser" and shot Manyfield with the Taser gun lodging the probes in the right mid-back. Trooper [redacted] reholstered his weapon, returned to the driver's side door, pulled the driver out of the car, reached into the vehicle and turned the ignition off. Manyfield immediately restarted the vehicle and again depressed the accelerator revving the engine. The Taser was reactivated, however, Manyfield grabbed the wire leads and disconnected them from the Taser. Trooper [redacted] applied the Taser directly to Manyfield's body and pulled the trigger. Manyfield grabbed the Taser in one hand and Trooper [redacted]s left arm in the other hand attempting to pull him inside the vehicle. As Trooper [redacted] freed his left arm and attempted to free himself from the vehicle, both men were holding the Taser. As Trooper [redacted] produced his Taser gun, the suspect's mother grabbed him and pulled [redacted] to the back end of the vehicle.

b6
b7C

During the struggle, SA [redacted] and BCSO Investigator [redacted] approached the passenger side of the Jeep. Investigator [redacted] recognized the Taser had been fired and

observed the continuing struggle between Manyfield and Trooper [redacted] SA [redacted] and Investigator [redacted] drew their weapons and as Manyfield again revved the vehicle's engine, [redacted] proceeded to the driver's side of the Jeep to attempt to turn off the engine while SA [redacted] remained to the right of Trooper [redacted]

As Trooper [redacted] holstered his Taser and began to move toward the driver's door of the suspect vehicle, he heard a gunshot. It was determined that as Trooper [redacted] continued to attempt to pull himself away from Manyfield, SA [redacted] fired one round from his weapon into Manyfield's chest. Emergency medical assistance was immediately requested; however, his pulse stopped prior to arriving at the hospital. Manyfield was pronounced dead of a gunshot wound to the chest by the Medical Examiner. b6 b7C

On 09/07/2005, District Attorney [redacted] of the Augusta Judicial District was provided the GBI file for his review. Mr. [redacted] concluded no violations of the Georgia criminal law occurred and closed the file administratively.

On 06/13/2006, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 09/21/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: former Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted], Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted], Attorney, Civil Rights Division, USDOJ; SC James Casey, Eurasian Section, CD-1, Counterintelligence Division; SC John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Unit Chief (UC) [redacted] Firearms Training Unit, TDD; [redacted] Chief, Defensive Systems Unit, TDD; UC [redacted], Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Operational Skills Unit, TDD; SSA [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Washington Field Office; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Deputy General Counsel, Investigative Law Branch, OGC, and [redacted] General Attorney, Investigative Law Unit, OGC, as well as SSA [redacted], and [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1270919-D, 04/13/2007

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Members recommended that no administrative action be taken again SA [redacted] as a result of his involvement in this shooting incident. b6 b7C



Savage-1979

To: Inspection From: Inspection
Re: 297-HQ-A1270919-D, 04/13/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Mr. Ford, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 7825
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Casey, Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
1 - Mrs [redacted] Room 7861

♦♦

b6
b7C



Savage-1980

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/16/2007

**To:** Inspection **Attn:** AD Kenneth W. Kaiser

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Kaiser Kenneth W
Clemens Michael

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1270919-D

**Title:** SHOOTING INCIDENT
ATLANTA DIVISION
05/05/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/05/2005, involving Special Agent (SA) [redacted] While executing a Federal Arrest Warrant on a bank robbery suspect, SA [redacted] fired eight rounds from his Springfield, Model 1911 pistol, killing the subject. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector [redacted] dated 01/19/2006.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 05/02/2005, two black males robbed a bank in Phenix City, Alabama, with one subject discharging a weapon. On the same day, a champagne colored Mazda 626 sedan with a Georgia license plate of [redacted] which was associated with the robbery, was located at a mall in Columbus, Georgia.

Surveillance of the subject vehicle was initiated by the Columbus Police Department (CPD). During the surveillance, two groups of black males, consisting of six individuals, were observed in the vicinity of the vehicle. One group consisted of two individuals who fit the description of the subjects responsible for the Phenix City bank robbery. As the six subjects moved closer to the vehicle, police officers announced their presence and ordered all of the subjects on the ground.

One individual immediately engaged the officers in an exchange of gun fire, seriously wounding one officer. The two subjects were subsequently identified as Morgan Chigawa and [redacted] and further investigation determined Chigawa was the individual who shot the police officer.

Agents of the Atlanta Division, Columbus Resident Agency (CRA), and personnel from the CPD initiated an investigation into the shooting. Information was developed regarding the location of [redacted] and Chigawa, and it was also determined [redacted] had placed a phone call from a convenience store pay phone in Conyers, Georgia. b6 b7C

On 05/04/2005, SA [redacted] contacted the convenience store owner who recognized Chigawa from a photograph provided by SA [redacted] The store owner advised Chigawa was in the store the previous day and described the champagne colored Mazda associated with the subjects.

At approximately 6:15 a.m., on 05/04/2005, SA [redacted] received information that the subjects were going to arrive at the apartment of a former girlfriend of [redacted] at approximately 8:00 p.m., that evening. SA [redacted] notified his supervisor and approval to use the Atlanta Division's Special Weapons and Tactics (SWAT) Team to effect the subjects' arrest was approved by the Special Agent in Charge (SAC).

A rally point was established in the vicinity of the target apartment. SAs [redacted] and [redacted] conducted an oral briefing to arrest team members, as well as former Assistant Special Agent in Charge (ASAC) Arthur David Webster and SAC Gregory Jones. The SWAT teams remained in place until approximately 12:30 a.m.; however, the operation was suspended by SAC Jones when it became evident the subjects were not going to appear. b6 b7C

On 05/05/2005, at approximately 6:45 a.m., SA [redacted] received a phone call from the CPD advising they had located the subject vehicle at the Ramada Inn in Conyers, and the CPD had established surveillance on the vehicle. SA [redacted] and the CPD agreed that the CPD would arrest the subjects in the event they departed before SA [redacted] and the SWAT Team arrived.

While enroute to the Ramada Inn, SA [redacted] contacted his supervisor and discussed using the SWAT Team to conduct the arrest of the subjects. Arrest team members were contacted and told to meet at a rally point in a parking lot north of the hotel. ASAC Webster was contacted and he again obtained authority from the SAC to utilize the SWAT Team to effect the arrest. The SWAT Team Leader was advised of the scenario and notified his team members to meet at the rally point.

At approximately 8:00 a.m., SA [redacted] arrived at the rally point where he met with members of the CPD. Captain [redacted] told SA [redacted] he had spoken with the manager of the hotel who advised no guests were registered at the hotel under the names of Chigawa and [redacted] with a Georgia identification. SA [redacted] and Captain [redacted] returned to the hotel office and subsequently determined an individual by the name of Chigawa from Ohio had registered at the hotel the prior evening and was in room 226. The manager advised Chigawa paid cash for the room for one night and was due to checkout no later than 12:00 noon. He also positively identified Chigawa from the flyer and advised the subject appeared to be under the influence of alcohol when he checked in. b6 b7C

SA [redacted] requested a key to a room in order to view the layout and door structure in preparation for the arrest. SA [redacted] and Captain [redacted] entered room 106 and remained in the room to initiate surveillance of the subject vehicle.

Additional Agents began arriving at the rally point while SA [redacted] and Captain [redacted] remained inside the hotel room. SAs [redacted] and [redacted] were instructed to position their Toyota 4Runner approximately fifty yards across the street from the hotel to act as a blocking vehicle in the event the subjects attempted to leave through the north entrance of the hotel parking lot. CPD Detective [redacted] was positioned behind the 4Runner in an unmarked blue Crown Victoria. Georgia Bureau of Investigation (GBI) SA [redacted] and CPD Detective [redacted] were positioned in a Chevrolet Blazer at the south end of the parking lot.

At approximately 9:00 a.m., members of the SWAT team began arriving at the rally point where an oral briefing was planned to discuss the arrest scenario. Before the briefing occurred, SA [redacted] reported via radio that Chigawa had departed his room and was proceeding down the stairs. Additionally, he advised that SAs [redacted] and [redacted] were moving to block the subject's vehicle. SA [redacted] stopped his vehicle blocking the subject vehicle and SA [redacted] exited with his weapon drawn as the subject entered his vehicle. SA [redacted] positioned himself several feet away from the subject vehicle repeatedly shouting, "FBI, FBI." SA [redacted] and Captain [redacted] exited room 106 and ran to the subject vehicle. SA [redacted] arrived on the driver's side toward the rear of the vehicle as Chigawa drove around SA [redacted] vehicle and headed south in the parking lot. b6 b7C

The subject vehicle traveled approximately twenty yards when it was struck in the front driver's side by GBI SA [redacted] vehicle. SAs [redacted] and [redacted] as well as Captain [redacted] were in pursuit on foot. SA [redacted] positioned himself adjacent to Chigawa's passenger side front door while SA [redacted]

approached the rear passenger door, with Captain [redacted] positioned forward of the front passenger side of the vehicle. GBI SA [redacted] exited his vehicle and moved to a position of cover near a hotel column. Detective [redacted] remained behind the Blazer's passenger side front door. SA [redacted] moved his vehicle behind the subject vehicle and positioned himself behind the vehicle's front driver's side door.

SAs [redacted] and [redacted], as well as Captain [redacted] and Detective [redacted] issued verbal commands to the subject. SA [redacted] shouted, "FBI, do not move," while Captain [redacted] shouted, "Put your hands up." GBI SA [redacted] shouted several times for Chigawa to, "Show your hands." According to Detective [redacted], he also told the subject twice to, "Show your hands." Detective [redacted] also recalled hearing other law enforcement personnel giving similar commands. b6 b7C

As they were shouting commands to the subject, SA [redacted] Captain [redacted] Detective [redacted] and GBI SA [redacted] advised they observed Chigawa reach in the vicinity of his belt area. At that moment, SA [redacted] announced, "He has a gun, he has a gun." Immediately upon observing the subject's weapon, SA [redacted] Detective [redacted], and Captain [redacted] fired at the subject.

During the shooting event, SA [redacted] was struck in the thigh with a round that penetrated and exited his leg. Emergency Medical Services (EMS) arrived at the scene and provided medical attention to SA [redacted] who was subsequently transported to a local hospital where he was treated and released. The EMS pronounced Chigawa dead at the scene.

A .38 caliber five-shot revolver was recovered from the subject's vehicle between the driver's side front door and the seat. After the shooting, the SWAT Team executed the arrest of [redacted] b6 b7C

On 11/15/2005, District Attorney [redacted] of the Rockdale Judicial Circuit advised his office believed the shooting to be justified and would not present the matter to the Rockdale County Grand Jury. [redacted] further advised his office declined to initiate any type of criminal prosecution in the matter.

On 06/08/2006, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SA [redacted] in this shooting incident.

On 07/13/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting and was a

non-voting member. The following voting members were in attendance: former Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Attorney, Civil Rights Division, USDOJ; Richard A. McFeely, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Assistant SC, CD-1, Counterintelligence Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); [redacted] Chief, Defensive Systems Unit, TDD; [redacted] UC, Special Weapons and Tactics Operations Unit, Critical Incident Response Group; [redacted] UC, Operational Skills Unit, TDD; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Washington Field Office; and [redacted] General Attorney, Investigative Law Unit, Office of the General Counsel (OGC). [redacted] and [redacted], Management Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Members recommended that no administrative action be taken again SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

During the discussion, SIRG members made two observations about the incident that will be discussed with the SAC of the Atlanta Division. The first observation pertained to the fact that several of the Agents, including SA [redacted] were not utilizing any type of protective vest/body armor which was not conducive to their personal safety. Members opined that all Agent personnel assigned to the Atlanta Division, should be reminded to utilize a ballistic protective undergarment in this type of situation.

Members also noted that differing instructions were simultaneously being voiced by law enforcement personnel on the scene. Members opined that training dictates that one individual should be the speaker and issue commands. One SIRG member

emphasized the fact that this was a joint operation with a vehicle surrounded by law enforcement personnel and that non-FBI personnel should be provided in-depth instructions on FBI protocol.

To: Inspection From: Inspection
Re: 297-HQ-A1270919-D, 04/16/2007

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 7825
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] Room 5046
1 - Mr. McFeely, Room 3867
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Ms. [redacted] Room 7326
(Attention: Ms. [redacted]
1 - Mrs. [redacted] Room 7861
1 - Ms. [redacted] Room 7861

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/03/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Cloyd Daniel Lee
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271464-D

b6
b7C

**Title:** SHOOTING INCIDENT
DALLAS DIVISION
01/21/2005

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/21/2005, involving Agents of the Dallas Division. During the arrest of a violent fugitive attempting to elude arrest, four Special Weapons and Tactics (SWAT) Team Agents fired multiple rounds from their Bureau-issued weapons resulting in injury to the subject. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] (formerly Inspector-in-Place), dated 02/16/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

The Dallas Division had been investigating a series of violent "take over" bank and business robberies for approximately two years. Subjects involved in the robberies carried and used assault rifles and wore ballistic body armor. The participants were known to physically assault customers, employees, and law enforcement officers working in the banks.

In November 2004, after robbing a bank, the suspects were involved in a running gun battle with local police officers. The subjects used automatic weapons during the gun battle and subsequently attempted to carjack three vehicles. During their escape, the subjects drove one of the stolen vehicles into

another vehicle resulting in serious injury to a citizen. Several days after the bank robbery, investigation identified [redacted] as one of the perpetrators. [redacted] was subsequently arrested and a search of his residence revealed a ballistic vest, a manual on how to convert a semi-automatic rifle to fully automatic, and a hand grenade. During an interview, [redacted] identified [redacted] and [redacted] as his accomplices in the bank robbery and subsequent carjackings. Federal arrest warrants were issued charging [redacted] and [redacted] with carjacking and using a firearm in the commission of a crime of violence.

Based on information obtained during the interview with [redacted], the Dallas Division's Special Operations Group (SOG) was able to locate and begin surveillance of [redacted]. For a three-day period, the SOG was able to develop a pattern activity for [redacted] and learned that [redacted] wife and two children were residing with him in an apartment located in Mesquite, Texas. b6 b7C

On 01/21/2005, at 9:00 a.m., a briefing was held in the Dallas Division regarding the investigation. During the briefing, a case update was provided by Case Agent [redacted]. A written SWAT operations plan prepared by Acting SWAT Team Leader (TL) [redacted] was presented to the Special Agent in Charge. The plan called for a dynamic entry into [redacted] apartment in Mesquite; however, after discussing [redacted] propensity for violence and the high probability his children and wife would be in the apartment, SAC Gonzalez decided [redacted] arrest would be effected after he left his vehicle and before he reached his apartment. Acting SWAT TL [redacted] was instructed to formulate a tactical plan which would safely allow the SWAT Team to arrest [redacted] before he reached his apartment.

On 01/21/2005, at approximately 11:00 a.m., the SWAT Team responded and staged in a parking lot in close proximity to [redacted] apartment complex. Acting SWAT TL [redacted] telephonically briefed his assault plan to Acting Assistant Special Agent in Charge (A/ASAC) [redacted] who then briefed SAC Gonzalez. The SWAT arrest plan was approved by both Acting ASAC [redacted] and SAC Gonzalez. b6 b7C

The arrest plan directed the SOG to follow [redacted] to his apartment complex. After an arrest warrant was obtained, and with SWAT Team members in position, [redacted] would be allowed to park his vehicle at the apartment complex. Two SWAT vehicles would be used to block the vehicle from behind and additional SWAT vehicles would be placed at the parking lot exits to prevent any attempted escape by Gavina. A/ASAC [redacted] and Supervisory Special Agent (SSA) [redacted] departed Dallas and

proceeded to the Mesquite location where A/ASAC [redacted] assumed the role of On Scene Commander for the arrest.

At approximately 4:45 p.m., the SOG advised SWAT and command components that [redacted] was approaching his apartment. As [redacted] parked his vehicle approximately 25 yards away from his apartment, SA [redacted] called for blocking vehicles to move into position at the entrances of the apartment complex parking lot. SWAT Team personnel quickly blocked the subject vehicle into the parking space. With the blocking vehicle in position, SA [redacted] gave the order to execute the arrest plan. SA [redacted], who was in the blocking vehicle, rushed to [redacted] vehicle breaking the passenger side window in an attempt to distract him. SA [redacted] converged on the vehicle from the left side, opened the driver's door and placed his hands on [redacted] shoulder in an attempt to pull him from the vehicle. Simultaneously, an arrest team of seven SWAT Team members exited the SWAT van, verbally identified themselves as FBI Agents, and commanded [redacted] to exit the vehicle. [redacted] broke away from SA [redacted] and accelerated his vehicle forward jumping the curb onto a grass and sidewalk area. Agents standing on both sides of the vehicle had to step aside to avoid being hit. [redacted] vehicle swerved to the left while continuing to accelerate. As the vehicle accelerated, four SWAT Team members fired at [redacted] After traveling approximately 30 yards, [redacted] vehicle struck the side of the apartment complex wall. [redacted] was removed from the vehicle, provided immediate medical treatment for his wounds, and subsequently transported to a hospital where he was treated and released into the custody of law enforcement personnel.

A shooting scene investigation by the Dallas Response Team revealed SAs [redacted] and [redacted] fired numerous rounds from their Bureau-issued M-4 rifles and SA [redacted] fired two rounds from his .40 caliber Smith and Wesson pistol. A total of 22 rounds were fired of which 20 impacted the subject vehicle on the driver's side, one round struck [redacted] in the left shoulder and a second round struck him in the left hip.

b6
b7C

The Shooting Incident Review Team (SIRT) identified three areas of concern during the evaluation of this shooting incident. The first issue pertained to the fact that no notification was made to local or state law enforcement agencies regarding the FBI's presence in their jurisdiction or the fact that the FBI was attempting to arrest a violent fugitive; the four Agents firing their weapons on the day of the incident maintained custody of their respective weapons until the day following the shooting incident; and, SA [redacted] Bureau-issued Colt M-4 rifle was loaded with .223 caliber 62 grain Remington full metal jacket ammunition.

On 07/15/2005, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding the actions of the four Agents involved in this shooting incident. Inspector [redacted] was telephonically advised by the Dallas Division that this matter was presented to a Dallas County Grand Jury and a No Bill was returned in June 2005.

On 10/13/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief, Violent Crimes Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; Acting UC [redacted] CD-6A, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Operational Skills Unit, TDD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously concurred that the use of deadly force by SAs [redacted], and [redacted] was justified and in conformance with the FBI's deadly force policy.

The first observation made by the SIRG pertained to state and local authorities not receiving notification of the FBI's presence in the area. Although notification is not

mandatory, SIRG members found no information that would have precluded the notification to state or local officials regarding the FBI's presence in the area during this operation. It was noted that after the shooting incident local authorities were notified and responded to the scene. Members opined that the presence of marked police units and uniformed officers would have added a higher level of safety and security for the arrest.

The next area of discussion focused on the fact that the Agents who fired their weapons during the incident maintained those weapons in their possession until the following day. SIRG members unanimously concluded that Dallas Division management should have ensured the Agents' weapons were immediately secured and segregated for forensic review following the shooting incident and replacement weapons provided to the shooters.

The last area of discussion pertained to the presence of training ammunition in the weapon utilized by SA [redacted] b6 b7C Members stated that the Dallas Division SWAT TL or designee should ensure that all magazines are verified to contain only service ammunition prior to any operational deployment. These matters will be discussed with the SAC of the Dallas Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271464-D, 11/03/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted], USDOJ
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted] Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted])
1 - Mr. Rooney, Room 5155
(Attention: Mr. [redacted])
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted])
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦



Savage-1993

# FBI
# Shooting Incident Report Summaries

# 2004

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: CHICAGO
Date: 10/26/2004

Case ID #: 297-HQ-A1271285-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CHICAGO DIVISION
OCTOBER 10. 2004

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred on October 10, 2004 outside the residence of Special Agent [redacted], Chicago, Illinois. On October 10, 2004, at approximately 12:15 p.m., SA [redacted] was on her way to the residence of SA [redacted] to collect her mail while SA [redacted] was out of town. The front door of SA [redacted] apartment building sits in an outdoor vestibule which is located at the top of several concrete steps. While SA [redacted] was standing in the vestibule, she was approached from behind by a blck male, later identified as [redacted] who grabbed her, told her he was holding her up, that he had a gun, and hit her on the back of the head with a blunt object. A struggle ensued which resulted in SA [redacted] and [redacted] falling down the concrete steps and [redacted] biting SA [redacted] on the left calf while laying on top of her right leg, which held her personally-owned, Bureau-approved handgun. As [redacted] repositioned himself over SA [redacted], she drew her weapon and fired one shot into his chest. As [redacted] fled witnesses called 911. Both the Chicago Police Department and EMS responded within minutes. [redacted] was apprehended in his vehicle a short distance from the scene of the shooting. Both [redacted] and SA [redacted] were treated at Advocate Illinois Masonic Medical Center.

b6
b7C

DETAILS:

On 10/10/2004, at approximately 12:15 p.m., SA [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] was on her way to the residence of SA [redacted] at [redacted] Chicago, Illinois to collect her mail while SA [redacted] was out of town on temporary duty. The front door of SA [redacted] apartment building sits in an outdoor vestibule which is located at the top of several concrete steps. While SA [redacted] was standing in the vestibule, she was approached from behind by a black male, who was later identified as [redacted] grabbed SA [redacted] from behind, told her he was holding her up, that he had a gun, and then hit her on the back of the head with a blunt object. b6 b7C

After tussling for a few seconds on the landing, both SA [redacted] and [redacted] tumbled down the stairs to the sidewalk. After a few seconds of struggle, [redacted] pulled up SA [redacted] pants leg and bit her on the left calf, breaking the skin in the process. SA [redacted], who had her personally-owned, Bureau-approved weapon (a Glock 27 loaded with .40 caliber ammunition) in a holster on her right ankle, was fearful that her attacker would gain control of her weapon and use it against her. As [redacted] was repositioning himself over SA [redacted], she managed to draw her weapon and fire one round into the left side of [redacted] chest. After initially beginning to comply with SA [redacted] commands to get on the ground, [redacted] fled to his car and drove away.

Both the Chicago Police Department and EMS were summoned by one of several eyewitnesses, and arrived a few minutes later. One of the responding officers discovered [redacted] around the corner from site of the shooting, still in his vehicle, crashed into the side of a laundromat. [redacted] was placed under arrest at that time. [redacted] was then transported to Advocate Illinois Masonic Medical Center, where he was treated for a gunshot wound. SA [redacted] was also transported to Advocate Illinois Masonic Medical Center, where she was treated and released.

b6 b7C

FBI Chicago was immediately notified of the shooting, and notifications were made to SAC THOMAS J. KNEIR, ASAC JOSEPH C. WAYS, Sr., A/SSA [redacted] CDC JAMES KRUPKOWSKI, and the Chicago Media Representative. SAs [redacted] and [redacted] responded to the scene and provided peer support to SA [redacted] SA [redacted] took custody of SA [redacted] weapon. ASAC WAYS, CDC KRUPKOWKSKI, and A/SSA [redacted] also responded to the hospital. While at the hospital, CDC KRUPKOWSKI advised SA [redacted] of the availability of Department of Justice representation. SA [redacted] was also advised of the availability of the Employee Assistance Program. SA [redacted] advised CDC KRUPKOWSKI that she was going to contact the FBI Agents' Association (FBIAA) for representation before making her statement. Attorney [redacted] contacted

SA [redacted] on behalf of the FBIAA.

On his way to the hospital, ASAC WAYS directed Chicago Division Radio Room personnel to notify SIOC of the shooting. Several hours later, Chief Inspector ROBERT D. GRANT advised ASAC WAYS that Chicago should complete the shooting investigation.

The crime scene investigation was handled by the Chicago Police Department. A toy gun, broken in two, was recovered at the crime scene, along with one .40 caliber shell casing.

[redacted] has an extensive criminal history, including numerous arrests and convictions for armed robbery and aggravated assault. [redacted] was most recently released from jail earlier this year.

On October 12, 2004, SA [redacted] accompanied by Attorney [redacted] provided a statement to officials of the CHICAGO POLICE DEPARTMENT, the ILLINOIS STATE'S ATTORNEY'S OFFICE, and the FBI. An FD-927 was read and signed by SA [redacted] prior to the interview. A Signed, Sworn, Statement, reflecting that interview, was executed by SA [redacted] in the Chicago Office of the FBI the following day.

On 10/14/2004, Assistant State's Prosecutor [redacted] Office of Felony Review, advised that after reviewing the shooting incident, his office decided to decline prosecution against SA [redacted] b6 b7C

Several neighbors witnessed the incident. All those contacted provided accounts which matched SA [redacted] description of the attack and shooting. Furthermore, [redacted] was interviewed by CHICAGO POLICE DEPARTMENT officers both the day of and the day following the incident. [redacted] account is also consistent with that of SA [redacted] and the eyewitnesses.

The inspection determined that the deadly force utilized by SA [redacted] was justified and within the guidelines as set forth in the FBI's Deadly Force Policy. [redacted] attacked SA [redacted] from behind without warning, stated he had a gun, and hit SA [redacted] on the back of the head. After both individual fell down several concrete steps, [redacted] who at the time was within easy access of SA [redacted] s weapon, severely bit her on her leg. At no time was it feasible for SA [redacted] to identify herself, or command [redacted] to stop his attack. It was certainly reasonable for SA [redacted] to fear for her life. [redacted] appeared willing to stop at nothing in order to assault SA [redacted]

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SSA [redacted] Office: Miami b6 b7C
Date: 03/28/2005

Case ID #: 91A-MM-105404

Title: SHOOTING INQUIRY;
REPORT OF SHOOTING INCIDENT;
MIAMI DIVISION;
11/8/04

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was a result of the attempted arrest of a bank robbery subject, [redacted]

DETAILS:

On 11/8/04, at approximately 11:40 a.m., [redacted] entered the Sterling Bank located at 1489 North Military Trail, West Palm Beach, Florida, approaching a teller with a demand note written on a manila envelope. The note demanded she place all the money in the envelope and that [redacted] had a gun. After handing the teller the demand note, [redacted] lifted up the front of his shirt exposing a handgun tucked in his waistband. The teller complied with [redacted] demand and provided him with money to include a "dye pack." As [redacted] exited the bank, he was observed by witnesses entering a gray Dodge Durango bearing Florida license plate [redacted]

Palm Beach County Resident Agency (PBCRA) Special Agent (SA) [redacted] was investigating a series of bank robberies occurring in the West Palm Beach vicinity dating back to August 4, 2004. It had been determined that the same individual had committed these four bank robberies and he was described as a Hispanic male, over six feet tall, who displayed a small silver handgun and utilized a manila envelope. A recent "Crime Stoppers" tip had identified the bank robbery subject as [redacted] aka [redacted] SA b6 b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] conducted logical investigation and identified two former employers at University Dodge, 5455 South University Drive, [redacted], who positively identified [redacted] in a bank surveillance photograph. SA [redacted] had received verbal authorization from Assistant United States Attorney (AUSA) [redacted] to arrest [redacted] pending a review/search of [redacted] cell phone records.

It should be noted that investigation also revealed that a 2003 Dodge Durango bearing dealer license plate [redacted] was reported stolen in July 2003, however, an official report was not completed until November 2003 with the Broward County Sheriff's Office (case number 03-07-020). b6 b7C

On 11/8/04, SA [redacted] learned, from responding SA [redacted] of the bank robbery that had occurred at the Sterling Bank located at 1489 Military Trail in West Palm Beach, Florida. The description of the subject and his modus operandi were similar to the subject SA [redacted] had recently identified as being responsible for the four other bank robberies in West Palm Beach.

SA [redacted] proceeded to the scene and further learned from witnesses that the subject had fled the bank in a gray Dodge Durango bearing Florida license plate [redacted]

After learning of this information, SA [redacted] conducted logical follow up investigation at several addresses associated with [redacted] When SA [redacted] arrived at [redacted] West Palm Beach, Florida, she observed the Dodge Durango parked in front of the residence. SA [redacted] contacted her supervisor, SSA [redacted], along with PBCRA SAs to respond to her location. Approximately 10 minutes later, while the PBCRA SAs were enroute to her location, SA [redacted] observed a Hispanic male fitting the description of [redacted] at the Dodge Durango. The individual then entered the Durango and departed the area with SA [redacted] conducting a lone moving surveillance. SA [redacted] was the first agent to join SA [redacted] in the surveillance closely followed by SA [redacted], who was coordinating with PBCSO dispatched via cell phone for deputies to respond to his location. Eventually two marked PBCSO patrol units and one unmarked PBCSO unit joined the surveillance. It was at this time that the PBCSO units assumed the lead of the surveillance for the purpose of making a felony vehicular traffic stop on the Durango. b6 b7C

As the Durango approached the intersection of Southern Boulevard and Haverhill Road, the driver, later identified as

[redacted] pulled into a shopping plaza parking lot on the northeast corner of the intersection. The Durango was followed into the parking lot by Capt. [redacted] and Dep. [redacted] who were in separate vehicles. SA [redacted] had pulled into the shopping plaza parking lot from a southern entry/exit point and assumed a tactical position near where PBCSO Corp. [redacted] had positioned her vehicle. Deputy [redacted] began giving verbal commands over his "p. a. system" for [redacted] to exit his vehicle while Capt. [redacted] approached the Durango on foot giving verbal demands for the driver to exit his vehicle. It was at this time that SA [redacted] observed the driver [redacted] looking around as Capt. [redacted] approached the Durango. SA [redacted] remembered hearing someone yell "gun" and then observed the Durango backing up at a high rate of speed. As Capt. [redacted] was approaching the Durango on foot, [redacted] disregarded the verbal commands being given and began backing up his vehicle at a high rate of speed towards Capt. [redacted] Capt. [redacted] fired his department issued shotgun at the Durango. At this time, SA [redacted] discharged his Bureau issued firearm at the Durango in an effort to prevent the Durango from running over Capt. [redacted] The Durango then sped in an easterly direction towards Corp. [redacted] who was positioned near the south side of the shopping plaza parking lot. It was at this time that Corp. [redacted] fired her department issued Glock handgun at the Durango. The Durango sped off in an easterly direction and then made a U turn and again drove back towards SA [redacted] and Corp [redacted] again causing them to fire their weapons at the Durango. SA [redacted] had related that he overheard the vehicle engine revving up as the vehicle increased speed again towards Corp. [redacted] and his location. SA [redacted] then fired once again to protect himself and believed that he was in imminent danger from the vehicle driven by [redacted]

b6
b7C

The suspect vehicle kept fleeing and drove westerly along Southern Boulevard on a stretch of road under construction and not open to the public. Approximately one half mile from the shopping plaza, the Durango impacted a concrete barrier which disabled the Durango. PBCSO deputies approached the vehicle and observed [redacted] to be injured. PBCSO deputies also observed a silver pistol in the passenger compartment area that was later identified to be a "lighter" resembling a toy handgun.

b6
b7C

[redacted] was treated at the scene by emergency medical personnel and transported to the St. Mary's Hospital where it was determined that the only injuries sustained by [redacted] were from the traffic accident and that none of the rounds fired by Capt. [redacted] Corp. [redacted] or SA [redacted] had struck Sanchez.

Florida States's Attorney Office, Chief [redacted]

advised that his office would not initiate a shooting inquiry regarding this incident since [redacted] was not struck by any of the rounds fired by law enforcement officers and had only sustained injuries as a direct result of the traffic accident.

On 11/9/04, SA [redacted] obtained a federal search warrant and executed the same on the Dodge Durango driven by [redacted]. Assisting SA [redacted] in this endeavor was PBCSO Detective [redacted] It should be noted that were several rounds that had impacted the vehicle and that several fragments were removed from the vehicle as evidence.

b6
b7C

On 11/18/04, [redacted] was federally indicted for five counts of bank robbery and one count of Assault on a Federal Officer (AFO).

The civilian witnesses at the scene all gave similar accounts of the incident, observing that the Durango driven by [redacted] was driving at a high rate of speed in a parking lot in an attempt to run down uniform and undercover law enforcement officials and that those officials had no other choice but to fire their weapons at the vehicle in an attempt to stop it.

It should be noted that eleven Glock .40 caliber casings were retrieved at the scene along with one shotgun shell casing.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/06/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Thornton Charlene B
Grant Robert D

b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271970-D

**Title:** SHOOTING INCIDENT
WASHINGTON FIELD OFFICE
07/08/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/08/2004, involving Special Agent (SA) [redacted] During the execution of a knock and announce search warrant, SA [redacted] fired one round from a Remington 12 gauge shotgun, killing an aggressive pit bull dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of SSA [redacted] dated 10/01/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 06/06/2005

**Details of the Shooting Incident**

On 07/08/2004, members of the WFO Safe Streets Task Force executed a search warrant at a Southeast residence in Washington, D. C. Source information and investigation determined the residence belonged to [redacted] a drug trafficker, who was also suspected of being involved in several acts of violence including homicides and assaults with intent to kill.

Prior to the execution of the search warrant, Case Agent [redacted] conducted a pre-operational briefing. Information was provided that there was a strong possibility of firearms inside the residence as well as the possibility of an aggressive and ferocious pit bull dog. SA [redacted] was tasked with carrying a shotgun for the purpose of engaging the pit bull dog if the need arose. b6 b7C

SA [redacted], SA [redacted] and Detective [redacted] were assigned as part of the entry team and designated to secure the residence. As soon as SA [redacted] began the "knock and announce", dogs inside the residence began barking. Once entry was made into the residence, a large, growling pit bull dog stood near the entrance and would not allow the law enforcement officers to proceed into the residence to execute the search warrant and secure the residence. The owners of the dog, who were inside the residence, were directed several times to take control of the dog; however, did not comply. The dog continued to hinder the entry of the law enforcement officers as well as rendering them unable to secure the residence. These circumstances, coupled with the information previously provided regarding the possibility of weapons being inside the residence, caused SA [redacted] to believe the team was in imminent danger of serious physical injury. As a result, SA [redacted] fired one round from his Remington 12 gauge shotgun, killing the dog.

Law enforcement officers continued through the residence and secured it without incident. District of Columbia personnel assumed control of the dog.

b6
b7C

On 11/17/2004, the SIRG met to discuss the above-captioned shooting incident. Former Chief Inspector Robert D. Grant, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Special Counsel, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; My Harrison, Former Section Chief (SC), Applicant Processing Section, Administrative Services Division; Jay C. Manning, SC, CD-6, Counterintelligence Division; Manuel E. Mora, SC, Operational Support Section, Criminal Investigative Division; [redacted] Acting Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD);

[redacted] Acting UC, National Firearms Program, TDD; Supervisory Special Agent (SSA) [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC); and, SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. A recommendation was made that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 06/06/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative active be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. Harrison, Room 6050
1 - Mr. Manning, Room 1B045
1 - Mr. Mora, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to: Inspection Division
Attn: Shooting Incident Review Group

Report of: ASAC Sharrell Gene Slone Office: Denver
Date: 01/04/2005

Case ID #: 297-HQ-A1271741-D

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION
AUGUST 5, 2004

Character: INSPECTION DIVISION
SHOOTING INQUIRY

Synopsis: On 08/05/2005, SA [redacted] was involved in a shooting incident at 187 East Olive Street, San Bernardino, California. SA [redacted] and SA [redacted] were working on a gang investigation with Detective [redacted] from the San Bernardino Police Department (SBPD) and a member of the Riverside Resident Agency (RRA) Safe Street Task Force (SSTF), when they heard a police radio dispatch that the SBPD were going to attempt to arrest a subject involved in a recent shooting.

b6
b7C

**Details:** On 07/31/2004, at approximately 9:30 PM., an Assault with a Firearm occurred at 176 East 10th Street, San Bernardino, California. The SBPD conducted the investigation under case #2004-29569 and identified Nicholas Gilbert Fimbrez as the suspect. Investigation determined that Fimbrez utilized a .40 caliber pistol during the assault and the weapon and subject had not been located. Although no arrest warrant was issued, an All Points Bulletin teletype was submitted to area law enforcement agencies concerning the suspect and weapon. This investigation determined that Fimbrez was a known gang member, a shooter for a violent street gang, had a criminal record, and had fled from police on previous occasions.

On 08/05/2004, at approximately 7:08 PM, the SBPD Dispatch received an anonymous telephone call stating that Nicholas Fimbrez was currently at 176 East 10th Street. After this information was dispatched to officers covering that area, additional officers responded that they would assist, due to their knowledge of the previous incident and its related investigation. The SBPD Officers decided to meet at 9th Streetand Sierra Way for a briefing prior to responding to the scene and attempting the arrest.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] and SA [redacted] were working with Detective [redacted] a member of the SSTF, conducting street enforcement actions. Their normal activities were to suppress gang activities in various area of San Bernardino. As part of their investigative responsibilities/strategies in connection with the SSTF they patrol gang areas in an effort to identify gang activity and make street level arrests with the intention of identifying and developing informants which could lead to further/future case development/initiation, locate and arrest gang members who are warranted for various charges, and take weapons and drugs off the street.

SA [redacted] and SA [redacted] were riding with Detective [redacted] in Detective [redacted] SBPD police vehicle, and were wearing their issued ballistic vest with FBI identification clearly visible on their outer clothing. Detective [redacted] SA [redacted] and SA [redacted] had just cleared an arrest scene in the 1400 block of North Genevieve Street when they heard over the SBPD radio that police units were being dispatched to 176 East 10th Street to attempt the arrest of the subject involved in a previous shooting at that address. Due to Detective [redacted] SA [redacted] and SA [redacted] being in the general area they decided to travel to the briefing location and assist with the possible arrest.

b6
b7C

Upon arrival at the briefing location, Sergeant [redacted] SBPD, took over the briefing and developed a tactical plan which was verbally discussed with all officers at the scene. The plan determined the weapons each officer/agent was to possess, officer position assignments, how they were to arrive at those positions, and potential cross fire/safety issues. A complete description of Nicholas Gilbert Fimbrez, Hispanic male, 5'11", 200 pounds, 27 years of age, shaved head with numerous tattoos, was provided. The officers and SAs then departed the briefing location and traveled to 176 East 10th Street. As they arrived at the location, [redacted] was observed watering the grass in the front yard. Ms. [redacted] an elderly female, was later identified as Nicholas Fimbrez's grandmother. The SBPD attempted to obtain information from Ms. [redacted] but she was uncooperative, other than providing the telephone number to the residence. Ms. [redacted] denied the fact that Nicholas Fimbrez was in the residence. Sergeant [redacted] then telephonically contacted the residence and after approximately two rings a male answered. Sergeant [redacted] identified himself and attempted, to no avail, to identify the person who answered the telephone. The male abruptly hung up. Sergeant [redacted] indicated to one of the other officers that if the male remained in the residence, it may turn into a full tactical callout and if so they would maintain their positions. Sergeant [redacted] then attempted a second telephone call into the residence and as the telephone was ringing, a police radio broadcast indicated that a Hispanic male wearing shorts was coming out the east side of the residence.

b6
b7C

Officer [redacted] then started giving the Hispanic male verbal commands but the Hispanic male did not comply and returned to the inside of the residence. The Hispanic male was then observed quickly looking out a window on the left (east) side of the residence. b6 b7C

The San Bernardino County Sheriff's Department's Aviation Unit, which was on-scene to provide aerial support, then observed a Hispanic male, fitting the description and later identified as Nicholas Gilbert Fimbrez, exit the rear (northeast) corner of the residence, go under some trees then run east and north through some back yards and over some fences. The Aviation Unit provided radio broadcast information concerning Fimbrez's description, direction of travel, and coordination for the ground pursuit units.

Numerous officers, who were in foot pursuit of Fimbrez, were giving verbal commands directing Fimbrez to stop and show his hands, but to no avail. Numerous officers observed Fimbrez running with his hands near the waist area of his pants.

Numerous officers were in foot pursuit and closing in on Fimbrez as he entered the rear yard of 187 East Olive Street by going over a wire fence. Fimbrez then ran north along the west side of the residence. SA [redacted] was also in foot pursuit and entered the rear yard of 187 East Olive and ran to the southwest corner (rear) of the residence as Fimbrez ran north along the west side of the residence with another officer in foot pursuit. Fimbrez then ran east across the front porch and then south on the driveway along the east side of the house toward the garage and backyard area and toward SA [redacted] and other pursuing officer's location. Additional officers were also pursuing Fimbrez south on the driveway. As several officers were near Fimbrez and giving him verbal commands to stop/show his hands and to no avail, Officer [redacted] released his K-9 [redacted] just as Officer [redacted] came north from the rear of the house and physically confronted Fimbrez. They were face to face and Officer [redacted] grabbed Fimbrez's shoulder and arm in an attempt to take Fimbrez to the ground. Within seconds of this physical confrontation, Fimbrez displayed a weapon and shot Officer [redacted] with one round from a Glock Model 23 .40 caliber pistol, serial number BAP249US. Officer [redacted] who was knocked to the ground by the shot, was then bitten by K-9 [redacted] as SA [redacted] and Officer [redacted] discharged their weapons striking Fimbrez and knocking him to the ground. SA [redacted] fired one round and Officer [redacted] fired one round. Fimbrez, who was now on the ground, still maintained possession of his handgun. Officers again attempted to provide verbal commands to Fimbrez to drop the weapon but Fimbrez attempted to raise and point the weapon toward the officers. Officers, knowing that Fimbrez had just shot Officer [redacted] and a civilian the previous week, and fearful for their lives and the safety of others, again b6 b7C

discharged their weapons to eliminate the threat. SA [redacted] discharged one additional round, Officer [redacted] discharged two additional rounds, Officer [redacted] discharged one round, and Officer [redacted] discharged four rounds. Following the shooting, an Officer Down/Officer Needs Assistance call was dispatched over a law enforcement common radio channel.

Officer [redacted] was provided with medical attention at the scene and then transported via police car to the Loma Linda University Medical Center by Detectives [redacted] and [redacted] and other officers. Emergency medical personnel arrived at the scene and began to administer medical attention to Fimbrez, however, he was pronounced dead at the scene. b6 b7C

SA [redacted] was carrying his bureau issued Glock Model 22 .40 caliber pistol. Officers [redacted] and [redacted] were carrying their department issued H&K USP .45 caliber pistols. SA [redacted] and all officers involved in the shooting were current on their firearms qualifications at the time of the shooting.

Following the shooting incident, SA [redacted] who was the senior FBI SA on-scene, telephonically contacted his supervisor, SSA [redacted] who then notified Executive Management of the Los Angeles Division. The SBPD took control of the crime scene and lead on the shooting investigation, since the initial matter was a SBPD case and the attempted arrest was a SBPD operation to which the FBI Agents were only providing tactical assistance.

During the course of the SBPD investigation, numerous persons were interviewed and provided statements of what they saw and heard. Numerous witness saw the foot pursuit, heard verbal commands being given, and heard shots being discharged, however, only a limited number could provide relevant information which could be reduced to a statement.

On 08/09/2004, an autopsy on Fimbrez was conducted by Dr. [redacted] with SBPD Forensic Specialist [redacted] taking photographs and collecting evidence. During the autopsy it was determined that Fimbrez was struck with ten bullets which was equivalent to the total number of rounds fired by officers during the incident. The cause of death was determined to be multiple gunshot wounds and death occurred within minutes of the incident. b6 b7C

SA [redacted] EOD 09/22/2002, had prior to the shooting incident, indicated his intent to resign from the FBI and return to his previous employment as a Police Officer with the Escondido Police Department. SA [redacted] resigned from the FBI effective 09/10/2004 and is now employed by the Escondido Police Department.

As previously noted, SAs [redacted] and [redacted] were working as part

of a SSTF initiative with the SBPD and a Memorandum of Understanding was prepared which established a Gang Impact Team (GIT). The mission of the GIT was to address the organized street gang problem, within and around the city of San Bernardino, by identifying and targeting the leaders and members of the various gangs throughout the area. At the time of the shooting incident there were three case initiatives being worked by the GIT. There is no Executive Board for the GIT, however SSA [redacted] of the RRA and Lieutenant [redacted] of the SBPD provide direct oversight of the GIT. One of the case initiations captioned "8-Ball" was opened in March 2004 to focus on several small gang groups that existed within the city of San Bernardino. As of 07/30/2004, this case had generated 51 state arrests and one state conviction. SA [redacted] the Principal Relief Supervisor for the Violent Crimes Squad in the RRA, was assigned as the Case Agent on the investigation and was allowed to make command decisions on the street. SSA [redacted] is briefed on a daily basis concerning the Agents' investigative activity. Although FBI SAs do not have Peace Officer status in the State of California, they can and do participate in local arrest when assistance is requested.

b6
b7C

As previously noted, the SBPD was the lead investigative agency on the criminal matter leading up to the shooting incident. Although no Operation Order/Arrest Plan was prepared, a verbal operational briefing was provided at the staging location by Sergeant [redacted] during which he identified each Officer/Agent's assignment, duties, weapons, and discussed safety issues. Both SA [redacted] and SA [redacted] were aware of the current FBI Deadly Force Policy.

A review of this matter by San Bernardino District Attorney's Office, has determined this to be a justified shooting incident.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/27/2004

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted]

**Approved By:** Thornton Charlene B
Grant Robert D

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271786-D

**Title:** SHOOTING INCIDENT
NEW HAVEN DIVISION
08/12/2004

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/12/2004, involving Special Agent (SA) [redacted] During the execution of a search warrant, SA [redacted] shot and killed an aggressive Rottweiler dog. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of SA [redacted] dated 08/16/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 08/12/2004, at approximately 7:45 a.m., FBI Agents assigned to the Connecticut Computer Crime Task Force were executing a search warrant in Bantam, Connecticut. Agents approached the front door of the residence and proceeded to "knock and announce" several times. After receiving no response, participants checked the door of the residence and found it unlocked. Announcing their presence as they entered, Agents began to clear the residence in order to locate the occupants and execute the search warrant.

Announcing his presence several times with no response, SA [redacted] proceeded to the bottom of the basement steps and again announced his presence. While observing the clutter of the basement, SA [redacted] saw a Rottweiler advance toward him in an aggressive manner from behind a sheet covering an entrance in the basement. Believing that his life was in imminent danger, SA [redacted] fired four shots at the charging dog. The dog fell down the steps and died.

On 10/13/2004, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector Robert D. Grant, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted], Assistant Section Chief, Operational Support Section, Criminal Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), National Firearms Program, Training Division (TD); [redacted] UC, CD-6B, Counterintelligence Division; Supervisory Special Agent (SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Operational Skills Unit, TD; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] National Firearms Program, TD; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). The two non-voting members present were [redacted], Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division; and [redacted] Intern, Leadership Development Institute, Training and Development Division, Quantico.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271786-D, 10/27/2004

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Grant, Room 7837
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] Room 5155
1 - Ms. Harrison, Room 6050
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Room 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: FBI Headquarters
Date: 09/08/2004

Case ID #: 297-HQ-A1271966-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
TAMPA DIVISION
AUGUST 19, 2004

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident resulted from an apparent accidental discharge of a single round from a Colt M4A1 Carbine by an FBI Tampa SWAT Team member while the team was effecting the arrest of a violent fugitive wanted by FBI Boston. The fugitive, [redacted] was shot once in the lower back while being handcuffed in the prone position. Mr. [redacted] sustained serious injuries, underwent surgery, and survived his wounds. b6 b7C

DETAILS:

On Thursday, 8/19/2004, at about 11:00 AM, FBI Tampa SA [redacted] received a call from his squad secretary advising that a priority EC was being faxed from the Springfield RA, Boston Division. The EC set a lead for Tampa to locate and arrest [redacted] for Unlawful Flight to Avoid Prosecution.

SA [redacted] returned to his office and reviewed the Boston EC which stated that [redacted] was armed and dangerous and a flight risk. An arrest warrant had been issued on 12/16/2003, by the Hampden County Superior Court, Massachusetts, charging [redacted] with one felony count of Malicious Destruction of Property over $250.00. [redacted] also had outstanding felony arrest warrants in Massachusetts for Failure to Appear to Probation Officer, Larceny From a Building, and Failure To Stop For Police. On 1/27/2004, a U.S. District Magistrate in Massachusetts

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

issued an arrest warrant for [redacted] for Unlawful Flight to Avoid Prosecution.

The EC further stated that [redacted] was wanted for questioning as a prime suspect in the 11/23/2003, murder of Adolfo Bruno, a "made" member of the Genovese crime family. The EC included a photograph of [redacted] described his various tattoos, and provided a detailed physical description, including the fact that he is 6'4" tall and weighs over 200 pounds. The EC cautioned that [redacted] was an "extreme fighter", known to "avoid apprehension", and "believed to be extremely violent and will engage officers". The EC noted that [redacted] "is always in possession of at least one handgun". b6 b7C

The EC explained that source information and grand jury subpoenas of telephone records revealed that [redacted] was staying in Florida and had been utilizing a telephone at a residence at [redacted] Tampa, Florida. The EC identified the owner of the residence by name (hereafter referred to as "the homeowner"). SA [redacted] telephonically spoke with the author of the Boston EC, a task force officer (TFO) assigned to the Springfield RA. The TFO advised that according to a source, [redacted] might be driving a rented Cadillac Escalade.

SA [redacted] then advised SA [redacted] the Acting SWAT Team Leader, of the details regarding [redacted] and suggested that a SWAT deployment might become necessary. The Senior SWAT Team Leader was out of town attending an in-service. SA [redacted] then departed the office, accompanied by a Hillsborough County Sheriff's Detective assigned to a Tampa Division task force, and traveled to the Wood Trail Boulevard vicinity to look for Cadillac Escalades. Their search met with negative results, but investigation at Enterprise Rental determined that the homeowner had rented an Escalade on August 12 and returned it on August 13, 2004. In a phone conversation with the Boston TFO, SA [redacted] was told the name of the company where the homeowner was employed, but not the address. b6 b7C

At about 11:40 AM, Acting SWAT Team leader [redacted] advised ASAC Kevin Ray Eaton and SSA [redacted] that a violent fugitive might be in the area and that SA [redacted] was attempting to confirm the fugitive's location. They discussed the fact that the SWAT Team should be utilized to arrest the fugitive. At 12:15 PM, ASAC Eaton called Acting SAC (A/SAC) David W. Welker and left him a message that a SWAT Team deployment might be needed to arrest a fugitive. Tampa SAC Carl Whitehead was out of the country on annual leave.

At about 2:00 PM, SA [redacted] was called by another police officer in Massachusetts who was directly handling the source who was reporting on [redacted] SA [redacted] learned that the source [redacted] earlier. SA [redacted] then called Acting SWAT Team leader [redacted] in Tampa as recently as that morning. SA [redacted] and his detective partner then began driving to nearby pool halls and bars in an attempt to spot [redacted] b6 b7C b7D

At about 2:30 PM, A/SAC Welker, ASAC Eaton, SSA [redacted] and SA [redacted] met in ASAC Eaton's office; SA [redacted] was on the speaker phone. They discussed pertinent details. SA [redacted] told ASAC Eaton that another SWAT agent was working on an Operations Plan. ASAC Eaton told SA [redacted] that the plan should focus on arresting [redacted] outside of or away from the residence. SA [redacted] advised that the SWAT Team was meeting at the Hillsborough County Sheriff's district office near the fugitive's suspected location.

At about 3:00 PM, ASAC Eaton and SSA [redacted] left the office en route to the Sheriff's office. As they left the office, a SWAT Team member handed ASAC Eaton a draft Operations Plan. ASAC Eaton reviewed the draft plan while riding in SSA [redacted] vehicle. The plan called for a "knock and announce" approach to the residence, and stated that the SAC had authorized compromise authority and flash bang devices if necessary. ASAC Eaton scratched out these portions and handwrote changes consistent with effecting arrest while the subject was approaching or departing the residence. ASAC Eaton also scratched out the SAC authorities that had never been requested nor granted. ASAC Eaton also edited the plan to indicate that he and SSA [redacted] would be on-scene during the arrest, as opposed to the command post being in the office. ASAC Eaton and SSA [redacted] arrived at the Sheriff's office at about 3:30 PM and awaited the arrival of remaining SWAT members and SA [redacted] who was the case agent and a SWAT team member. b6 b7C

Once SA [redacted] arrived, the SWAT Team entered the Sheriff's Office for a briefing. SA [redacted] explained all known information including the recent discovery that a new rental car was parked at the residence and that an individual matching [redacted] description was seen parking the vehicle and walking toward the residence.

ASAC Eaton and SSA [redacted] verbally discussed with the SWAT Team that the arrest plan would not include going up to or into the residence to arrest the fugitive. They discussed the

need to position the team close enough to the residence to apprehend [redacted] between the house and his car. Alternatively, they discussed that it might be necessary to let [redacted] leave the residence and get in his car, then effect the arrest when he exited the vehicle at another location. Lastly, they discussed the least desirable alternative of a felony car stop, aided by marked police units, in the event that [redacted] became aware that he was being followed. Acting SWAT Team Leader [redacted] did not attend this briefing because he remained at the FBI office attempting to revise the Operations Plan.

At about 4:15 PM, ASAC Eaton and SSA [redacted] drove past the target residence two times and around the neighborhood. They observed that the distance between the front door of the small townhouse residence and its assigned parking spaces was about ten yards. ASAC Eaton and SSA [redacted] returned to the Sheriff's Office parking lot where the SWAT Team was making final preparations. They advised the team that it would be difficult to get close enough to the residence to grab [redacted] between the front door and his vehicle. They advised the SWAT Team that the plan was still to arrest [redacted] outside of the residence or at another location. b6 b7C

SA [redacted] and another SWAT member arrived at the Sheriff's Office and boarded the SWAT truck. SA [redacted] sat in the front passenger seat. A total of eight SWAT members were seated in the truck. At approximately 4:45 PM, the SWAT truck departed the Sheriff's Office along with the car containing ASAC Eaton and SSA [redacted] SA [redacted] departed in a separate vehicle to continue surveillance. Once in the neighborhood of the target residence, the SWAT truck parked around the corner in a location affording an unobstructed view of the front of the house. For approximately the first 20 minutes, the air conditioning unit in the rear of the SWAT truck did not operate. According to an Internet weather website, the Tampa temperature at 4:53 PM was 91 degrees, with 61% humidity and no precipation. ASAC Eaton and SSA [redacted] parked their vehicle in a supermarket parking lot in the vicinity of the residence but without a view of the residence or the SWAT truck. b6 b7C

At about 4:55 PM, ASAC Eaton called A/SAC Welker and CDC Deanna Day and advised them of the plan and that everyone was in place. A/SAC Welker dispatched negotiators to join ASAC Eaton and SSA [redacted]. (Two negotiators arrived about 6:10 PM). A/SAC Welker also requested that someone begin preparing an affidavit for a search warrant in the event that an entry into the house became necessary. A/SSA [redacted] who oversees the VCMO Squad, and CDC Day began work on the affidavit.

SA [redacted] from his surveillance location observed small children entering and exiting the house next door, and other neighbors arriving home from work. At approximately 6:00 or 6:15 PM, SA [redacted] learned that the homeowner of the target residence might be coming home from work soon. CDC Day advised A/SSA [redacted] that in order to avoid a hostage situation, the homeowner should not be permitted to enter his house. The CDC's statement was conveyed to SA [redacted] and also to the SWAT members in the truck.

b6
b7C

At approximately 6:15 PM, ASAC Eaton and SSA [redacted] noticed a marked Sheriff's unit pulling out of the supermarket parking lot at their location, and moving in the general direction of the target residence. Thinking that this marked unit might somehow be involved in the SWAT operation, they moved their vehicle to a location where they could see the SWAT truck. The marked unit was not involved in the operation.

At about 6:35 PM, the homeowner arrived in his vehicle and parked in front of his residence. As he exited his vehicle, a task force officer identified himself and walked the homeowner to the back of his vehicle. SA [redacted] announced via hand-held radio that the homeowner had arrived. Concerned that [redacted] might be able to easily view these developments from the front bay window of the house, SA [redacted] radioed for the SWAT truck to move closer. Acting SWAT Team Leader [redacted] interpreted SA [redacted] request to mean that SA [redacted] was in trouble, or that the fugitive had appeared. The SWAT truck pulled to the front of the residence. SA [redacted] observed SA [redacted] talking to the homeowner. The homeowner confirmed that [redacted] was in the house alone. SA [redacted] radioed SA [redacted] to determine what was happening. SA [redacted] responded that he had acquired the house keys from the homeowner and obtained consent to enter the house. SA [redacted] advised the team to get ready.

SA [redacted] approached the SWAT truck with the house keys. SA [redacted] raised the back slide-up door of the truck and observed children in the yard next door. The six SWAT Team members in the rear of the truck, SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] and SA [redacted] exited the truck through the rear door and took positions of cover behind the truck. SA [redacted] arrived at the back of the truck with the house keys. Acting Team Leader [redacted] took cover behind the front wheel of another Bureau vehicle. The SWAT truck driver, SA [redacted] took a cover position north of the truck. Two additional SWAT members, SA [redacted] and SA [redacted] were also present, having arrived in separate vehicles. SA [redacted] and SA [redacted] moved to cover the north side of the rear of the

b6
b7C

house, while SA [redacted] and SA [redacted] ran to cover the back entrance of the house. A total of eleven SWAT Team members were present, including the case agent SA [redacted]

ASAC Eaton and SSA [redacted] with two negotiators in the rear seat, observed the SWAT truck move toward the residence. ASAC Eaton heard SA [redacted] radio for the SWAT Team, and assumed that [redacted] had exited the residence. ASAC Eaton heard SA [redacted] on the radio stating that he had obtained the homeowner's consent. He then saw the SWAT team exit the truck and approach the residence. b6 b7C

At approximately 6:37 PM, The entry team "stacked up" behind the SWAT truck and proceeded methodically and slowly toward the front door of the residence in the following order; SA [redacted] carrying a shield, SA [redacted] carrying the house keys, SA [redacted], SA [redacted] SA [redacted] carrying a shield, and SA [redacted] The entry team members were wearing SWAT gear including body armor, helmets, and prominent FBI markings, with the exception of SA [redacted] who had been conducting surveillance of the residence. He wore an undercover style bullet resistant vest and street clothes.

At the front door of the residence, SA [redacted] reached around the shield carried by SA [redacted] and began the process of unlocking both the door lock and deadbolt. During this process, the door pulled open and [redacted] was observed standing in the doorway. [redacted] attempted to close the door and the entry team forced their way into the narrow entrance foyer. Shouts of "FBI, FBI" were repeated, and commands were given for [redacted] to get down. [redacted] turned his back to the team and attempted to run, but he was forced down to the floor on his stomach. [redacted] struggled to lift himself off the floor while the entry team held him down. SA [redacted] shouted a request for handcuffs, and SA [redacted] responded that he would do the handcuffing. [redacted] was prone, his arms out to the side and struggling to move into a push-up position. SA [redacted] had one foot on [redacted] right arm, SA [redacted] had one foot on [redacted] left arm. b6 b7C

SA [redacted] carried a Bureau issued Colt M4A1 Carbine from a sling around his right shoulder. Just prior to handcuffing, SA [redacted] recalled moving his right thumb upward in a motion to manipulate the selector switch of his M4 to the "safe" mode. He then let the M4 hang on its sling and reached his right hand back to his right side for handcuffs. He staged the handcuffs in his right hand and kneeled down toward [redacted] with his knee in the small of [redacted] back. SA [redacted] grabbed [redacted] left wrist with his left hand and started pulling that

arm to the small of [redacted] back. SA [redacted] kept the handcuffs in his right hand. As he was placing a handcuff on [redacted] left wrist, a shot was heard.

Blood emitted from [redacted] back and SA [redacted] quickly completed the handcuffing process. SA [redacted] applied direct pressure to [redacted] wound. While SA [redacted] rendered aid to [redacted], SA [redacted] offered to take SA [redacted] M4. SA [redacted] raised his right arm to allow SA [redacted] to lift and remove the weapon and sling. SA [redacted] observed that SA [redacted] weapon was in the "safe" mode. SA [redacted] began speaking to [redacted] in an effort to calm him and keep him conscious. SA [redacted] approached with a towel and gloves and applied pressure to [redacted] wound. SA [redacted] exited the residence and walked to the SWAT truck. b6 b7C

At about 6:38 PM, ASAC Eaton and SSA [redacted] approached the residence and were told the subject was in custody and that there had been an accidental discharge. ASAC Eaton went to a marked Sheriff's unit and requested the deputy to call EMS. The EMS dispatcher received the request at 6:39 PM. ASAC Eaton then called A/SAC Welker who advised that he would respond to the scene. At about 6:50 PM, ASAC Eaton asked the deputy why EMS had not yet arrived. EMS arrived at the scene at approximately 6:53 PM, and transported [redacted] to the hospital at about 7:00 PM. The SWAT Team departed the location to return to the office.

On his way to the scene, A/SAC Welker notified SIOC of the shooting incident and spoke with various FBIHQ officials, including Acting AD Donald Thompson, INSD. ASAC Eaton called for the Tampa ERT to respond to the scene. A Hillsborough County Sheriff's Office corporal advised ASAC Eaton that his superiors had approved of the FBI conducting the shooting scene investigation. A/SAC Welker arrived at the scene and had discussions with senior officials from the Sheriff's Office who confirmed that the FBI could process the shooting scene.

A/SAC Welker ensured that two SAs responded to the scene to obtain a detailed interview of the homeowner, and that SA [redacted] weapon and clothing were secured.

Tampa SAs were posted at the hospital to maintain FBI custody of [redacted] was in critical condition when the SIRT arrived in Tampa to conduct the shooting inquiry. He had reportedly lost a large volume of blood and a portion of his small intestine. He underwent surgery while the SIRT was in Tampa. [redacted] attorney sent a letter to SAC Carl Whitehead advising that [redacted] was represented by counsel and that no law enforcement officer was to question [redacted] The physician b6 b7C

responsible for [redacted] care would not return calls from the SIRT regarding [redacted] medical condition and records. The head nurse responsible for [redacted] care telephonically advised that federal healthcare privacy laws precluded discussion or provision of [redacted] medical records.

TABLE OF CONTENTS


A. SIGNED SWORN STATEMENTS

1. SA [redacted] (SWAT)
2. ASAC Kevin Ray Eaton (SWAT ASAC)
3. SA [redacted] (SWAT)
4. SA [redacted] (SWAT)
5. SA [redacted] (SWAT)
6. SA [redacted] (SWAT)
7. SA [redacted] (SWAT)
8. SSA [redacted] (SWAT SSA)
9. SA [redacted] (Acting SWAT Team Leader)
9. SA [redacted] (SWAT, Accidental Discharge)
10. ASAC David Welker (Acting SAC)
11. SA [redacted] (Case Agent, SWAT)

B. FD-302s

1. SA [redacted] (SWAT)
2. SSA [redacted] (CDC)
3. "Homeowner"
4. [redacted] (Deputy Sheriff)
5. SA [redacted] (SWAT)
6. SA [redacted] (Senior SWAT Team Leader, Medic, Training Coordinator, Principal Firearms Instructor)
7. [redacted] (Deputy Sheriff)
8. SA [redacted] (hostage negotiator)
9. SA [redacted] (hostage negotiator)
10. [redacted] Deputy Sheriff)
11. [redacted] (Deputy Sheriff)
12. [redacted] (OSA, 4-Midnight shift, FBI Tampa)
13. Receipt of an Operations Plan from SA [redacted]
14. Receipt of photographs of SA [redacted] leg.
15. Receipt of photographs of SA [redacted] in SWAT gear.
16. Receipt of SA [redacted] SWAT gloves, blood stained.
17. SA [redacted] (SA [redacted] weapon qualification).

C. Newspaper Clippings

1. "Handcuffed Suspect Shot by FBI Agent", The Tampa


b6
b7C

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to: Civil Rights Division
Department of Justice
Washington, D.C.

b6
b7C

Report of: IIP [redacted] Office: FBIHQ
Date: 09/26/2004

Case ID #: 297-HQ-A1271898-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INQUIRY
PHOENIX DIVISION
TUCSON DIVISION
SEPTEMBER 15, 2004

Character: INSPECTION DIVISION
SHOOTING INQUIRY

Synopsis: This shooting incident was a result of an attempted arrest of [redacted] A federal warrant issued 9/8/2004, in Tucson, Arizona, District of Arizona, was outstanding; charging [redacted] in violation of Title 18, USC, Section 115(a)(1)(B), Threatening a Federal Law Enforcement Officer. [redacted] was traveling with [redacted] at the time of the arrest. The Phoenix Division SWAT Team and Sierra Vista RA Agents had been coordinating efforts with the Douglas Police Department, Cochise County Sheriff's Department, and the U. S. Border Patrol to locate and apprehend [redacted]

b6
b7C

DETAILS: On 9/9/2004, the FBI initiated an investigation (89B-PX-75599) on [redacted] and [redacted] as a result of an encounter they had with U.S. Border Patrol Agents (BPA). More specifically, on 8/13/2004 at approximately 8:00pm, Douglas BPAs attempted to conduct a vehicle stop on a minivan suspected of smuggling. The driver, later identified as [redacted], refused to pull over even though marked Border Patrol units had their emergency lights and sirens activated. As the BPAs were attempting to conduct a vehicle stop, [redacted] led them to a compound in Douglas, Arizona, occupied by members of Ranch Rescue (RR). The BPAs were aware that members of RR were heavily armed and generally hostile to federal law enforcement officers. As [redacted] turned into the RR gated driveway, [redacted] who was armed with a rifle, was

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

observed just inside the gate. [redacted] got out of his vehicle and began yelling at the BPAs and then began instructing [redacted] and the surrounding area to "maintain your position and cover down on the Agents." The BPAs believed that [redacted] was ordering [redacted] and other RR members to maintain their tactical position and prepare to shoot at them. Fearing for their lives, the BPAs sought cover behind their vehicles and called for backup from the Border Patrol and Cochise County Sheriff's Office. Riddle eventually dropped his weapon and adhered to the instructions of the BPAs. Shortly after officers from Cochise County Sheriff's Office and Border Patrol arrived, the situation was defused without any shots being fired.

b6
b7C

The driver and registered owner of the minivan was [redacted] is one of the leaders of RR, a paramilitary, anti-government, neo-nazi group which patrols private property along the U.S./Mexican border in Texas, New Mexico, Arizona, and California. RR publicly proclaims to be "dedicated to defending and preserving the private property rights of individual citizens." Its members portray themselves as law abiding crusaders for private landowners whose properties are being invaded by undocumented aliens. However, intelligence reporting revealed that the group is willing to violate criminal laws and use force or violence to achieve their political and social goals. In addition, the group's actions may be motivated by racial hatred and anti-government sentiment. According to its internet site (ranchrescue.com), RR has chapters in Colorado, Washington, Virginia, Oklahoma, and South Africa. Whereas RR was founded and headquartered in Texas, the organization constructed a new headquarters and training facility in Douglas, Arizona. According to various law enforcement reporting, at its peak, there were between 15 and 20 militia members at the RR compound. [redacted] is the owner of the Douglas property which RR considers its headquarters and tactical training center.

b6
b7C
b7E

[redacted]

On or about 9/10/2004, SSRA [redacted] met with ASAC Roland Mignone to discuss plans to arrest [redacted] The issue was further discussed on Monday, 9/13/2004, with ASAC Mignone, ASAC Nate Gray, and the SWAT Team leader, SA [redacted] During this meeting, it was decided to utilize the SWAT Team to arrest [redacted] The group decided the arrest would not be

effected at the RR compound in order to avoid any type of standoff situation. Further, the determination was based on the location of the ranch; potential fortification of the compound; the number of buildings on the property; intelligence suggesting numerous weapons in some of the buildings on the compound; statements made by [redacted] suggesting a propensity for violence; a lack of certainty as to how many persons may be present at the ranch; [redacted] criminal history for acts of violence; and available alternatives with lower risks. Additionally, a vehicle stop was ruled out due to [redacted] history of refusing to stop for law enforcement and maintaining weapons in his vehicle.

b6
b7C

It was concluded that the SWAT Team would be housed at the Motel 6 in Douglas and immediately respond once they were notified that [redacted] had left the RR compound. FBI agents located at the Border Patrol station, were monitoring cameras overlooking the compound. They were to report directly to the SWAT Team when [redacted] left the compound. It was also decided during this meeting that a SWAT Team briefing would occur on Tuesday, 9/14/2004, and a full briefing for all law enforcement personnel on Wednesday, 9/15/2004.

On Tuesday, 9/14/2004, at 5:00pm, a SWAT Team briefing was conducted by SA [redacted] in Phoenix. All SWAT Team members were present at the Phoenix briefing except SAs [redacted], and [redacted] SA [redacted] was the only Agent scheduled for duty on the first day of the operation. SA [redacted] was present for the second briefing held at the Sierra Vista RA. Also present at the Phoenix briefing was the SWAT Team Coordinator, SSA [redacted] and hostage negotiator, [redacted] Earlier that day, SA [redacted] wrote the operation order after having received specifics from the case Agent, SA [redacted] SA [redacted] operations order was general without specific duty assignments as the team members would vary to be rotated in and out of Douglas every couple days. SA [redacted] went over the operations order with the team during the briefing in Phoenix. He also read the Sierra Vista operation order section which provided subject and case information. During this briefing, the team was shown photographs of the ranch compound, [redacted] and his associates. SA [redacted] read the Deadly Force Policy verbatim to the team, putting specific emphasis on it because a new revision was just implemented. ASAC Mignone briefed SAC Thornton on 9/13 and 9/14/2004 on the options available to effect the arrest of [redacted]

b6
b7C

The operation schedule included the assignment of a certified SWAT Team EMT with the team while stationed in Douglas.

The two certified SWAT EMTs, SA [redacted] and SA [redacted] were not available for deployment on Wednesday, 9/15/2004. SA [redacted] advised the team that he would act as the EMT as he was a certified EMT in college. However, SA [redacted] has not been re-certified as an EMT since that time.

On Wednesday, 9/15/2004, at 12:00pm, a second briefing was conducted at the Sierra Vista RA. Present at this briefing were representatives from the Douglas Police Department, Cochise County Sheriff's Department, U.S. Border Patrol, Sierra Vista RA Agents, and all SWAT Team members on the first rotation which included SA [redacted] ASAC Mignone presided over the briefing and SSRA [redacted] provided a case overview. SA [redacted] presented a tactical overview. The briefing covered specifics of the arrest warrant, to include photographs and criminal histories of [redacted] They were briefed on the fact that [redacted] was considered armed and extremely dangerous; was wanted for Assaulting a Federal Officer; and provided information relating to [redacted] previous felony convictions. Attendees were also provided the latest intelligence from the surveillance camera monitoring the compound. More specifically, it was discussed that [redacted] and his associates had conducted firearms training with long guns at the ranch and that it was believed they were in possession of grenades, weapons, and improvised explosive devices.

b6
b7C

Agents were designated from the Sierra Vista RA to station themselves at the Border Patrol station and provide real time information regarding the activities observed via the pole camera monitoring the ranch. These Agents were also directed to notify ASAC Mignone and the local authorities as soon as the SWAT Team executed the arrest. During the afternoon and evening of 9/15/2004, SAs [redacted] and [redacted] were monitoring the camera at the Border Patrol station. On four or five occasions, SA [redacted] observed [redacted] walking around the compound with a long gun. On at least one occasion, SA [redacted] observed [redacted] hand the long gun to [redacted] This information was reported directly to the SWAT Team.

b6
b7C

On 9/15/2004, at approximately 3:00pm, SA [redacted] held a briefing with the SWAT Team at the Motel 6 in a room that was designated the command post. During this briefing, team members were reminded to keep their ballistic vests and handguns on from 6:00am to 11:00pm each day while on station. These were the hours Walmart remained opened and intelligence indicated that this was [redacted] usual stop if he left the ranch. Also, team members were briefed on a plan devised by SA [redacted] to be effected as [redacted] was seen leaving his ranch compound. The

SWAT Team was assigned as follows:

Teams: Back Road into Walmart: (Silver Dodge)
SA
SA

Gas station next to Motel 6: (Black Chevy Suburban)
SA
SA

Arrest Team, Walmart parking lot: (SWAT VAN)
SA
SA
SA
SA
SA

The arrest plan was designed to utilize three SWAT vehicles. The plan would allow to enter whatever establishment he went to, set up SWAT vehicles around his vehicle, and arrest him after he exited the establishment.

At approximately 10:12pm, SA observed and get into their van and leave the compound. SA immediately notified the command post that the van had left the compound. SA who was at the command post, notified SA who then instructed SA to get the SWAT team together. After the team was assembled, SA instructed the driver of the SWAT van to proceed to the Safeway parking, instead of Walmart, as he did not want it to be the only van in the Walmart lot that time of night. SA then contacted the Sierra Vista RA Agents and instructed them to notify ASAC Mignone the subjects were moving.

According to SA all SWAT team members were in their pre-designated positions between 10:10pm and 10:25pm, with the exception of the SWAT van, which was now in the Safeway parking lot. At approximately 10:25pm, SA was advised by SA that and just pulled into the Safeway parking lot and parked within a couple of spaces of the SWAT van. SA advised all team members by radio that and were positively identified as they exited their van and walked into the Safeway store. SA then drove his vehicle to the Safeway lot and positioned it, front bumper to front bumper, with van, to block him from driving away. SA positioned his vehicle to the south of van and the SWAT van, which allowed him to maintain a clear view of the Safeway entrance. SA then directed

b6
b7C

b6
b7C

SA [redacted] to re-position the SWAT van so the sliding door on the passenger side was facing away from [redacted] van. SA [redacted] did this to allow the arrest team to exit the van out of the sight of [redacted] and [redacted] and approach them from behind. It would also position the arrest team so their weapons would be directed away from the Safeway entrance.

At approximately 10:55pm, the two Sierra Vista Agents, SAs [redacted] and [redacted] who were stationed at the Border Patrol station, advised SA [redacted] that they were observing the SWAT teams position from a safe location near the Walmart. As SA [redacted] did not have a direct line of sight to the Safeway entrance, he directed SA [redacted] to notify the team when [redacted] and [redacted] exited the store and to give the execute order when they passed behind the SWAT van. Just prior to [redacted] and [redacted] exiting the store, a silver sport utility vehicle pulled into the parking space just between the SWAT van and [redacted] van. The passenger entered the Safeway. b6 b7C

At approximately 11:15pm, SA [redacted] advised over the radio that [redacted] and [redacted] were exiting the store. As they proceeded behind the SWAT van, SA [redacted] gave the command to execute the arrest. SA [redacted] turned on the emergency lights of his vehicle. SAs [redacted] and [redacted] exited the back of the van. SAs [redacted] and [redacted] exited the side of the van through the double doors. SA [redacted] was the first out the rear door with SA [redacted] directly behind him. SA [redacted] weapon was focused on [redacted] who was left of [redacted] SA [redacted] yelled, "FBI - Get on the ground now!" SA [redacted] yelled, "FBI! FBI! Get down, get down, get down."

SA [redacted] stated that [redacted] and [redacted] immediately started to run for a tactical position to [redacted] van. He advised that he saw [redacted] push the shopping cart away from him and then turn and launch something to them with his left hand. It was later determined that [redacted] had an open water bottle that spewed liquid when he turned. SA [redacted] advised he thought [redacted] was making a tactical move to buy time to go for a sidearm. SA [redacted] stated, "I believed [redacted] wanted to shoot us." SA [redacted] advised he knew SA [redacted] was covering [redacted] and therefore turned his attention to [redacted] who was facing away from him and running toward the van. SA [redacted] observed SA [redacted] duck as [redacted] threw something at him. SA [redacted] stated, "I saw [redacted] reach down with his left hand to his left hip as if going for a gun from a holster. [redacted] turned to his left as he did this." Further, SA [redacted] explained, "I knew if [redacted] pulled a gun and fired, he would hit SA [redacted] point blank killing him. I thought I might be shot, as well as SA b6 b7C

[redacted] and SA [redacted] but I knew SA [redacted] would be killed. As [redacted] left hand went down and he turned, I fired one shot." SA [redacted] recalled he had his red laser sight on the left side of [redacted] rib cage below the armpit. After the shot, [redacted] continued to turn to his left and fell down out of SA [redacted] sight. SA [redacted] advised he believed the immediate threat from [redacted] was gone. He then reacquired his sight on [redacted] and covered him until SA [redacted] handcuffed him. SA [redacted] and other Agents heard [redacted] yell, "What did you guys shoot me with, a rubber bullet?" SA [redacted] stated that shortly thereafter, SA [redacted] asked him what happened to which he responded, "I shot." When asked how many times he responded, "One time." SA [redacted] advised SA [redacted] "The big guy made a movement like going for a gun. He turned toward us and I shot." SA [redacted] advised that SA [redacted] secured his weapon. SA [redacted] weapon was entered into evidence at the Phoenix Division. SA [redacted] stated he was wearing his ballistic vest underneath his shirt. His badge was clipped to the front of his shirt. b6 b7C

Within minutes of the shooting, the paramedics and members of the Douglas Police Department arrived at the scene. [redacted] was taken by paramedics to the hospital where he underwent surgery to remove the bullet. The Nurse at the University Medical Center advised it appeared [redacted] would survive his wounds. [redacted] was also transported to the hospital as he complained of a twisted ankle when he went to the ground during the arrest. The Douglas Police Department processed the crime shortly thereafter and took photographs of all SWAT members with their credential numbers over their faces. This is a normal procedure in Arizona as it protects the identity of police officers.

A search of [redacted] van revealed one loaded, silver and black Armi Tanfoglio Giuseppe pistol, serial number T 25084, with one magazine carrying .380 caliber ammunition. This weapon was completely visible in the center console area. There were seven rounds in the magazine and one round in the chamber. Also found during the search was one silver Waffenfabrik Mauser Pistol, 7.63 caliber, serial number 427299. It was located inside a brown holster which was attached to a black canvas belt. The black canvas belt contained two pouches. One pouch contained ten 12 gauge shotgun shells and the other contained four strips of 7.63mm ammunition. Each strip contained 10 rounds of ammunition. It was determined that neither [redacted] nor [redacted] had firearms on their person during the arrest. b6 b7C

The weather was clear, temperature was 71.1 °F, wind speed was 3.5mph traveling east, and visibility was 10 miles.

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/21/2004

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Thornton Charlene B
Grant Robert D

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271464-D

b6
b7C

**Title:** SHOOTING INCIDENT
DALLAS DIVISION
04/21/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/21/2004, involving Special Agent (SA) [redacted] During a required firearms training session, SA [redacted] inadvertently placed his left hand index finger in front of the barrel of an MP5-10/A prior to discharging the weapon. As he fired the weapon, SA [redacted] shot off the first two top sections of his finger. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures.

**Administrative:** Reference Electronic Communication of Assistant Special Agent in Charge Daniel D. Dubree, dated 05/21/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 04/21/2004, the Dallas Division was conducting a required session of quarterly firearms qualifications. The session was entering it's third day which began with class instruction and the order of firearms qualification courses to be shot that day. Classroom instruction was followed by a defensive tactics class. At the conclusion of the class, Agents assembled at the pistol range and prepared for qualification.

Principal Firearms Instructor (PFI) [redacted] provided a weapons familiarization overview of the MP5/M16 weapons as well as the different functions between the MP5 nine millimeter and ten millimeter. PFI [redacted] also provided a lecture regarding the operation of the safety, magazine loading level, bolt action, and sighting system. The participants completed the qualifying course without incident.

Upon conclusion of the MP5/M16 qualification course, participants assembled in a group while PFI [redacted] provided an overview of the next course of fire, which was a combat course. The course consisted of two Agents firing simultaneously at separate targets. b6 b7C

SA [redacted] took a position at the right barrel operating the MP5 ten millimeter. As PFI [redacted] gave a verbal command, SA [redacted] began positioning himself in a kneeling shooting position. His right knee was on the ground with the weapon placed against his right shoulder. As SA [redacted] was attempting to get the correct shooting posture and sight picture, Instructor Marjorie [redacted] observed SA [redacted] s left hand grasping the weapon's forearm. He then suddenly moved his left hand index finger over the end of the weapon's barrel and fired the weapon. Instructor [redacted] recognized SA [redacted] error before he fired the weapon, however, she could not reach him before he discharged the weapon. The round impacted SA [redacted] index finger just above the first knuckle. Agents on the scene administered immediate first aid before the arrival of an ambulance.

SA [redacted] left hand index finger was partially amputated at the hospital.

On 10/13/2004, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector Robert D. Grant, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted], Deputy Chief, Domestic Security Section, Criminal Division, USDOJ [redacted], Assistant Section

Chief, Operational Support Section, Criminal Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), National Firearms Program, Training Division (TD); [redacted], UC, CD-6B, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Firearms Training Unit, Training Division (TD); SSA [redacted], Operational Skills Unit, TD; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] National Firearms Program, TD; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). The two non-voting members present were [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division; and [redacted] Intern, Leadership Development Institute, Training and Development Division, Quantico.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that SA [redacted] did not adhere to routine firearms safety procedures. Members noted safety rules dictate that a firearm should be pointed down range or in a safe direction at all times and Agents should always be aware of potential dangers in any direction the weapon is pointed. This discussion resulted in a recommendation that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures.

To: Inspection From: Inspection
Re: 297-HQ-A1271464-D, 10/21/2004

**LEAD(s):**

**Set Lead 1: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That SA [redacted] be censured and suspended from duty for a period of three days for his failure to employ routine firearms safety procedures. Additionally, SA [redacted] should receive remedial firearms training regarding proper handling of firearms and this training should be properly documented.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, include in the SAC's copy of the letter of suspension, the need for remedial firearms training for SA [redacted] regarding the proper handling of weapons. Additionally, the letter should advise that this remedial training should be properly documented and that a copy of the documentation should be forwarded to the SIRG Chairman upon completion.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Ms. Will, Room 11255B
1 - Mr. Grant, Room 7837
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted]om 5155
1 - Ms. Harrison, Room 6050
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Room 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr [redacted]
1 - Ms. [redacted] Room 7326
1 - Mrs [redacted] Room 7861

♦♦

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to: FBIHQ/Inspection Division

Report of: Inspector [redacted] Office: Inspection Division b6 b7C
Date: 06/01/2004

Case ID #: 297-HQ-A1271903-D

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT;
RICHMOND DIVISION
05/14/2004;
INSPECTION MATTER

Character: ADMINISTRATIVE INQUIRY

Synopsis: This Administrative Inquiry was initiated subsequent to a shooting incident which occurred in Richmond Division, Chesterfield County, Virginia, on 05/14/2004.

- P -

DETAILS:

The Richmond Division of the FBI was conducting an investigation into the drug trafficking activities of Glen Joseph Sweeting. The investigation was initiated after Glen Sweeting was identified through law enforcement and source information as a major supplier of heroin in the Richmond, Virginia, area. Probable cause was established and a court order obtained to initiate Title III coverage on [redacted] which began on [redacted] b3

This intelligence was in conjunction with information received that a relative of Sweeting was recently arrested with four kilos of cocaine and $400,000 in cash. In addition, the Drug Enforcement Agency (DEA) in Richmond targeted several associates of Sweeting and held in abeyance several arrests so as not to jeopardize the FBI investigation. Due to these factors, the decision was made to arrest Sweeting, at which time verbal authorization was obtained from Assistant United States Attorney (AUSA)

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] Eastern District of Virginia, for violation of Title 21, U.S.C., Section 841(a)(1) and 846. Further, search warrants were obtained for Sweeting's residence and the residences of three close associates.

[redacted]

b3
b6
b7C

It was anticipated Sweeting would be arrested following this meeting, but upon returning to the Richmond area Sweeting stopped at a residence in Powhatan, Virginia, described as an isolated rural area. Surveillance was initiated on the location. However, information revealed the drug transaction with his associate would not occur until the next day, May 14, 2004. At this point the surveillance was terminated. A plan was then developed to reinitiate surveillance on Sweeting at the Powhatan location at 6:00 a.m. on May 14, 2004, and included a plan to conduct Sweeting's arrest and related search warrants. A meeting was scheduled for 5:00 a.m. on May 14, 2004, at the Chesterfield County Police Department (CCPD) substation to brief participants on the arrest and search plan. During the briefing, the Case Agent, Special Agent (SA) [redacted] who drafted the arrest and search plan, Special Agent in Charge (SAC) Donald W. Thompson, Jr., Assistant Special Agent in Charge (ASAC) Robert Gwaltney and Supervisory Special Agent (SSA) [redacted] all who reviewed and approved the plan, briefed the participants regarding the arrest of Sweeting and his associate and subsequent searches.

During the briefing, participants were advised Sweeting should be considered "Armed and Dangerous." This statement was based on Title III intercepted conversations regarding Sweeting's penchant for violence. For example, [redacted]

[redacted]

b3
b6
b7C

The surveillance of Sweeting at the Powhatan location was established at approximately 6:00 a.m. on May 14, 2004. Due to an interruption in ariel coverage, Sweeting's whereabouts were

unknown. Later that morning, Sweeting's vehicle was located at his residence on Queen Elizabeth Avenue, in Chesterfield County, Virginia, and information from the Title III revealed [redacted] b3

The initial operation plan was modified to conduct a traffic stop and arrest Sweeting after he left his residence prior to approaching the main road. The Special Weapons and Tactics (SWAT) Team Leader gave specific and detailed instructions to each SWAT team member. The plan included two SWAT vehicles to sit parallel on each side of the road with a CCPD-MARKED unit between them. Another vehicle, occupied by a SWAT team member, was to set up surveillance on Sweeting and notify his leaving the residence. After Sweeting passed, this vehicle was to pull behind Sweeting, and act as a blocking vehicle, boxing him in, in order for an Agent to call Sweeting out of his vehicle to be handcuffed and placed under arrest.

Once Sweeting's vehicle approached the anticipated arrest location, the CCPD marked unit pulled in front of the vehicle occupied by Sweeting, activated its lights and siren, and the two SWAT vehicles pulled along each side of Sweeting's vehicle and identified themselves as FBI and issued commands to place Sweeting under arrest. Sweeting's vehicle stopped momentarily, then backed up at a high rate of speed and steered around the blocking SWAT vehicle, turning 180 degrees, heading in the direction of his residence. One SWAT vehicle overtook Sweeting's vehicle and attempted to cut him off. Sweeting struck this SWAT vehicle. A second SWAT vehicle then engaged Sweeting's vehicle on the passenger side, causing both vehicles to become coupled at the front wheel well. Although forward progress of Sweeting's vehicle was impeded, it continued to push forward. Sweeting's vehicle then attempted to backup, with the engine revving and tires spinning. Interviews of Agents determined if Sweeting's vehicle disengaged, Agents and other law enforcement personnel were in imminent danger of serious bodily injury or death. Additionally, if Sweeting was successful in returning to his residence, there was the possibility of him retrieving a weapon and creating a hostage situation.

The vehicle that overtook Sweeting's vehicle was occupied by SA [redacted] who was located in the passenger seat. After Sweeting's vehicle rammed the vehicle occupied by SA [redacted] and its forward progress impeded, Sweeting attempted to back away. SA [redacted] had the passengers' window down and was looking directly at Sweeting, who was yelling and screaming in a state of rage. SA [redacted] did not know what Sweeting was saying, but he (SA b6 b7C

[redacted] was yelling at Sweeting to stop the car. During this time the other SWAT team SAs exited their vehicles. SA [redacted] observed another SWAT vehicle alongside the passenger's side of Sweeting's vehicle and the marked CCPD unit behind. SA [redacted] also observed SWAT team members on foot to the left and right of the vehicle he occupied. SA [redacted] believed Sweeting was attempting to back into the marked unit to create enough space and gain momentum and continue his escape. SA [redacted] believed Sweeting's vehicle was no longer contained and placed a direct threat of imminent danger of serious bodily injury or death to himself, the SWAT team members on foot, and other law enforcement personnel taking cover behind their respective vehicles. At that moment SA [redacted] fired one round from his MP-5, striking Sweeting in the chest. Immediately afterwards, he [redacted] observed Sweeting lean forward and put the vehicle in the park gear at which time it stopped moving. The subject looked at SA [redacted] and SA [redacted] continued issuing commands to "let me see your hands," while continuing to focus his weapon on the subject. As a SWAT team member approached the vehicle, SA [redacted] observed Sweeting convulse and the engine began revving again. The SWAT team member opened the door, turned the vehicle off and yelled for a medic. Sweeting was pronounced dead at the scene.

b6
b7C

During the course of the drug investigation of Sweeting, the Richmond Division employed Title III [redacted]

b3

While the audio does not confirm events in detail, it does support the facts that Sweeting was initially stopped by the arrest team, attempted to evade his arrest with the aid of his vehicle, and did not comply with the instructions of the arrest teams at the initial stop and subsequent second vehicle stop.

b3
b6
b7C

Noted in SA [redacted] statement was the fact he was wearing full tactical equipment, to include green jumpsuit, Bureau issued body armor, ballistic helmet, and safety glasses and was seated in his Bureau vehicle when he discharged his weapon. [redacted]

[redacted] b3

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIC [redacted] Office: Inspection Division
Date: October 21, 2004

b6
b7C

Case ID #: 297HQ-A-1271903-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
RICHMOND DIVISION
MAY 31, 2004

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred while an FBI Agent and a Stafford County, Virginia Deputy Sheriff attempted to arrest Kelvin Jerrell Clark based on State of Tennessee arrest warrant charging Jerrell with bank robbery. Jerrell was also suspected of involvement in a homicide. The Medical Examiner has determined that Clark died of a self-inflicted gunshot wound.

DETAILS:

The Richmond Division's involvement in this matter was based on a lead from Memphis, dated 05/26/2004 in which Memphis described Clark's involvement in a Memphis bank robbery and possible involvement in a homicide. Clark was described as armed and dangerous with whereabouts unknown. Richmond's lead was to locate a certain black Mazda vehicle and conduct a consent search. Case Agent [redacted] shared this information with the SCSO attempting to locate the vehicle and locate Clark. [redacted] had prepared and distributed a wanted flier of Clark.

On 05/31/2004, at approximately 4:00 pm SA [redacted] learned that the Stafford County Sheriff's Office (SCSO) had stopped that Mazda vehicle and were "set up" at an apartment complex where Clark was believed to be located. [redacted]

b6
b7C
b7D

The SCSO was to arrest Clark as he left the building. Clark stated that he had seen police cars in the area and was not leaving.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

At 5:07 pm SA [redacted] contacted the Richmond Division and reported a barricaded subject situation, with no instruction to contact SSRA [redacted] or any Division management. SA [redacted] had also confirmed that there were no federal warrants for Clark, just a state arrest warrant.

SA [redacted] contacted SA [redacted] and advised SA [redacted] to go to the apartment where Clark was located and meet with SCSO personnel. SA [redacted] was later advised that SA [redacted] was in his vehicle with SCSO Deputy [redacted] watching another vehicle associated with Clark. Marked police cars were removed from the area to allow SA [redacted] and Deputy [redacted] maintain surveillance in SA [redacted] unmarked Bucar. SCSO intended to place a second ruse telephone call to lure Clark out of the apartment and arrest him via a tactical operation of the SWAT Team. While in SA [redacted] car, Deputy [redacted] and SA [redacted] discussed the various situations in which to confront Clark, if Clark appeared.

b6
b7C

At approximately 5:24 pm, prior to a ruse telephone call, Clark left the apartment building and entered the vehicle. SA [redacted] drove his Bucar to the rear of Clark, blocking him in as cars were parked to each side of Clark.

SA [redacted] exited the driver side and Deputy [redacted] exited the passenger side, rushing to Clark's car. SA [redacted] and Deputy [redacted] announced their identities. Deputy [redacted] was able to see a gun in Clark's hand and warned SA [redacted] SA [redacted] an opened the driver door of Clark's car, ordering him to show his hands. Clark continued to lift his right hand still holding a gun. SA [redacted] fired one round hitting Clark in the left arm which continued through and penetrated Clarks's upper torso. According to the Medical Examiner Report, Clark, just before, or simultaneous with SA [redacted] shot, shot himself through the head. The round exited through the vehicle roof and was not recovered. The cause of death was determined to be Clark's self-inflicted gun shot wound.

SCSO and FBI ERT responded to the scene. SCSO deferred investigation to the FBI. A neighborhood canvass was conducted and one eyewitness was identified. This witness is [redacted] whose statement is included in this report. The only other eyewitness is Deputy [redacted] whose statements are also included. SA [redacted] declined to give a voluntary statement. FBI ERT collected evidence and processed the crime scene. SCSO sketches were provided to the FBI and included in this report.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC HERBERT M. BROWN Office: Los Angeles
Date: 08/06/2004

Case ID #: 297-HQ-C1271741-D
66F-LA-238202

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION;
JUNE 2, 2004

Character: ADMINISTRATIVE INQUIRY

Synopsis:

On June 2, 2004, Special Agent (SA) [redacted] credential number [redacted] assigned to the Los Angeles Division of the Federal Bureau of Investigation (FBI), was on duty in his capacity as a Los Angeles FBI SWAT team member. He and his partner, SA [redacted] credential number [redacted] also assigned to the Los Angeles FBI SWAT team, were together in a vehicle surveilling a bank in Buena Park, California. On this date both SA [redacted] and SA [redacted] were involved in a shooting incident at this location. The background of this case is as follows:

b3
b6
b7C

The Los Angeles FBI bank robbery squad was conducting an investigation involving a group of individuals associated with several takeover bank and business armed robberies. The file number of this case is 192C-LA-237071. A Title III was obtained to monitor [redacted]

Based on this information, the bank robbery squad solicited the assistance of the Los Angeles FBI SWAT team. The SWAT team was being asked to intervene and stop the subjects should they make an attempt to rob

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

the institution. The assistance of the Los Angeles Police Department (LAPD) was also obtained. They were being asked to surveil the main subjects who were living in the area of South Central Los Angeles. The surveillance of the main subjects by the LAPD and the bank itself by the FBI SWAT team was conducted on May 18th, 19th, 21st, 26th, and 28th. Due to a variety of reasons to include the robbery crew not being able to get a vehicle and a weapon(s), no attempt was made to rob the bank.

On June 2, 2004 at approximately 7:30 am the bank robbery squad once again asked for the assistance of the FBI SWAT team and the LAPD. A briefing was conducted at a park located near the Los Angeles National Bank in Buena Park. Photographs of some potential subjects and an update as to what was being stated on the Title III was given. It was reiterated from an earlier briefing that the subjects had "scouted" out the bank previously. The SWAT team agents were told the subjects were still attempting to obtain weapons to rob the bank as well as getting vehicles to use. It was mentioned the subjects had possibly gotten a .357 Magnum handgun but were looking for ammunition. The operational plan for the FBI SWAT team was to set up a perimeter around the bank. Their primary mission for the SWAT team was to intervene and prevent any robbery of the bank. Should they be unable to stop the robbery from taking place, the SWAT team was to conduct a felony stop on the subject vehicle following the robbery. They were to then arrest the subjects involved in the robbery. The FBI deadly force policy was also reiterated during this briefing.

The different SWAT team members were given their assignments on this date. SA [redacted] and SA [redacted] were working in their capacity as Los Angeles FBI SWAT team members. SA [redacted] was to be the driver of one of three vehicles to be positioned to the north of the bank's north side parking lot. SA [redacted] was to be in one of the other vehicles also assigned with SA [redacted] Should the subjects actually rob the bank these SWAT team members were to either block the subject vehicle from escaping or be the arrest team. This would depend on the direction the subject vehicle were to leave the scene. In addition, the SWAT team had a stationary white van parked in the north bank parking lot to observe the inside of the bank should the subjects rob the institution.

b6
b7C

Once SA [redacted] and SA [redacted] were in their assigned position, another FBI SWAT team member arrived. At

approximately 10:30 am SA [redacted] allowed this agent to take his location while he moved to SA [redacted] white Ford Explorer and took a position in the rear seat. The two of them discussed what they would do should the robbery take place. b6 Both agents were in possession of an FBI issued M-4 Carbine b7C rifle. Their vehicle was to be third in line of the three SWAT vehicles assigned to block the subject's vehicle or arrest the subjects. The other FBI SWAT vehicles were being driven by SA [redacted] and SA [redacted] respectively. The agents on site were monitoring the FBI SWAT Tactical Operations Command (TOC) which was providing updates via the tactical radio. The TOC provided both information from the Title III conversations as well as the LAPD who were physically monitoring the actions of the main subjects.

At approximately 11:00 am the TOC advised the subjects had obtained a weapon and ammunition (possibly one bullet). Additional information relayed was that the subjects had all the people and vehicles they felt they needed to commit the robbery. Sometime around 11:30 am the TOC stated the LAPD had observed the subjects leaving South Central Los Angeles headed in the general direction of where the bank was located. The subject's had a total of three vehicles and the LAPD was going to surveil them.

The plan agreed upon by the FBI and the LAPD was for the police department to surveil the subjects until they were to get close to the vicinity of the bank. At this point the surveillance was to be turned over to the FBI surveillance teams and FBI SWAT vehicles. When the subject vehicles reached the Knott Avenue exit from the 91 Freeway eastbound, the LAPD relinquished the surveillance and the FBI took over. Due to the number of subject vehicles involved, their location on the road, and the positioning of the FBI vehicles, a felony vehicle stop could not safely be conducted.

As FBI vehicles were making efforts to try and reposition themselves for vehicle stops, one of the subject vehicles drove past the south side of the bank on Orangethorpe Avenue traveling westbound. It then turned north on Knott Avenue, drove a few yards, and then made an immediate turn into the west exit of the bank's north parking lot. This vehicle was a grey colored Chevrolet Astro van.

The FBI SWAT vehicle which had been placed in the lot advised they had a clear visual on the actions of the subject van. They relayed via the radio that there were four

black males in the subject van. They stated the van had backed into a parking slot on the north side of the bank near an entrance. The SWAT agents also advised they had observed a silver colored revolver in the hand of one of the subjects when he exited the vehicle.

The SWAT agents in the parking lot then observed two of the subjects enter the bank, followed soon after by one other individual. The agents were able to see some of the actions of the robbers while inside the bank. One of the subjects stayed with the subject van during the robbery.

SA [redacted] and SA [redacted] followed the other two FBI SWAT vehicles which had been positioned on the north side of the bank behind an adjacent building. The three vehicles drove onto Knott Avenue and waited behind the building and out of the sight of the subject van. It was decided once the agents in the lot advised the subjects had finished the robbery and that the van was moving, the three SWAT vehicles would enter the west exit of the bank lot to block it from escaping. b6 b7C

The SWAT agents assigned to the parking lot stated they observed the subjects enter the van. They then reported the van was traveling westbound towards the west exit of the bank lot. The three SWAT vehicles drove onto the lot in an attempt to block the subject van from escaping. The subject van, upon seeing the SWAT vehicles with their emergency lights activated, began driving at a high rate of speed in the direction of the SWAT vehicles. The first SWAT vehicle being driven by SA [redacted] tried to swerve in front of the subject van as it too swerved to avoid being stopped. The two vehicle's collided causing damage to the left front of both vehicles. This collision caused the subject van to bounce sideways and strike a parked vehicle in the bank lot. In addition, the sudden stopping by the first SWAT vehicle caused the second SWAT vehicle to run into the rear of the first one.

The subject van was able to squeeze between the first SWAT vehicle and the parked vehicle which had just been struck. The subject van continued forward and began driving in a northwesterly direction which caused it to drive over a short wall which was adjacent to an alley which ran behind the bank's parking lot. After entering the alley it then struck a small pickup which had been parked in the alley. The subject van still continued westbound and struck yet another parked pickup which had been facing north on Knott Avenue.

As the subject van was attempting to escape, SA [redacted] began a pursuit of the van. SA [redacted] also drove over the short wall and began to follow the subject vehicle. He observed the subject van strike the two vehicles and then continue westbound where it collided with a median in the center of Knott Avenue. The subject van cleared the median and then make an immediate turn to the right causing it to land in the number one lane facing north in the southbound lane. The vehicle apparently sustained enough damage to cause it to come to a stop after traveling only a few more yards. b6 b7C

SA [redacted] who had been making an effort to catch up to the subject van, was now driving north in the northbound lanes on Knott Avenue. He planned on trying to parallel the vehicle if it continued northbound when it came to a sudden stop. SA [redacted] attempted to stop immediately but ended up just a few feet south of and almost parallel with the subject vehicle. The Knott Avenue median was between them.

As soon as SA [redacted] vehicle came to a stop he was able to observe three of the occupants of the van exiting their vehicle. He saw the passenger in the front seat begin to exit, but he could not see his hands. The interior of the vehicle was dark and there was a tree which caused enough shade to make it even more difficult to see clearly. SA [redacted] knew the subjects had assaulted other agents with their vehicle in an effort to escape. He also knew they had just robbed a bank using a weapon. SA [redacted] advised he was in fear for the life of his partner and himself due to the circumstances. The subject continued to exit the van with his hands hidden from SA [redacted] view. It was at this point SA [redacted] shooting through the open window of his vehicle, fired two rounds in the direction of the subject. He stated just before he fired he believed he heard other shot(s) but he was not certain if they were coming from the subject van or another location. He believes both of his rounds missed the subject and struck the right front of the subject's van. b6 b7C

SA [redacted] while sitting in the rear seat of the SWAT vehicle, observed the sliding door on the passenger side of the subject van opening as SA [redacted] brought their vehicle to a stop. He believed he saw something in one of the hands of a subject who was exiting the van. The item appeared to be a weapon as it was the approximate size and shape of a handgun. SA [redacted] knew the subjects in the van had just committed a bank robbery, had assaulted his fellow SWAT team members with their vehicle, and had used a weapon during the

bank robbery. They appeared to be willing to commit more violent acts in an effort to escape. Upon seeing what he believed to be a handgun, SA [redacted] felt the life of SA [redacted] and himself were in imminent danger so he made the decision to shoot at the subject. He fired one round through the SWAT vehicle's open window and in the direction of the subject who began falling forward just as SA [redacted] was pulling the trigger of his weapon. The round missed the subject and impacted on the right front fender of the subject vehicle. He did not fire again because after the first round SA [redacted] could not determine if the subject still had the weapon. He also could not see the subject clearly enough to take a safe shot. Both agents stated the reason they had fired was because they did not believe they had any other option other than that of deadly force.

b6
b7C

All four of the subjects had fled on foot from their van and were captured within a few moments by the FBI SWAT team. A .357 Magnum revolver was located behind the driver's seat of the subject's van on the floor. The Buena Park Police Department responded to the scene and assisted in perimeter control. Detective [redacted] was the on scene commander for the police department.

The Los Angeles FBI Agent Involved Shooting (AIS) team responded to the location to conduct the shooting investigation. Det. [redacted] from the Buena Park Police Department was consulted and agreed to let the FBI conduct both the bank robbery and shooting investigation. The department offered their assistance throughout the incident. The LAPD was present but did not conduct any investigation at the scene.

The Los Angeles FBI Evidence Response Team also responded and conducted the entire crime scene examination. This included evidence for both the bank robbery and the shooting incident. The Los Angeles FBI photography lab, along with the assistance of the Los Angeles FBI aviation unit from SOG, took aerial photographs of the crime scene. Interviews of the victims and witnesses were conducted by Los Angeles FBI agents.

FBI agents conducted an examination of the area to determine where the rounds that had been fired struck. Two of them were found to have impacted the subject's van (on the front fender and the mirror) and the third struck a parking sign on the west side of Knott Avenue. All three casings were

located in the SWAT Ford Explorer driven by SA [redacted] No area hospitals reported any type of injuries being sustained by the public following the shooting incident.

The FBI EAP responded to the location along with the Los Angeles Chief Division Counsel. None of the subjects were injured and no FBI agents were harmed during the shooting incident. All of the parked vehicles struck by the subject van were unoccupied. b6 b7C

The subjects involved in this matter are all currently in custody. Their weapon was retained as evidence by the Los Angeles FBI Bank Robbery squad. The Chevrolet Astro van was determined to have been stolen. The vehicle was transported from the crime scene and later processed by members of the Los Angeles ERT at the Los Angeles FBI facility.

Following the incident, Assistant United States Attorney [redacted] and Orange County District Attorney [redacted] were both notified. After obtaining the basic facts and circumstances concerning the shooting incident, both the U.S. Attorney's office and the Orange County District Attorney declined any criminal prosecution of SA [redacted] and SA [redacted]

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/27/2005

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Hertz Kimberly K

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271789-D

b6
b7C

**Title:** SHOOTING INCIDENT
NORFOLK DIVISION
06/17/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/17/2004, involving Special Agent (SA) [redacted] During the execution of an arrest warrant, SA [redacted] fired six rounds from his Bureau-issued Glock Model 22, .40 caliber pistol killing two individuals attempting to elude arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of former Inspector [redacted] dated 07/29/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 06/03/2004, a Task Force Officer (TFO) assigned to the Norfolk Division's Violent Crimes and Major Offenders Task Force advised that a Detective from the Virginia Beach Police Department (VBPD) requested the FBI's assistance in locating and arresting violent fugitive Calvin Alexander Baxter. Baxter was described as a violent gang member with outstanding warrants for murder and other crimes of violence as well as firearms violations.

A preliminary investigation revealed Baxter's extensive criminal history and his propensity for violence. Although not affiliated with the national Bloods gang, Baxter was a member of a neighborhood gang identifying themselves as the Bloods. Members of the local gang wore red to identify themselves and were involved in an ongoing gang war with another neighborhood

gang. The VBPD was in possession of eleven outstanding warrants for Baxter's arrest for crimes of violence, including discharging a weapon in an occupied building. A wanted poster disseminated for his arrest described Baxter as angry, violent, and probably armed. Additionally, the VBPD advised Baxter used a shotgun to shoot at a rival gang member in a busy commercial area resulting in return gun fire. No injuries were incurred as a result of the gun battle; however, vehicles belonging to bystanders were hit. Information was obtained by the VBPD that Baxter traded crack cocaine for weapons and places to stay, as well as using cellular telephones belonging to others. Investigation verified Baxter was a drug trafficker, was wanted by the police, and was aware that he had violent enemies.

On 06/16/2004, SA [redacted] met with his supervisor, SSA [redacted], to update him on the investigation regarding Baxter. SA [redacted] advised SSA [redacted] of his plans to locate, and if possible, arrest Baxter on 06/17/2004. SSA [redacted] ensured SA [redacted] had enough experienced SAs and officers to effect the arrest, a marked unit would be on scene to assist, and that everyone would be present at a briefing prior to attempting to locate and arrest Baxter. SSA [redacted] told SA [redacted] to continue with his plans to locate and arrest Baxter and to keep him advised of any developments in the investigation. After the meeting, SSA [redacted] advised the ASAC of the plan to attempt to locate and arrest Baxter on the following day.

b6
b7C

Based on office policy, no written Operations Plan was prepared for this incident. The Norfolk Division did not require a written Operations Plan for attempts to locate and arrest fugitives where the facts and circumstances were not sufficiently defined and were likely to quickly and substantially change during attempts to locate the fugitive. Instead of a written plan, SSA [redacted] ensured sufficient trained and experienced personnel were present, as well as the presence of a marked unit to provide maximum visibility and assistance if needed, and that the personnel met and orally reviewed general plans and tactics before leaving the office.

b6
b7C

On 06/17/2004, at 6:30 a.m., SA [redacted] met with, briefed, and discussed the investigation and the plans to locate and arrest Baxter with SAs [redacted] and [redacted], as well as detectives from the Chesapeake Police Department (CPD) and the VBPD. An agreement was made that a detective from the CPD would arrange for a uniformed patrol officer and patrol car to meet them for a briefing after they assumed positions around Baxter's location.

All participants agreed SA [redacted] would direct the operation and the first step would be to gather and set up on the

address of Baxter's location to observe the vehicles and activity at the address and brief the uniformed patrol officer. SAs [redacted] and [redacted] were assigned to be in one FBI vehicle, SA [redacted] and CPD Detective [redacted] were assigned to a second FBI vehicle, and VBPD Detective [redacted] and Officer [redacted] were assigned to be in an unmarked VBPD vehicle. They agreed that after everyone was set up and the patrol officer was briefed, the VBPD participants would attempt to contact their source to make a pretext telephone call to a cellular number listed on the subject apartment records for the individual renting the apartment to determine her location as well as the location of Baxter. If the plan was unsuccessful, a second option was to have Officer White make a pretext call to the apartment renter's cell phone. The third option discussed was the possibility of approaching the apartment and doing a knock and talk; however, participants were concerned about the risk of Baxter learning about his impending arrest if he was not inside the residence at the time of the knock and talk. A final decision was made that the participants would decide whether to approach the apartment, conduct interviews, walk away and return on another day, or effect an arrest, based on their surveillance observations. b6 b7C

SA [redacted] advised all participants if it was determined Baxter was inside the apartment, he would direct team members on how to effect the entry and arrest. The Norfolk Division standard operations required a perimeter team to secure the residence and an arrest team to knock and announce and then enter and clear the residence. During the briefing, SA [redacted] advised if they had to approach the apartment, SA [redacted] and Detective [redacted] would cover the rear of the apartment, and he would lead the approach and/or entry and arrest team from the front of the apartment. b6 b7C

All of the participants departed the Norfolk FBI office together at approximately 7:10 a.m., notifying the office by radio of their departure to the Fireside Road location. They arrived at the location approximately ten minutes later and were in position by 7:30 a.m. SAs [redacted] and [redacted] set up in the parking lot of another apartment complex across the street where they could view apartment #2 at Fireside Road. SA [redacted] and Detective [redacted] set up farther down the street in another parking lot with a view of the rear of the apartment building of apartment #2, and Detective [redacted] and Officer [redacted] set up in the parking lot immediately behind the building where the subject apartment was located.

SA [redacted] established radio communication with the other units, determined their locations, determined they had a view of the rear of the subject apartment, and asked the detectives to call for the marked unit and reach out for the

source to make the pretext call. The detectives completed the instructions issued by SA [redacted] and were waiting for the source to call back.

Approximately fifteen minutes after the SAs and local law enforcement personnel arrived on the scene, Officer [redacted] arrived in a patrol car and contacted Detective [redacted] and SA [redacted] As Officer [redacted] made contact, SAs [redacted] and [redacted] observed a gray Jeep Cherokee pull into the parking space in front of apartment #2 and a light skinned male who appeared to be in his 40s exit the vehicle and enter the subject apartment. SA [redacted] radioed, "clear the net, we've got a gray Jeep pulled in front of number 2. The individual in the gray Jeep has entered apartment #2." Officer [redacted] was directed to meet with Detective [redacted] and Officer [redacted] to receive further information and to view a photograph of Baxter. While Officer [redacted] was being briefed, SAs [redacted] and [redacted] saw the same individual exit the apartment accompanied by a second individual who matched the physical height, weight, and general description of Baxter. SA [redacted] told SA [redacted] he believed the second person was Baxter. SA [redacted] confirmed the individual matched the description of Baxter and SA [redacted] via radio, advised other units, "we've got subjects coming out, but they're moving." SA [redacted] responded, "let me know what you want to do, [redacted] and SA [redacted] radioed, "to move in."

b6
b7C

SAs [redacted] and [redacted] immediately drove across the street and into the parking lot where the Jeep was parked, moving into a position at an angle to the rear of the Jeep, blocking its exit. As they approached the vehicle and got a better look at the second black male, both of the Agents were sure it was Baxter. As the Agents came to a stop, both individuals were seated inside the Jeep with the light skinned male positioned in the driver's seat and the individual believed to be Baxter positioned in the front passenger seat. SAs [redacted] and [redacted] exited their vehicle, with guns drawn, shouting FBI and told the individuals in the Jeep, "don't move, get out of the car." SA [redacted] approached the driver's side of the subject vehicle and SA [redacted] approached the passenger's side.

b6
b7C

SA [redacted] and Detective [redacted] pulled into the parking lot to the rear passenger side of the other Bureau vehicle, and exited the vehicle. Detective [redacted] observed an individual, believed to be Baxter, in the passenger seat of the Jeep, attempting to flee out of the driver's side of the vehicle. Detective [redacted] shouted, "Police, let me see your hands." He approached the driver's side of the Jeep with his gun drawn to prevent Baxter from escaping. SA [redacted] exited his vehicle and approached the passenger side of the Jeep, while identifying himself and shouting commands. SA [redacted] unsuccessfully attempted to open the passenger side door of the vehicle.

Officer [redacted] pulled into the parking lot behind SA [redacted] vehicle, observed SA [redacted] pulling on the passenger door handle in an attempt to open the passenger door, exited his vehicle with his weapon drawn, and proceeded to assist Detective [redacted] on the driver's side of the Jeep. Detective [redacted] and Officer [redacted] drove to the side of the building and Detective [redacted] ran to the front to assist the SAs and officers while Officer [redacted] covered the rear of the apartment.

It appeared Baxter, who was in the front passenger seat, initially attempted to crawl out of the open driver's side window of the Jeep. Detective [redacted] with his gun drawn, grabbed Baxter with his free hand in an attempt to pull him from the vehicle. Baxter grabbed Detective [redacted] and appeared to attempt to pull him into the Jeep. As Baxter and Detective [redacted] struggled through the window, Officer [redacted] holstered his weapon and drew his pepper spray, spraying both subjects. When Officer [redacted] sprayed Baxter, Detective [redacted] was able to holster his weapon and continued to struggle with Baxter with both hands. Baxter then pulled Detective [redacted] farther inside the Jeep's window.

b6
b7C

Throughout the approach and confrontation with Baxter, Agents and police officers continuously issued commands which were ignored by both subjects. At some point during the incident, the Jeep's engine was started and the Jeep moved forward. In order to prevent the subject vehicle from backing up, SA [redacted] returned to his vehicle and moved into a position immediately behind the Jeep. The Jeep moved forward, onto and over the sidewalk, with only the rear wheels in the parking lot. Although the subject vehicle was blocked from the rear, there was enough room remaining for the vehicle to move forward, to the right, or to the left, and drive away. Law enforcement personnel heard the Jeep's engine revving, the transmission being engaged, the tires spinning, and observed the Jeep moving and/or rocking, while Detective [redacted] was still partially inside the vehicle engaged in a struggle with Baxter. Participants feared the Jeep would drive away with Detective [redacted] still hanging inside the driver's window and also were aware law enforcement personnel were in the path of the vehicle.

SA [redacted] observed Detective [redacted] continuing to struggle with Baxter and heard someone yell gun, reaching for a gun, or something about a gun. SA [redacted] hearing the comments about a gun, immediately yelled out to watch for crossfire. A second after yelling to watch for crossfire, and as Detective [redacted] still wrestled with Baxter, SA [redacted] heard shots fired.

b6
b7C

As Officer [redacted] sprayed Baxter a second time with pepper spray, he heard shots fired, the passenger side window of

the subject vehicle shattered, and something hit him in the face. Officer [redacted] took cover, immediately notified his department, and requested medical assistance. Additionally, as the shots were fired, Detective [redacted] was able to free himself from Baxter. As Detective [redacted] backed away from the Jeep, he observed SA [redacted] firing his weapon. b6 b7C

Ensuring all law enforcement personnel were safe, participants determined Baxter and the driver of the Jeep were injured and not moving. It was also determined that SA [redacted] was the only person who fired a weapon. SA [redacted] who had prior training as an Emergency Medical Technician, rendered initial care to the subjects prior to the arrival of the Chesapeake Emergency Medical Services. Both subjects died as a result of their wounds.

Although no weapons were located inside the subject vehicle, a security sweep was conducted in apartment #2 where a bag of crack cocaine in a clear plastic bag was located. During the subsequent execution of a search warrant of the apartment, cocaine, drug paraphernalia, and a nine millimeter Norinco T54 pistol were seized.

The medical examiner advised one bullet struck the driver of the vehicle in the chest and two bullets struck Baxter from behind, with one bullet lodging in his hip and the other lodging in his chest. A fourth bullet was located inside Baxter's clothing.

On 02/28/2005, [redacted] Commonwealth's Attorney, Office of the Commonwealth's Attorney, City of Chesapeake, provided a declination of prosecution by the Commonwealth of Virginia. On 05/06/2005, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding SA [redacted] actions in this shooting incident.

On 07/05/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland III, Inspection Division, chaired the meeting and was a non-voting member. The following voting members of the SIRG were in attendance: Chief Inspector Kimberly K. Mertz, Office of Inspections, Inspection Division; [redacted] Special Legal Counsel, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Charles J. Cunningham, Section Chief (SC), Transnational Criminal Enterprise Section, Criminal Investigative Division; Acting Unit Chief (UC) [redacted], Firearms Training Unit, Training and Development Division (TDD); UC [redacted], SWAT Operations Unit, Critical Incident Response Group; UC [redacted], CD-6, b6 b7C

Counterintelligence Division; UC [redacted] National Firearms Program, TDD; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted], Program Manager, Operational Skills Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. [redacted] Rettberg, Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG Chairman voiced concern with the number of law enforcement officers on the scene and the fact that only one individual decided the use of deadly force was required. After a lengthy discussion of this shooting incident, and although several members voiced concerns that SA [redacted] may not have been prudent in the firing of his weapon, the SIRG unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Specific concerns addressed by the SIRG members pertained to the possibility of a crossfire situation, noting the fact that the Agent was positioned in front of the vehicle and fired shots which put other law enforcement personnel in danger.

b6
b7C

In response to the crossfire issue, the Special Weapons and Tactics (SWAT) Operations Unit representative opined that the shootings were safe and reasonable when weighing the totality of the incident. The CID representative advised that although the shooter may have been out of position, he viewed the struggle inside the vehicle as a life and death situation and took appropriate action. The WFO representative opined that the law enforcement officers on the scene were clearly marked with insignia, both subjects were clearly non-compliant, and further noted that after the first shot was fired Baxter continued to be non-compliant with law enforcement commands. All of these actions resulted in the use of deadly force by SA [redacted]

Additionally, one TDD member noted that two of the officers holstered their weapons and if the situation called for them to employ deadly force, they may not have had time to gain access to their weapons.

The second issue discussed related to tactical irregularities in the pre-planning of the incident. Although one member believed the operation was adequately covered in a briefing, the majority of the SIRG noted that absent exigent circumstances and in conformance with policy, participants had time to write a basic Operations Plan and conduct comprehensive briefings. SIRG members unanimously concurred that this operation should have involved the SWAT team, particularly noting Baxter's propensity for violence and the possible Armed and Dangerous situation dictated the use of SWAT personnel. This matter will be discussed with the Special Agent in Charge of the Norfolk Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271789-D, 10/27/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
(Attention: Mr. [redacted]
1 - Mr. [redacted] USDOJ
1 - Ms. Mertz, Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. Girgenti)
1 - Mr. Rooney, Room 3867
(Attention: Mr. [redacted]
1 - Mr. [redacted], Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WFO
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] oom 7326
1 - Mrs [redacted] Room 7861
♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/28/2004

**To:** Inspection **Attn:** AD Charlene B. Thornton
Training AD James A. Trinka
International Operations SAC Thomas V. Fuentes

**From:** Inspection
**Contact:** [redacted]

b6
b7C

**Approved By:** Thornton Charlene B
Grant Robert D

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1272704-D

**Title:** SHOOTING INCIDENT
BUENOS AIRES LEGAL ATTACHE
03/21/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/21/2004, involving former Assistant Legal Attache (ALAT) [redacted] ALAT [redacted] discharged one round from his Glock Model 27, .40 caliber pistol at two subjects fleeing the scene of an attempted robbery. SIRG members recommended that no administrative action be taken against ALAT [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Legal Attache Agustine Rodriguez, dated 04/19/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 03/21/2004, as ALAT [redacted] was driving his personal vehicle in Buenos Aires, he observed a motorcycle with two individuals stopped ahead of him. He observed the passenger of the motorcycle get off with a weapon in his hand, which was allegedly pointed at the driver of a vehicle.

ALAT [redacted] observed a robbery in progress and retrieved his personally-owned, Bureau approved, Glock pistol. ALAT [redacted] advised he could not remember if he attempted to open his vehicle door or if he displayed his weapon and pointed at the assailants from inside his vehicle. The suspects became alerted and conducted a u-turn in an attempt to flee. As ALAT [redacted] also conducted a u-turn in an attempt to pursue the subjects, the passenger on the motorcycle fired one shot towards ALAT [redacted] vehicle. ALAT [redacted] fired one round from inside his vehicle before jumping a curb and striking a fence. The subjects fled the scene and were never located. Due to damages to his vehicle, ALAT [redacted] remained at the scene of the accident until the Provincial Police arrived. The Argentine Federal Police also responded to the scene of the accident due to ALAT [redacted] status as diplomatic personnel.

On 10/13/2004, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector Robert D. Grant, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief, Operational Support Section, Criminal Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), National Firearms Program, Training Division (TD); [redacted] UC, CD-6B, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Operational Skills Unit, TD; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] National Firearms Program, TD; and SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC). The two non-voting members present were [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division; and [redacted] Intern, Leadership Development Institute, Training and Development Division, Quantico.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members opined that, based on the current policy with the Argentine Government, ALAT [redacted] actions were appropriate and his use of deadly force was justified. Members held a lengthy discussion regarding the current policy regarding the use and/or carrying of firearms by FBI personnel outside the United States (US). SIRG members unanimously agreed that the Training Division and the Office of International Operations should jointly review, clarify, and promulgate FBI policy regarding the carrying of weapons by FBI personnel outside the US. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1272704-D, 10/28/2004

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative active be taken against former ALAT [redacted] as a result of his involvement in this shooting incident.

Set Lead 2: (Action)

b6
b7C

INTERNATIONAL OPERATIONS

AT WASHINGTON, DC

That the Office of International Operations and the Training Division jointly review, clarify, and expeditiously promulgate FBI policy regarding FBI personnel carrying weapons outside the US.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Grant, Room 7837
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 5155
1 - Ms. Harrison, Room 6050
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mrs [redacted] Room 7861

♦♦

# 2004

Savage-1904

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/21/2005

To: Inspection

Attn: AD Charlene B. Thornton

From: Inspection
Contact: [redacted] Extension 4-1837

Approved By: Thornton Charlene B CBT
Bland Andrew R III AB

Drafted By: [redacted] :lrr

b6
b7C

Case ID #: 297-HQ-A1271285-D

Title: SHOOTING INCIDENT
CHICAGO DIVISION
10/10/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/10/2004, involving Special Agent (SA) [redacted] SA [redacted] fired one round from her Bureau-approved, personally-owned Glock, Model 27 pistol, striking the subject of an attempted robbery in the left side of his chest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge David Cuthbertson, dated 10/18/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 04/21/2005

## Details of the Shooting Incident

On 10/10/2004, at approximately 12:15 p.m., SA [redacted] was on her way to the residence of SA [redacted] also assigned to the Chicago Division. SA [redacted] was collecting SA [redacted] mail while she was out of town. While SA [redacted] was standing in the vestibule of SA [redacted] apartment, she was approached from behind by a black male who grabbed her, told her he was holding her up, stated he had a gun, and hit her on the back of the head with a blunt object.

After struggling for a few seconds on the landing, both SA [redacted] and her attacker tumbled down the stairs to the sidewalk. While SA [redacted] continued to struggle with the suspect on the sidewalk, the suspect bit her on the left calf, breaking the skin. SA [redacted] who had her personally-owned, Bureau-approved Glock, Model 27 pistol in a holster on her right ankle, and fearing the attacker would gain control of her weapon and use it against her, drew her weapon as her attacker positioned himself over her. SA [redacted] fired one round into the left side of the subject's chest. The suspect initially began to comply with SA [redacted] commands to get on the ground, however, stood, fled to his car and drove away. b6 b7C

The Chicago Police Department and Emergency Medical Staff were summoned by an eyewitness and arrived moments later. One of the responding officers discovered the suspect in his vehicle around the corner from the site of the attack. He had crashed the vehicle into the wall of a laundromat, and was still inside the vehicle. The suspect was arrested at the scene and transported to the Advocate Illinois Masonic Medical Center for medical treatment. SA [redacted] was also transported to the Medical Center for treatment of cuts, scrapes, and a bite wound and was subsequently released later that day.

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, on 12/08/2004, regarding SA [redacted] actions in this shooting incident. On 10/13/2004, Assistant State's Prosecutor [redacted] Office of Felony Review, advised that after reviewing the shooting incident, his office decided to decline prosecution against SA [redacted] b6 b7C

On 03/08/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland, III, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance:

[redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted], Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division [redacted] Acting Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted], CD-6A, Counterintelligence Division; UC [redacted] National Firearms Program, TDD; UC [redacted] Special Inquiry and General Background Investigations Unit, Administrative Services Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Operational Skills Unit, TDD. The two non-voting attendees present were SSA [redacted] Hostage Rescue Team, Critical Incident Response Group; and [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Therefore, a recommendation was made that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 04/21/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Bland, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] Room 7837
1 - Ms. Harrison, Room 6050
(Attention: Ms. [redacted]
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Room 7861

♦♦

b6
b7C



Savage-1908

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/11/2007

**To:** Inspection **Attn:** AD Kenneth W. Kaiser

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Kaiser Kenneth W
Clemens Michael
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271748-D b6 b7C

**Title:** SHOOTING INCIDENT
MIAMI DIVISION
11/08/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/08/2004, involving Special Agent (SA) [redacted] While attempting to arrest a fleeing bank robbery suspect, SA [redacted] fired ten rounds from his Bureau-issued Glock, Model 22, .40 caliber pistol. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted], dated 03/28/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/08/2004, a Hispanic male entered the Sterling Bank in West Palm Beach, Florida, and provided the teller with a demand note. The subject also raised the front of his shirt exposing a handgun tucked inside his waistband. After the robbery, the suspect exited the bank and entered a gray Dodge Durango with a Florida license plate of [redacted] b6 b7C

SA [redacted] of the Palm Beach County Resident Agency (PBCRA) was investigating a series of bank robberies occurring in the West Palm Beach vicinity dating back to August 2004. In all of the robberies, the subject was described as a Hispanic male fitting the description of the 11/08/2004 bank robbery suspect.

Information was developed that a possible suspect in the bank robberies was [redacted] and it was determined that the gray Dodge Durango had been stolen from a car dealership in Davie, Florida, in 2003.

After being advised of the 11/08/2004 bank robbery, SA [redacted] conducted further investigation at several addresses associated with [redacted]. As she arrived at a residence located on [redacted] SA [redacted] observed the Dodge Durango parked in front of the residence. SA [redacted] notified her supervisor and other Agents of the situation and waited for additional Agents to assist her. While waiting for assistance, SA [redacted] observed a Hispanic male at the suspect vehicle. The male subject entered the vehicle and departed the area with SA [redacted] conducting a lone moving surveillance as other Agents responded. SA [redacted] was the first Agent to join the surveillance, closely followed by SA [redacted] who was coordinating with the Palm Beach County Sheriff's Office (PBCSO) dispatcher via a cell phone. Within a short period, the Agents were joined by marked PBCSO units as well as one unmarked unit. The local officers assumed the lead of the surveillance for the purpose of making a felony vehicle traffic stop.

b6
b7C

As the subject vehicle approached the intersection, the driver, later identified as [redacted] pulled into a shopping plaza parking lot followed by two PBCSO officers. SA [redacted] pulled into the parking lot on the southern entry/exit to the parking lot and assumed a tactical position near a third PBCSO officer. SA [redacted] observed the driver of the suspect vehicle looking around as two of the PBCSO officers positioned their vehicles in a tactical manner behind him.

PBCSO Captain [redacted] exited his vehicle with a shotgun and as he approached the Durango, gave verbal commands identifying himself and asking the driver to exit his vehicle. Additionally, a PBCSO Deputy also gave commands over the "p.a. system" instructing the subject to exit his vehicle. SA [redacted] heard someone yell "gun" and observed the suspect vehicle backing up at a high rate of speed toward Captain [redacted] Both Captain [redacted] and SA [redacted] fired at the suspect in an attempt to prevent [redacted] from running over local law enforcement authorities. The suspect vehicle sped off in an easterly direction toward another PBCSO Corporal, who fired her handgun at the vehicle. The driver of the subject vehicle made a U-turn and drove toward SA [redacted] and Corporal [redacted]. Fearing for their safety, both SA [redacted] and Corporal [redacted] fired multiple rounds at the driver of the approaching vehicle.

b6
b7C

As the suspect attempted to flee on a stretch of road under construction and not open to the public, he hit a concrete

barrier disabling the subject vehicle. PBCSO officers approached the vehicle and observed the suspect injured. Officers also observed a silver pistol in the passenger compartment which was later determined to be a "lighter" resembling a handgun.

[redacted] was treated at the scene by emergency medical personnel and subsequently transported to St. Mary's Hospital where it was determined all of his injuries were sustained as a result of the traffic accident. b6 b7C

The Florida State Attorney's Office opined that a shooting inquiry would not be initiated since none of the rounds fired by law enforcement personnel impacted the suspect. [redacted] was subsequently indicted on five counts of Bank Robbery and one count of Assault on a Federal Officer.

On 12/01/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: former Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief (ASC), Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; [redacted] ASC, CD-6, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Program Manager, Operational Skills Unit, TDD; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. b6 b7C

One of the USDOJ representatives advised additional information was needed before discussing the incident. On 03/09/2006, the Miami Division was asked to obtain any additional documents, i.e., diagrams, officer statements, and laboratory reports regarding each weapon fired during the incident. Discussion of this incident was held in abeyance until additional information was obtained by the Miami Division.

On 01/25/2007, after receiving additional documents provided by the Palm Beach County Sheriff's Office, the SIRG met again to fully discuss the incident. Deputy Assistant Director

[redacted] Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Domestic Security Section, Criminal Division, USDOJ; [redacted] Special Legal Counsel, Civil Rights Division, USDOJ; Section Chief (SC) John V. Gillies, Violent Crimes Section, Criminal Investigative Division; Assistant SC Richard W. Kollmar, Eurasian Section, CD-1, Counterintelligence Division; Unit Chief (UC) [redacted] Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Defensive Systems Unit, TDD; UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] Practical Applications Unit, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and UC [redacted] Investigative Law Unit, Office of the General Counsel (OGC). SSA [redacted] Management Program Analyst (MPA) [redacted] and MPA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division, non-voting members, were also in attendance.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. This discussion led to the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 04/11/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clemens, Room 3092
1 - Mr. [redacted] Room 3204
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 5096
1 - Mr. Gillies, Room 3280
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Mr. [redacted] Room 7326
1 - Mr. [redacted] antico
1 - Mr. [redacted] uantico
1 - Mrs. [redacted], Room 7861
♦♦

b6
b7C

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/12/2006

To: Inspection Attn: AD Charlene B. Thornton

From: Inspection
Contact: [redacted]

Approved By: Thornton Charlene B
Cloyd Daniel L [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271741-D

Title: SHOOTING INCIDENT
LOS ANGELES DIVISION
08/05/2004

b2
b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/05/2004, involving former Special Agent (SA) [redacted] SA [redacted] fired two rounds from his Glock, .40 caliber pistol, at a subject who was attempting to elude police and had shot a police officer. SIRG members recommended that no administrative action be taken against former SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge Sharrell Gene Slone, dated 01/04/2005.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

SAs [redacted] and [redacted] were working a gang investigation with Detective [redacted] of the San Bernardino Police Department (SBPD), who was a member of the Riverside Resident Agency (RRA) Safe Streets Task Force (SSTF). In connection with the SSTF, SAs [redacted] and [redacted] along with Detective [redacted] patrolled gang areas in an effort to identify gang activity, make street level arrests with the intention of developing informants, arrest wanted gang members, and take weapons and drugs off the street.

b6
b7C

On 08/05/2004, the SBPD received an anonymous telephone call stating shooting subject Nicholas Gilbert Fimbrez was currently located at 176 East 10th Street. The information was communicated to officers covering the area, with additional officers responding to assist. The SBPD officers decided to meet at 9th Street and Sierra Way for a briefing prior to attempting the arrest of Fimbrez.

As SAs [redacted] and [redacted] along with Detective [redacted] were clearing an arrest scene, they heard the SBPD radio broadcast regarding the location of Fimbrez. Due to their presence in the general area, they decided to travel to the briefing location and assist with the possible arrest of the subject. b6 b7C

[redacted] Upon their arrival at the briefing scene, SBPD Sergeant developed a tactical plan which was verbally discussed with all personnel. Discussion included the weapons each officer would possess, position assignments, arrival positions, and potential cross fire/safety issues. After a complete description of the subject was provided, law enforcement personnel departed the briefing location and proceeded to the address where the subject was allegedly located.

As law enforcement authorities arrived at the residence they observed an elderly female, later identified as the subject's grandmother. SBPD officers attempted to obtain information from her; however, she was uncooperative, only providing the telephone number to the residence. Sergeant [redacted] telephonically contacted the residence and after approximately two rings a male answered. The Sergeant identified himself and attempted to identify the person on the phone, who immediately hung up. Sergeant [redacted] indicated to one of the other officers that if the male remained in the residence, the situation could turn into a full tactical callout and law enforcement officers should maintain their positions. Sergeant [redacted] attempted a second telephone call to the residence and as the telephone was ringing, a police radio broadcast advised that a Hispanic male wearing shorts was coming out of the east side of the residence.

Officer [redacted] began giving the subject verbal commands; however, the subject was noncompliant and re-entered the residence. b6 b7C

The San Bernardino County Sheriff's Department's Aviation Unit was providing aerial support and observed a Hispanic male fitting the description of the subject, and later identified as Nicholas Gilbert Fimbrez, exit the rear corner of the residence and run. Numerous officers who pursued Fimbrez and

gave verbal commands directing him to stop and show his hands, observed him running with his hands near the waist area of his pants.

As law enforcement officers pursued Fimbrez, continually giving verbal commands to stop and show his hands, an officer released his K-9 just as Officer [redacted] physically confronted Fimbrez face-to-face. Officer [redacted] grabbed the suspect's shoulder and arm in an attempt to take him to the ground and within seconds Fimbrez shot Officer [redacted] who was knocked to the ground and subsequently bitten by the K-9. SA [redacted] and Officer [redacted] discharged their weapons striking Fimbrez and knocking him to the ground while he maintained possession of his handgun. As officers again attempted to provide verbal commands to Fimbrez to drop the weapon, he attempted to raise and point the weapon toward other officers. Knowing Fimbrez had just shot Officer [redacted] and knowing he had shot a civilian the previous week, law enforcement personnel fearing for their lives as well as the safety of others, discharged their weapons to eliminate the threat. SA [redacted] discharged one additional round while local law enforcement personnel fired a total of seven rounds.

Officer [redacted] was provided medical attention at the scene and subsequently transported via police vehicle to the Loma Linda University Medical Center. Emergency medical personnel arrived at the scene and administered medical attention to Fimbrez who was pronounced dead at the scene.

SA [redacted] resigned from the FBI effective 09/10/2004, to return to his previous employment as a Police Officer with the Escondido Police Department.

By memorandum dated 02/10/2005, the San Bernardino District Attorney's Office determined the shooting to be justified and took no action on the matter. A declination of prosecution dated 05/03/2005 was received from the United States Department of Justice, Civil Rights Division, in December 2005, regarding former SA [redacted] actions in this shooting incident.

On 03/08/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Charles J. Cunningham, Section Chief (SC), Transnational Criminal Enterprise Section, Criminal Investigative Division;

b6
b7C

b6
b7C

SC Jay C. Manning, CD-6, Counterintelligence Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; UC [redacted] SWAT Operations Unit, Critical Incident Response Group; SSA [redacted] Program Manager, Operational Skills Unit, TDD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. Additionally, the following two observers were present during this meeting: [redacted] Deputy General Counsel, OGC; and UC [redacted] Operational Skills Unit, TDD.

With the exception of [redacted] and SSA [redacted] who abstained from voting, members opined that based on the circumstances of the incident and information provided in the shooting report, the use of deadly force by Former SA [redacted] appeared to be justified and in conformance with the deadly force policy. Members noted the absence of a Signed Sworn Statement from the shooter; however, were aware that he had resigned from the FBI prior to a declination of prosecution being issued by the Department of Justice. The totality of the circumstances resulted in a recommendation that no administrative action be taken against former SA [redacted]

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 05/12/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against former SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] Room 7837
1 - Mr. Cunningham, Room 3548
1 - Mr. Manning, Room 1B045
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WFO
1 - Mrs. [redacted] Room 7861
♦♦



Savage-1918

(Rev 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/25/2005

**To:** Director's Office
Inspection

**Attn:** OPR
AD Charlene B. Thornton
A/SC [redacted]

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Cloyd Daniel Lee
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271966-D

b6
b7C

**Title:** SHOOTING INCIDENT
TAMPA DIVISION
08/19/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/19/2004, involving Special Agent (SA) [redacted] During an arrest, SA [redacted] accidentally discharged his Bureau-issued Colt M4A1 Carbine into the back of a fugitive, resulting in serious injury. SIRG members unanimously agreed that SA [redacted] should be censured, suspended from duty for a period of three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures.

**Administrative:** Reference report of Inspector [redacted] dated 10/25/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

At the request of the Boston Division, Tampa Division Agents were requested to attempt to locate and execute an arrest warrant for subject [redacted] who was wanted for Unlawful Flight to Avoid Prosecution. Information was received advising [redacted] was also wanted for questioning as a prime suspect in the murder of a member of the Genovese crime family. Additionally, it was noted [redacted] was an "extreme fighter," known to "avoid apprehension," and "believed to be extremely violent and will engage police officers," as well as "always in possession of at least one handgun."

To: Director's Office From: Inspection
Re: 297-HQ-A1271966-D, 10/25/2005

Investigation determined [redacted] was apparently residing on [redacted] in Tampa, Florida, and was believed to be driving a rented Cadillac Escalade.

SA [redacted] advised the Acting Special Weapons and Tactics (A/SWAT) Team Leader (TL) [redacted] of the details regarding [redacted] and suggested that a SWAT deployment may be necessary. SA [redacted] departed the office, accompanied by a Task Force member from the Hillsborough County Sheriff's Office, and traveled to the Wood Trail Boulevard vicinity to search for Cadillac Escalades. Although the search proved negative, SA [redacted] determined the owner of the house had rented an Escalade on 08/12/2004 and returned it on 08/13/2004. b6 b7C

At approximately 11:40 a.m, A/SWAT TL [redacted] advised ASAC [redacted] and SSA [redacted] that a violent fugitive might be in the Tampa area and SA [redacted] was attempting to confirm the fugitive's location. The discussion included the fact that the SWAT Team should be utilized to arrest [redacted]

On the afternoon of 08/19/2004, SA [redacted] learned [redacted] was placed in the Tampa area within the last three hours. SA [redacted] contacted A/SWAT TL [redacted] and advised him of the latest information regarding [redacted]

At approximately 2:30 p.m., Acting Special Agent in Charge (A/SAC) [redacted], ASAC Eaton, SSA [redacted] and SA [redacted] met and discussed the situation with SA [redacted] via speaker phone. SA [redacted] advised an Operations Plan was being prepared by another SWAT Agent. ASAC Eaton told SA [redacted] that the plan should focus on arresting [redacted] outside of or away from the residence. SA [redacted] also advised the SWAT Team was meeting at the Hillsborough County Sheriff's district office near the fugitive's suspected location.

At approximately 3:00 p.m., ASAC Eaton and SSA [redacted] proceeded to the Sheriff's Office. As they were leaving the office, a SWAT Team member provided ASAC Eaton with a draft Operations Plan. The plan called for a "knock and announce" approach to the residence and stated that the SAC had authorized compromise authority and flash bang devices, if necessary. ASAC Eaton scratched through these portions and handwrote changes consistent with effecting the arrest while the subject was approaching or departing the residence. Additionally, ASAC Eaton scratched through the portions regarding the SAC authorizing compromise authority and the use of flash bang devices since those items were never requested nor granted. ASAC Eaton edited the plan indicating that he and SSA [redacted] would be on-scene during the arrest as opposed to the command post in the office. b6 b7C

During the briefing, SA [redacted] provided attendees all known information including the recent discovery that a new rental car was parked at the residence and that an individual matching the description of [redacted] was seen parking the vehicle and walking toward the residence. ASAC Eaton and SSA [redacted] discussed with attendees the fact that the arrest plan would not include approaching or entering the residence to arrest [redacted] Participants were advised to position the team close enough to the residence to apprehend [redacted] between the house and his vehicle. Conversely, they discussed that it may be necessary to let [redacted] leave the residence and get in his car and effect the arrest when he exited the vehicle at another location. Lastly, ASAC Eaton and SSA [redacted] discussed the least desirable alternative of a felony car stop, aided by marked police units, in the event [redacted] became aware he was being followed. It should be noted that A/SWAT TL [redacted] did not attend this briefing due to his presence in the office attempting to revise the Operations Plan. b6 b7C

At approximately 4:15 p.m., ASAC Eaton and SSA [redacted] drove past the residence and around the neighborhood where they observed the distance between the front door of the residence and its assigned parking spaces was about ten yards. ASAC Eaton and SSA [redacted] returned to the Sheriff's Office where the SWAT Team was making final preparations and advised it would be difficult to get close enough to the residence to grab [redacted] between the front door and his vehicle. They advised the SWAT Team that the plan was still to arrest [redacted] outside of the residence or at another location.

At approximately 4:45 p.m., eight members of the SWAT Team departed the Sheriff's Office in the SWAT truck along with ASAC Eaton and SSA [redacted] in a Bureau car. SA [redacted] departed in a separate vehicle to continue surveillance. Upon arrival in the neighborhood of the target residence, the SWAT truck parked around the corner which afforded an unobstructed view of the front of the house. ASAC Eaton and SSA [redacted] parked in a supermarket parking lot in the vicinity; however, they were unable to view the residence or the SWAT truck. b6 b7C

SA [redacted] observed small children entering and exiting the house next door to the target residence as well as other neighbors arriving home from work. Between 6:00 and 6:15 p.m., SA [redacted] was advised that the homeowner of the target residence might be coming home from work and was advised by the Chief Division Counsel (CDC) that in order to avoid a hostage situation, the homeowner should not be permitted to enter his house. This information was conveyed to the SWAT members inside the truck.

At approximately 6:15 p.m., ASAC Eaton and SSA [redacted] relocated to a position where they could observe the SWAT truck. The homeowner arrived at the residence at approximately 6:35 p.m. and parked in front of the residence. As he exited his vehicle, a task force officer approached him, identified himself as law enforcement, and walked the homeowner to the back of his vehicle. Concerned that subject [redacted] could easily view the developments from the front bay window of the house, SA [redacted] radioed for the SWAT truck to mover closer. Upon hearing the radio message, A/SWAT TL [redacted] interpreted the request to mean SA [redacted] was in trouble or that [redacted] had appeared. The SWAT truck pulled to the front of the residence where SA [redacted] observed SA [redacted] talking to the homeowner. SA [redacted] radioed SA [redacted] to determine the status of the operation and was advised that SA [redacted] acquired the house keys from the homeowner and obtained consent to enter the house. SA [redacted] then advised the team to get ready. SA [redacted] possessing the house keys, approached the SWAT truck. SA [redacted] raised the back door of the truck and observed children in the yard next door. The remaining team members located in the rear of the truck exited the vehicle and took positions of cover behind the truck.

At approximately 6:37 p.m., the entry team "stacked up" behind the SWAT truck and proceeded to the front door of the residence. Upon approaching the front door, SA [redacted] began to unlock both the door lock and deadbolt. During the process, the door pulled open and [redacted] was observed standing in the doorway. [redacted] attempted to close the door; however, the entry team forced their way into the foyer shouting, "FBI, FBI" and issuing commands for [redacted] to get down. [redacted] turned his back to the team in an attempt to run resulting in him being forced to the floor on his stomach. [redacted] was struggling to get off of the floor while being held down. SA [redacted] requested handcuffs and SA [redacted] responded he would handcuff the subject. [redacted] was prone, his arms out to the side and continued to struggle in an attempt to get in a push-up position. SA [redacted] had one foot on [redacted] right arm and SA [redacted] had one foot on [redacted] left arm.

SA [redacted] was carrying a Bureau-issued Colt M4A1 Carbine from a sling around his right shoulder. Prior to handcuffing [redacted] SA [redacted] recalled moving his right thumb upward in a motion to manipulate the selector switch of his weapon to the "safe" mode. He let the weapon hang on its sling and reached his right hand back to his right side for handcuffs. He held the handcuffs in his right hand and kneeled down toward [redacted] with his knee in the small of [redacted] back. SA [redacted] grabbed [redacted] left wrist with his left hand and started pulling the arm to the small of [redacted] back. As he was placing a handcuff on [redacted] left wrist, a shot was heard. As blood flowed from [redacted] back, SA [redacted] completed the handcuffing process and applied direct pressure to the wound. Another Agent

b6
b7C

b6
b7C

on the scene offered to take SA [redacted] weapon, and after removing the weapon and sling from SA [redacted] stated he observed the weapon in the "safe" mode.

At approximately 6:38 p.m., ASAC Eaton and SSA [redacted] approached the residence and were advised the subject was in custody and that an accidental discharge had occurred. ASAC Eaton requested Emergency Medical Services (EMS) be contacted for assistance. EMS personnel arrived on the scene at approximately 6:53 p.m., and transported [redacted] to the hospital in critical condition. Surgery was performed; however, no further information was received regarding [redacted] condition or prognosis. b6 b7C

On 04/19/2005, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding SA [redacted] actions in this shooting incident. By letter dated 10/06/2004, State Attorney [redacted] 13th Judicial District, Tampa, Florida, advised no criminal statutes of the State of Florida were violated as a result of SA [redacted] accidental discharge.

On 06/02/2005, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting and was a non-voting member. The following voting members of the SIRG were in attendance: [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] CD-6A, Counterintelligence Division; UC [redacted] National Firearms Program, TDD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] Program Manager, Operational Skills Unit, TDD; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The two non-voting attendees present were Inspector [redacted] Office of Inspections, Inspection Division; and [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational

standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The use of deadly force in this incident was not evaluated by SIRG members due to the subject's injuries being sustained as a result of an accidental discharge. Members discussed the possibility that SA [redacted] did not fully engage the safety on his weapon. While conducting the investigation, members of the Shooting Incident Response Team were provided a demonstration to show the ease with which the selector switch of the M4 can be inadvertently moved from "safe" to "fire." The Critical Incident Response Group representative advised that it is the user's responsibility to know and be in charge of the selective safety switch of a weapon. It was also noted by members that an analysis of the weapon determined the weapon functioned properly. This discussion resulted in the recommendation that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures. b6 b7C

During the lengthy discussion of this incident, several observations were made regarding the actions of the A/SWAT TL, the independent decision making by participants in the incident in deviating from the arrest plan, and the lack of assertiveness on the part of Executive Management (EM). Additionally, comments were made regarding the use of a "canned" Operations Plan which contained language that was not included in the FBI's current deadly force policy. Members also observed that it may be more operationally desirable for the SAC to assign the SWAT TL to Headquarters City.

Members discussed the fact that A/SWAT TL [redacted] was advised by ASAC Eaton during the initial meeting regarding the SWAT operation that he did not want the SWAT Team approaching or entering the residence in an attempt to arrest the fugitive. ASAC Eaton emphasized to the attendees that the plan needed to concentrate on arresting the fugitive outside or away from the residence. Additionally, during his review of the initial Operations Plan provided, ASAC Eaton made significant changes including removing a statement that the SAC had authorized additional SWAT techniques such as compromise authority and flash bang devices in the event of a hostage rescue since no authority had been requested or approved. During the pre-brief meeting, ASAC Eaton and SSA [redacted] verbally reiterated to the SWAT Team that plans did not include going up to or into the residence to arrest the fugitive. ASAC Eaton also stated that he did not specifically delegate an execute order to a specific individual; however, it was understood that spotting the subject leaving the residence would serve as a green light for the SWAT Team to

effect [redacted] arrest. Additionally, although not specifically conveyed to A/SWAT TL [redacted] or the SWAT Team, ASAC Eaton expected A/TL [redacted] to give the "go order" to the SWAT Team upon hearing from either SA [redacted] or SA [redacted] that the subject was outside of the residence.

ASAC Eaton then heard a radio transmission by SA [redacted] calling for the SWAT Team to move in because he obtained consent from the owner to enter the house and that the owner confirmed [redacted] was inside the residence alone. This transmission led to ASAC Eaton believing the fugitive was out of the residence; however, upon arriving at the development, he viewed the SWAT Team getting out of the truck and approaching the residence. ASAC Eaton commented to SSA [redacted] that what they were viewing was not part of the Operational Plan. b6 b7C

According to A/SWAT TL [redacted] Signed Sworn Statement, during the meeting with EM regarding the operation, the plan was to block the subject's vehicle in its parking place and grab the subject between the vehicle and the house. He advised that there may have been discussion of making the arrest by entering the house, but that was not the preferred means of effecting the arrest. SA [redacted] advised that he did not recall specific directions from any EM personnel regarding entering the residence. He also stated normal procedure was to attempt to grab a subject outside, then attempt to call him out, then enter the premises only as a last resort. SA [redacted] further stated that upon being informed that the owner of the house was not to be allowed to enter the residence prior to the subject's arrest based on direction provided by the Chief Division Counsel, he believed the restriction complicated the arrest plan. SA [redacted] advised that he was concerned [redacted] would see the owner being detained by police and realize police were in the area and would shoot at law enforcement personnel on the scene through the window or attempt to escape through the back of the house. With this edict in mind, SA [redacted] felt he needed to develop a way to continue the operation. He instructed the team members inside the SWAT truck to develop a plan for entering the subject residence in case the plan of detaining the subject on the way to his vehicle had to be abandoned. SA [redacted] eventually instructed the team to get ready to go in the house without contacting ASAC Eaton or SSA [redacted] b6 b7C

These actions resulted in the observation by SIRG members that no individual had control of the situation, the ASAC's instructions were not followed, and some of the participants were making independent decisions. Members also opined that the ASAC was not sufficiently assertive with his instructions and the A/SWAT TL acted outside the scope of his

duties. These comments and concerns will be discussed with the SAC of the Tampa Division.

SIRG members unanimously agreed that SA [redacted] should be censured, suspended from duty for a period of three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures.

b6
b7C

To: Director's Office From: Inspection
Re: 297-HQ-A1271966-D, 10/25/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION DIVISION

AT IPU

That SA [redacted] be censured and suspended from duty for a period of three days for his failure to employ routine firearms safety procedures. Additionally, SA [redacted] should receive remedial firearms training regarding proper handling of firearms and this training should be properly documented.

**Set Lead 2: (Action)**

DIRECTOR'S OFFICE

AT OPR FO, DC

That the Adjudication Unit, OPR, include in the SAC's copy of the letter of suspension, the need for remedial firearms training for SA [redacted] regarding the proper handling of weapons. Additionally, the letter should advise that this remedial training should be properly documented and that a copy of the documentation should be forwarded to the SIRG Chairman upon completion.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted], Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted], Room 7861

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/08/2005

To: Inspection

Attn: AD Charlene B. Thornton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Bland Andrew R III [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271898-D

b6
b7C

Title: SHOOTING INCIDENT
PHOENIX DIVISION
09/15/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/15/2004, involving Special Agent (SA) [redacted] During the execution of an arrest warrant, SA [redacted] fired one round from his Bureau-issued Colt Model M4LE, 223 caliber carbine injuring a subject attempting to flee. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge (ASAC) Paul S. White of the New Haven Division, dated 09/19/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271898-D, 07/08/2005

**Details of the Shooting Incident**

On 09/09/2004, the Phoenix Division initiated an investigation on [redacted] and [redacted] Both individuals were members of the Ranch Rescue, a paramilitary, anti-government, neo-nazi group who patrols private property along the United States/Mexican border in Texas, New Mexico, Arizona, and California. Law enforcement personnel were aware of the fact that members of the Ranch Rescue were heavily armed and hostile toward Federal law enforcement officers. b6 b7C

The case was initiated as a result of an encounter between members of the Ranch Rescue and the United States Border Patrol (USBP). On 08/13/2004, USBP Agents initiated a vehicle stop involving a minivan suspected of smuggling. The driver of the van, later identified as [redacted] refused to pull over although marked USBP units had their emergency lights and sirens activated. As the USBP Agents attempted the vehicle stop, [redacted] led them to a compound in Douglas, Arizona, which was occupied by members of the Ranch Rescue. As [redacted] turned into the Ranch Rescue gated driveway, [redacted] armed with a rifle, was observed inside the gate. [redacted] exited his vehicle and began yelling at the USBP Agents and instructed [redacted] and others in the surrounding area to, "maintain your position and cover down on the Agents." The USBP Agents believed [redacted] was ordering Ranch Rescue members to maintain their tactical position and prepare to shoot at the agents. Fearing for their lives, the USBP Agents sought cover behind their vehicles and called for backup from the USBP and the Cochise County Sheriff's Office. Before the arrival of assistance, [redacted] dropped his weapon and adhered to instructions issued by the USBP Agents. As a result of this incident, an arrest warrant was issued for [redacted] b6 b7C b7E

[redacted] Several meetings were held with Agents of the Sierra Vista RA, the Tucson RA, and Executive Management to discuss plans for the arrest of [redacted] In a 09/13/2004 meeting, a decision was made to utilize the Special Weapons and Tactics (SWAT) Team to conduct the arrest. Furthermore, it was decided that the arrest would not be effected at the Ranch Rescue compound in order to avoid a standoff situation.

A decision was made that the SWAT Team would locate to the Motel 6 in Douglas, and immediately respond when they were notified [redacted] had left the compound. FBI Agents monitoring

the compound were to report directly to the SWAT Team upon [redacted] departure from the compound. It was also decided at the meeting that a SWAT Team briefing would be held on Tuesday, 09/14/2004, and a full briefing would be held for all law enforcement personnel involved in the situation on 09/15/2004.

On 09/14/2004, a SWAT Team briefing was conducted by SA [redacted] Of the four participating Agents not present at the meeting, only one, SA [redacted] was scheduled for duty on the first day of the operation. An operations order was written which was general in nature without specific duty assignments as team members would vary and would be rotated in and out after several days. SA [redacted] reviewed the operations order with the team during the Phoenix briefing, and also read the Sierra Vista operations order section which provided subject and case information. Team members were shown photographs of the ranch compound and [redacted] as well as [redacted] associates. SA [redacted] also read the recently revised Deadly Force Policy to all attendees. It should also be noted the operation schedule included the assignment of a certified SWAT Team Emergency Medical Technician (EMT) with the team while stationed in Douglas. However, due to the unavailability of two certified SWAT EMTs on 09/15/2004, SA [redacted] advised the team he would act as the EMT since he was a certified EMT while attending college, although not recertified since that time.

b6
b7C

On 09/15/2004, a second briefing was conducted at the Sierra Vista RA where a case overview and a tactical overview were provided to participants. The briefing covered specifics of the arrest warrant, including photographs and the criminal history of [redacted] Participants were advised [redacted] was considered armed and extremely dangerous and was wanted for Assaulting a Federal Officer. Information was provided regarding [redacted] previous felony convictions and attendees were provided the latest intelligence as a result of the monitoring of the compound. Specific information provided included the fact that [redacted] and his associates had conducted firearms training with long guns at the ranch and it was believed they were in possession of grenades, weapons, and improvised explosive devices.

b6
b7C

At approximately 3:00 p.m., SA [redacted] held a briefing with the SWAT Team at the Motel 6. During the briefing, team members were reminded to wear their ballistic vests and handguns from 6:00 a.m. until 11:00 p.m., each day while on station. The arrest plan was designed to utilize three SWAT vehicles, and would allow [redacted] to enter whatever establishment he went to, set up SWAT vehicles around his vehicle, and effect the arrest after [redacted] exited the establishment.

At approximately 10:12 p.m., the Command Post was notified that [redacted] and [redacted] were observed getting into a van and leaving the compound. SA [redacted] was also advised of the information and instructed another Agent to get the SWAT Team together. As the SWAT Team assembled, SA [redacted] instructed the driver of the SWAT van to proceed to the Safeway parking area and he also contacted ASAC Roland J. Mignone of the subjects' movement. As [redacted] and [redacted] parked in the Safeway parking lot near the position of the SWAT van, a positive identification was made of both subjects. SA [redacted] drove his vehicle to the parking lot and positioned it, front bumper to front bumper, with [redacted] van. Another Bureau vehicle was positioned to the south of [redacted] van. SA [redacted] was instructed to re-position the SWAT van so the sliding door on the passenger side was facing away from the subject vehicle to allow the arrest team to exit the van out of the sight of the subjects and approach them from behind. b6 b7C

At approximately 11:15 p.m., participants were advised the subjects were exiting the store. As they proceeded behind the SWAT van, a command was given to execute the arrest of [redacted] and [redacted] SA [redacted] activated his vehicle emergency lights while additional agents exited the back and side of the van. SA [redacted] was the first out of the rear door with SA [redacted] directly behind him. SA [redacted] had his weapon focused on [redacted], who was standing to the left of [redacted]. SA [redacted] yelled, "FBI - Get on the ground now!" SA [redacted] yelled, "FBI! FBI! Get down, get down, get down." As SA [redacted] observed both suspects starting to run toward [redacted] van, he saw [redacted] push a shopping cart away from himself, turned, and launched something toward the Agents with his left hand. SA [redacted] advised he believed [redacted] was making a tactical move to buy time to go for a sidearm. According to SA [redacted] he observed SA [redacted] duck as [redacted] threw something at him and also observed [redacted] reach down with his left hand to his left hip as if going for a gun from a holster. Fearing for his safety, as well as the safety of other Agents, SA [redacted] fired one shot resulting in an injury to [redacted] was subsequently handcuffed and provided immediate medical attention by paramedics. [redacted] was transported to the University Medical Center where he underwent surgery to remove the bullet. b6 b7C

[redacted] Cochise County Attorney, advised no investigation was conducted by the Douglas Police Department regarding the shooting incident, and he had no intention of initiating an investigation into the incident. Therefore, his office would not provide a prosecutive opinion unless he was presented with a case. On 03/02/2005, a declination of prosecution was received from the United States Department of

Justice, Civil Rights Division, regarding SA [redacted] discharge of his weapon in this incident.

On 04/25/2005, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director (DAD) Andrew R. Bland, III, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; Acting SC [redacted] Special Inquiry and General Background Investigations Unit, Administrative Services Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. The only non-voting attendee present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

Members made several observations regarding the incident in the areas of pre-brief meeting attendance and the presence of certified EMT personnel on the scene.

According to SA [redacted] Signed Sworn Statement, he did not attend the Tuesday briefing regarding the potential arrest of the subjects. SA [redacted] provided no reason for his absence at the first briefing; however, he advised he reviewed the operational order on his e-mail and knew he would be able to hear the final briefing in Sierra Vista. Members opined attendance should be mandatory in all pre-briefings for

participants in SWAT operations. Discussion with the SWAT Operations Unit, Critical Incident Response Group, disclosed standard operating procedures call for participants to attend all pre-operational briefings to ensure personnel are aware of any changes or modifications to the original operations plan.

The second observation of the SIRG related to the absence of certified EMT personnel on the scene. Members opined that current certified EMT personnel should have been mandatory especially considering the subjects' propensity for violence. These observations will be brought to the attention of the Special Agent in Charge of the Phoenix Division to ensure this type of situation does not recur.

To: Inspection From: Inspection
Re: 297-HQ-A1271898-D, 07/08/2005

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his discharge of his weapon in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Bland, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] Room 7837
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] FO
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861

♦♦

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 10/19/2005

**To:** Inspection

**Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Cloyd Daniel Lee [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271903-D

b6
b7C

**Title:** SHOOTING INCIDENT
RICHMOND DIVISION
05/14/2004

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/14/2004, involving Special Agent (SA) [redacted] SA [redacted] fired one round from his Bureau-issued 10 millimeter MP-5 carbine killing Glen Joseph Sweeting who was identified as a major supplier of heroin in the Richmond area. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 05/28/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

Agents of the Richmond Division were conducting an investigation into the drug trafficking activities of Glen Joseph Sweeting, who had been identified as a major supplier of heroin in the Richmond, Virginia, area. [redacted] b3

Additionally, investigation determined a relative of Sweeting had been recently arrested with four kilos of cocaine and $400,000 in currency. The Drug Enforcement Agency (DEA) in Richmond targeted several associates of Sweeting and held in abeyance several arrests of these individuals to ensure the FBI investigation of Sweeting was not jeopardized. Based on the totality of these circumstances, and with verbal authorization from the Assistant United States Attorney from the

Eastern District of Virginia, a decision was made to arrest Sweeting for violation of Title 21, United States Code, Section 841(a)(1, and 846. Search warrants were also obtained for Sweeting's residence as well as the residences of three close associates.

Investigation revealed Sweeting returned to the Richmond area from New York on 05/13/2004, where he obtained a shipment of heroin and planned to conduct a drug transaction with one of his associates. Based on this information, it was anticipated Sweeting would be arrested following this meeting with his associate; however, upon returning to the Richmond area, he stopped at a residence in Powhatan, Virginia, which was described as an isolated rural area. Surveillance was initiated on the Powhatan residence where it was determined the drug transaction with his associate would not occur until the following day, 05/14/2004. Upon receipt of this information, surveillance was terminated and a plan was developed to re-initiate surveillance on Sweeting at the Powhatan location at 6:00 a.m. on 05/14/2004. A determination was made that Sweeting would be arrested and related search warrants would be effected.

A meeting was scheduled for 5:00 a.m. on 05/14/2004, at the Chesterfield County Police Department (CCPD) substation to brief participants on the arrest and search plan. During the briefing, participants were advised Sweeting should be considered "Armed and Dangerous" due to his known propensity for violence.

Due to an interruption in aerial coverage during the surveillance of Sweeting at the Powhatan residence, his location was unknown. Later in the morning Sweeting's vehicle was located at his residence in Chesterfield County, Virginia, and investigation determined Sweeting would be leaving his residence to conduct the drug transaction with his associate.

In order to avoid a barricade situation, the initial operation plan was modified to conduct a traffic stop and arrest Sweeting after he departed his residence and prior to his approaching the main road. The Special Weapons and Tactics (SWAT) Team Leader provided specific and detailed instructions to each SWAT team member. The plan included the use of two SWAT vehicles to set parallel on each side of the road with a CCPD marked unit between them. Another Bureau vehicle, occupied by a SWAT team member, was tasked with establishing surveillance on Sweeting and notifying the two SWAT vehicles when he left his residence. Additionally, this vehicle was to pull behind Sweeting once he had passed and act as a blocking vehicle. The plan called for Sweeting to be "boxed in" in order for law enforcement personnel to call him out of his vehicle, handcuff him and place him under arrest.

Once Sweeting approached the anticipated arrest location, the CCPD marked unit pulled in front of him, activated its lights and siren, and the two SWAT vehicles pulled along each side of the subject vehicle. The SWAT vehicles identified themselves as FBI and issued commands to place Sweeting under arrest. Sweeting stopped his vehicle for a moment, began backing up at a high rate of speed steering around the blocking SWAT vehicle, and completed a 180 degree turn heading in the direction of his residence. One of the SWAT vehicles overtook Sweeting's vehicle in an attempt to cut him off resulting in Sweeting striking the SWAT vehicle. A second SWAT vehicle engaged Sweeting's vehicle on the passenger side causing both vehicles to become entwined at the front wheel well. Although forward progress of Sweeting's vehicle was impeded, it continued to push forward. Sweeting then attempted to back his vehicle with the engine revving and tires spinning. SA [redacted] was located in the passenger seat of the vehicle that overtook the subject vehicle. After Sweeting's vehicle rammed the Bureau vehicle, SA [redacted] had the passenger side window down and was looking directly at Sweeting, who was yelling and screaming in a state of rage. SA [redacted] who was yelling for Sweeting to stop the car, was not aware of what Sweeting was saying. During this time other SWAT team Agents exited their vehicles. SA [redacted] observed another SWAT vehicle alongside the passenger's side of the subject vehicle and the marked CCPD unit behind Sweeting's vehicle. SA [redacted] also observed team members on foot to the left and right of his Bureau vehicle. SA [redacted] believed Sweeting's vehicle was no longer contained and placed a direct threat of imminent danger to himself as well as the SWAT team members on foot and other law enforcement personnel taking cover behind their respective vehicles. With this in mind, SA [redacted] fired one round from his MP-5 striking Sweeting in the chest. Immediately after firing the shot, SA [redacted] observed Sweeting lean forward and put the vehicle in park. Sweeting looked at SA [redacted] who continued to issue the command, "let me see your hands," while continuing to focus his weapon on the subject. As a SWAT team member approached the vehicle, SA [redacted] observed Sweeting convulse and the vehicle engine began revving again. The SWAT team member opened the subject vehicle door, turned the engine off, and requested a medic. Sweeting was pronounced dead at the scene.

b6
b7C

It should be noted that law enforcement personnel at the scene were not aware of the presence of Sweeting's 4-year old son, who was in the back seat of the subject vehicle, until after the subject had been shot.

On 05/06/2005, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding SA [redacted] actions in this shooting incident. On 06/16/2004, this incident was presented to a local

grand jury and a No True Bill was returned with no criminal charges being filed.

On 06/02/2005, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Charles J. Rooney, Section Chief (SC), Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] Special Weapons and Tactics Operations Unit, Critical Incident Response Group; UC [redacted] CD-6A, Counterintelligence Division; UC [redacted] National Firearms Program, TDD; Supervisory Special Agent (SSA) [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] Program Manager, Operational Skills Unit, TDD; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The two non-voting attendees present were Inspector [redacted] Office of Inspections, Inspection Division; and [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

During the discussion of this shooting incident, one member opined his concerns regarding the use of deadly force by SA [redacted] One DOJ representative advised that it did not appear the subject intentionally rammed his vehicle and that no furtive movements were made by the suspect. However, after a lengthy discussion and emphasis placed on the fact that personnel on the scene believed if Sweeting's vehicle became disengaged from the SWAT vehicle lives would be in imminent danger of serious bodily injury or death, the SIRG reached a unanimous conclusion that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. This discussion resulted in a recommendation by SIRG members that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271903-D, 10/19/2005

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted], Room 7837
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted]
1 - Mr. Rooney, Room 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted], Room 7861

♦♦

b6
b7C



Savage-1939

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 03/15/2006

**To:** Inspection

**Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted]

**Approved By:** Thornton Charlene B
Cloyd Daniel Lee

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271741-D

**Title:** SHOOTING INCIDENT
LOS ANGELES DIVISION
06/02/2004

b2
b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/02/2004, involving Special Agents (SAs) [redacted] and [redacted] SA [redacted] fired two shots and SA [redacted] fired one shot from their Bureau-issued Colt M-4, A-1 Carbines at four subjects who robbed a bank. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge Herbert M. Brown, dated 07/15/2004.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

The Los Angeles Field Office (LAFO) bank robbery squad was conducting an investigation involving a group of individuals associated with several takeover bank and business armed robberies. Investigation determined the crew was planning a robbery of the Los Angeles National Bank located in Buena Park, California.

The bank robbery squad solicited the assistance of the Special Weapons and Tactics (SWAT) Team as well as the Los Angeles Police Department (LAPD). The SWAT team was asked to intervene and stop the subjects should they make an attempt to rob the bank and officers of the LAPD were asked to surveil

the main subjects who were living in the area of South Central Los Angeles. Surveillance by the SWAT Team and the LAPD was conducted on five occasions, however, no attempts were made to rob the bank.

On 06/02/2004, the bank robbery squad requested assistance from both entities. A briefing was conducted at a park located near the bank where photographs of potential subjects and investigative updates were provided. The SWAT Team Agents were advised the subjects were attempting to obtain weapons and vehicles to commit the bank robbery. The operational plan for the SWAT Team was to intervene and prevent a robbery of the bank. Additionally, if the team failed to stop the robbery, the SWAT Team was to conduct a felony stop on the subject vehicle and arrest the perpetrators.

SAs [redacted] and [redacted] were together in a vehicle surveilling the bank. At approximately 11:00 a.m., the Agents received information that the subjects had obtained a weapon, ammunition, and all of the people and vehicles they needed to commit the robbery. Additionally, the LAPD observed the subjects leaving South Central Los Angeles in three vehicles heading in the direction of the bank. b6 b7C

As efforts were being made to reposition the FBI vehicles for vehicle stops, one of the subject vehicles drove past and proceeded into the west exit of the bank's north parking lot. A SWAT vehicle which was placed in the parking lot advised they had a clear visual on the actions of the subject van. Information was relayed that there were four black males in the subject van which had been backed into a parking slot on the north side of the bank near the entrance. SWAT Agents also advised they observed a silver colored revolver in the hand of one of the subjects when he exited the vehicle.

SWAT Agents located in the parking lot observed two subjects enter the bank, followed by one other individual. The fourth subject stayed with the van during the robbery.

SAs [redacted] and [redacted] followed two additional SWAT vehicles which were positioned on the north side of the bank behind an adjacent building. The three vehicles waited behind the building and out of sight of the subject van. A decision was made that once the subjects finished the robbery and the subject van was moving, the three SWAT vehicles would enter the west exit of the bank lot to block the subjects from escaping. Agents observed the suspects enter the van which

traveled westbound towards the west exit of the lot. The three SWAT vehicles drove onto the lot in an attempt to block the subject van from escaping. Upon seeing the SWAT vehicles with emergency lights activated, the subject van began driving at a high rate of speed in the direction of the SWAT vehicles. The first SWAT vehicle swerved in front of the subject van as the van swerved to avoid being stopped. The vehicles collided causing damage to the left front of both vehicles. The impact caused the subject van to bounce sideways and strike a parked vehicle in the bank lot. Additionally, as the first SWAT vehicle suddenly stopped, it was rear-ended by the second SWAT vehicle.

The subject van was able to squeeze between the first SWAT vehicle and the damaged parked vehicle. The van was driven in a northwesterly direction which caused it to go over a short wall adjacent to an alley where the van struck several other vehicles. SA [redacted] began a pursuit of the subject van and observed the vehicle stop after hitting several other vehicles and a median in the street. As soon as SA [redacted] vehicle stopped, he observed three of the occupants exiting the vehicle. He saw the passenger in the front seat begin to exit but could not see his hands. Knowing the individuals had used a weapon while robbing the bank and unable to see the subject's hands, SA [redacted] fearing for his as well as his partner's safety, fired two rounds through the open window of his vehicle in the direction of the subject.

Simultaneously, SA [redacted] observed the sliding door on the passenger side of the subject van opening as the SWAT vehicle stopped. He believed he saw something in one of the hands of a subject who was exiting the van. Upon seeing what he believed to be a handgun, SA [redacted] fired one round through the SWAT vehicle's open window in the direction of the subject who began falling forward just as SA [redacted] pulled the trigger of his weapon. The rounds fired by both Agents impacted the subject vehicle.

b6
b7C

The four subjects fled on foot, however, were captured within a few minutes by members of the SWAT Team.

On 10/13/2004, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief, Operational Support Section, Criminal

Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted], Unit Chief (UC), National Firearms Program, Training and Development Division (TDD); UC [redacted], CD-6B, Counterintelligence Division; SSA [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Firearms Training Unit, TDD; SSA [redacted], Operational Skills Unit, TDD; SSA [redacted], Firearms Training Unit, TDD; SSA [redacted], National Firearms Program, TDD; and SSA [redacted], Investigative Law Unit, Office of the General Counsel (OGC). The two non-voting members present were [redacted], Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division; and [redacted], Intern, Leadership Development Institute, Training and Development Division, Quantico. b6 b7C

During the initial discussion of this shooting incident, SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy.

Further discussion identified three areas of concern regarding the incident which were not addressed in the initial report. A request was made to the LAFO to provide additional information in the following three areas: 1) it appeared there was probable cause to arrest the subjects prior to the attempted bank robbery. Members wanted to know the position of the United States Attorney's Office (USAO) with respect to the probable cause and the guidance, if any, given regarding when the arrest of the subjects was authorized; 2) if there was probable cause to arrest the individuals, why were they allowed to get inside the bank before any action was taken by law enforcement authorities; and 3) why were two distinctly different surveillance teams, one FBI and one LAPD, utilized instead of one, if a surveillance/communication problem existed between the two teams, were the teams "cross assigned" with members of the LAPD and the FBI, who had on-site command of the operation, and how was this effected during the surveillance/arrest, and lastly, what was the LAFO's post-incident evaluation of the surveillance/arrest situation? b6 b7C

On 11/17/2004, the SIRG met to resume discussion of the above-captioned shooting incident. Former Chief Inspector [redacted], Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Special Counsel, Civil Rights Division, USDOJ; [redacted], Deputy Chief,

Domestic Security Section, Criminal Division, USDOJ; My Harrison, Former Section Chief (SC), Applicant Processing Section, Administrative Services Division; Jay C. Manning, SC, CD-6, Counterintelligence Division; Manuel E. Mora, SC, Operational Support Section, Criminal Investigative Division; [redacted] Acting Unit Chief (UC), Firearms Training Unit, TDD; [redacted] Acting UC, National Firearms Program, TDD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and, SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

During this meeting of the SIRG, copies of an e-mail from the LAFO were circulated to members containing responses to each of the questions raised.

The LAFO advised the SIRG Chairman that the USAO made an investigative/prosecutorial decision that not enough probable cause existed to warrant arrest of the subjects. The LAFO was instructed to continue to monitor the Title III, continue surveillance of the subjects, and if, possible, arrest the subjects just prior to committing a bank robbery. Additionally, there was not sufficient probable cause to arrest the subjects prior to their arrival at the bank and probable cause was not sufficient until it was known that the subjects possessed the tools, weapons, and vehicles to commit the robbery.

Several contingencies were discussed at the SWAT brief. The first option was to do a felony car stop prior to the subjects arrival at the bank. The second contingency was to attempt to arrest the subjects outside of the bank if it could be done safely. Just prior to the robbery it was determined that seven subjects were driving five vehicles and were located in five locations. According to the LAFO, at no time was it possible to effect an arrest during the staging period of the robbery.

Investigation determined that the subjects were to drive around the bank once prior to the robbery. However, unexpectedly, the subjects inside the van immediately entered the parking lot through an exit only driveway and parked next to the back door of the bank. Based on the positioning of the subject van, it was impossible for a team to effect an arrest prior to the subjects entering the bank. Rather than risking a hostage situation, the SWAT operators were told to prepare

to enter the bank immediately if an emergency arose, but otherwise attempt to stop the vehicle prior to it leaving the parking lot.

Regarding the use of one FBI surveillance team and one LAPD surveillance team, the LAFO advised the LAPD surveillance team had successfully surveilled the subjects for months and since they were familiar with the subjects and subject vehicles, it was better that they continue to monitor the subjects. It was also necessary to have the FBI Special Operations Group (SOG) involved due to the number of subjects and vehicles, and to better coordinate the arrests once the subjects were in the vicinity of the bank. The LAFO also advised that there was not a lack of communication between the various entities and that all of the participating departments had representatives at the FBI Tactical Operations Center who was in continuous communication with the LAPD surveillance team, the FBI surveillance team, the FBI SWAT team, and FBI air units. Additionally, the SIRG was advised that LAFO Executive Management had complete oversight and control over the operations.

Lastly, the LAFO's post-incident analysis determined that based upon the totality of the circumstances (the number of subjects, the number of vehicles, the erratic behavior of the subjects, the location of the subject vehicle to the bank entrance, and absent approval from the USAO to effect the arrest earlier), the decision to arrest the subjects after the robbery was the most viable option to ensure the safety of the public and law enforcement personnel.

SIRG members opined that the LAFO sufficiently addressed the areas of concern and no further discussion was held on the matter.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Again, SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 03/15/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Cloyd, Room 7825
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 7326
1 - Mrs. [redacted] Room 7861
♦♦



Savage-1947

# FBI
# Shooting Incident Report Summaries

# 2003

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: AIIP [redacted] Office: Oklahoma City
Date: 01/09/2004

Case ID #: 297-HQ-A1271801-SUB D

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT;
OKLAHOMA CITY DIVISION;
12/08/2003;
INSPECTION MATTER

Character: ADMINISTRATIVE INQUIRY

Synopsis: This Administrative Inquiry was initiated subsequent to a shooting incident which occurred in Marietta, Oklahoma, on the afternoon of 12/08/2003.

DETAILS:

b6
b7C
b7D

On the morning of December 08, 2003, the Marietta, Oklahoma Police Department (MPD) was contacted by [redacted] a local resident, who advised that [redacted] aka, [redacted] was a convicted felon and subject of an outstanding warrant issued in California for a parole violation. [redacted]

[redacted] was contacting the MPD with this information as [redacted] had recently purchased a pistol and ammunition. [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Should law enforcement confront him, [redacted] stated he would not surrender peacefully but go out in a "blaze of glory."

Based upon this information, [redacted] Supervisor (Chief), MPD, conducted an inquiry to confirm the outstanding warrant. Thereafter, he telephonically contacted the Ardmore Resident Agency (RA) to set up a meeting to formulate a plan to locate and apprehend [redacted] b6 b7C

Upon receipt of the telephone call from Supervisor [redacted] SA [redacted] Ardmore RA, queried the FBI's Automated Case System regarding [redacted] which disclosed that [redacted] had previously been convicted of armed bank robbery. An NCIC inquiry was then conducted which confirmed that a Federal warrant, issued to the United States Marshal Service out of the Central District of California, was outstanding for violations of his Probation. The inquiry disclosed that [redacted] was considered Armed & Dangerous and had violent tendencies. SA [redacted] then telephonically contacted [redacted] parole officer in California who confirmed the warrant for the probation violation. SA [redacted] subsequently contacted SSRA [redacted] to apprise him of the information regarding [redacted] and that they would later be traveling to Marietta to meet with [redacted]

SA [redacted] and SA [redacted], Ardmore RA, subsequently met with Supervisor [redacted] and Sheriff Joe Russell, Love County, at a pre-determined service station in Marietta, OK, to further exchange information and develop a practical plan. During this meeting, Supervisor [redacted] was apprised by his department that [redacted] son [redacted] who also lives with his father, had been observed in town and had been stopped for questioning. [redacted] advised that he had left [redacted] at home and that [redacted] was last seen in the front living room watching the video monitor. b6 b7C

Following this information, SA [redacted] re-contacted SSRA [redacted] to update him regarding the discussion with the local law enforcement and their progress with locating [redacted] SSRA [redacted] advised that the agents should consider a tactical team in apprehending [redacted] should he be located.

Upon receipt of this information and after conferring with the other representatives, Supervisor [redacted] contacted the Ardmore Police Department requesting assistance from their Special Weapons and Tactical Team (SWAT) to effect the arrest should [redacted] be located. [redacted] advised that he was aware that [redacted] had made statements in the past that he would not be taken alive. Supervisor [redacted] felt it prudent to have a

tactical team apprehend [redacted] once located, to minimize the risk of danger to other law enforcement officers.

While continuing to confer at the service station awaiting the arrival of the Ardmore SWAT, a 911 call was received by the Love County Sheriff's Office and MPD dispatch from the residence of [redacted], whose home is located down the street from [redacted] residence. The emergency call was placed by [redacted] who advised that [redacted] was outside of [redacted] home, inquiring as to [redacted] whereabouts. [redacted] expressed that he felt threaten by [redacted] and that his life was in danger. Following the emergency call, the officers and agents assembled at the service station responded to the [redacted] residence along with other law enforcement officers in the immediate area. MPD officers were the first to arrive at the [redacted] residence. During their questioning of [redacted] she observed [redacted] in his vehicle and identified him to the officers at the scene. A broadcast of [redacted] whereabouts was announced over the radio at which time a search of the surrounding neighborhood was initiated by officers and agents. Shortly thereafter, [redacted] was observed by officers on the street who commanded him to stop. [redacted] ignored their commands and began fleeing in his vehicle at an increased rate of speed.

b6
b7C

Believing that [redacted] now posed a public threat, SA [redacted] and [redacted] began searching for [redacted] in their separate vehicles. They subsequently located and observed [redacted] traveling at a high rate of speed, jumping curbs, and traveling erratically through residences' yards. During this pursuit through several neighborhoods, SA [redacted] became positioned directly behind [redacted]'s vehicle which subsequently crashed into a residence. SA [redacted] exited his bureau vehicle, and was observed by Love County Undersheriff [redacted] identifying himself to [redacted] who was attempting to flee. SA [redacted] ordered [redacted] to stop and get on the ground several times. [redacted] then reached for his pistol located in his waistband and attempted to remove it from his person. SA [redacted] believing that his life was now in imminent danger with [redacted] ignoring his commands, fired one round from his service pistol, striking [redacted] in the left side of the neck at which time [redacted] collapsed to the ground. As officers reached [redacted] SA [redacted] was overheard acknowledging that he had shot [redacted]

b6
b7C

As the officers went to secure [redacted] lying on the ground, [redacted] began struggling and was observed to forcefully push his right hand underneath himself as though reaching for something. An officer announced [redacted] actions at which time he was brought under control and handcuffed. Thereafter, [redacted]

was turned over and raised off of the ground. A pistol was immediately observed lying on the ground in the area of [redacted] waist. The pistol was picked up by an MPD officer and handed to SA [redacted] for safety.

b6
b7C

Following the shooting incident, [redacted] was afforded medical treatment by the officers on the scene until emergency medical services arrived. [redacted] was subsequently transported by ambulance to the Mercy Memorial Hospital located in Ardmore, OK, where he underwent medical treatment. Upon his release from the hospital, [redacted] was subsequently booked into the Carter County Detention Center for the outstanding parole violation.

(P)

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/12/2003

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A LAH
Clemens Michael [redacted]

b6
b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271781-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/24/2003
NEWARK DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/24/2003, involving Special Agent (SA) [redacted] SA [redacted] shot and injured a pitbull dog attempting to attack an individual. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 03/05/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271781-D, 06/12/2003

Details of the Shooting Incident

On 02/24/2003, at approximately 7:40 a.m., Agents assigned to the Special Operations Group were meeting in a parking lot to discuss a surveillance operation. As the Agents were involved in the discussion, they observed a pitbull dog attempting to attack a young male who was walking to a nearby high school. SA [redacted] moved towards the male, yelling at the dog, in an attempt to scare it away. The dog retreated but quickly returned with another pitbull and began advancing directly towards the young male victim, growling and snapping its teeth.

SA [redacted] again approached the dog attempting to scare it away, however, the dog lunged at the young male's face and neck. SA [redacted] ran towards the victim, pushed him out of the way, and placed himself between the victim and dog. Believing that either he or the young male was in imminent danger, SA [redacted] fired one round from his Bureau-issued Glock Model 22 .40 caliber handgun striking the dog. The injured pitbull retreated and collapsed and the second dog fled the scene.

b6
b7C

Officials of the Trenton Police Department and the Bureau of Animal Control responded and removed the dog from the scene.

On 05/08/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Operational Skills Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms Training Unit, Training

b6
b7C

Division. The only non-voting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the actions of SA [redacted] were justified and in conformance with the deadly force policy. SIRG members recommended that no action be taken against him as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271781-D, 06/12/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] SDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Rm. 5155
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Rm. 7861

♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/12/2003

To: Inspection. Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A LAH/B
Clemens Michael MJC

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271898-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/03/2003
PHOENIX DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/03/2003, involving Special Agent (SA) [redacted]. During the execution of a search warrant, SA [redacted] shot and injured a dog charging toward SA [redacted] who was kneeling on the ground. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication of Assistant Special Agent in Charge Ray P. Churay, dated 01/09/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271898-D, 06/12/2003

Details of the Shooting Incident

On 01/03/2003, the Phoenix Division Special Weapons and Tactics (SWAT) Team was conducting a search warrant at a residence whose residents were purported to be involved in the theft of computer hard drives from a facility that administrates medical records of current and retired United States Military members.

An investigation determined the residents had equipment to create false identification and wash checks. Additionally, information was received that the residents were in some way associated with the Hells Angels motorcycle club, wore weapons while in the residence, had a long gun taped to the underside of a coffee table, and were methamphetamine users.

Surveillance revealed a seven foot high wooden fence protecting the rear view of the residence and a concrete block privacy wall protecting much of the front of the residence. Additionally, the residence was most active, and was most frequented by visitors in the evening, late night, and early morning hours. It was decided that the late morning hours would be the best time to execute the search warrant.

Upon the initial breach of the residence by SWAT Team members, they encountered a single female resident attempting to restrain a mixed breed Shepard dog. The female was non-compliant and became irate, shouting at the entry team. The dog was released as the female was placed under physical control and ran into another area of the residence.

As the female was being removed from the residence, she advised there was another individual in one of the bedrooms. As members of the SWAT Team were covering the kitchen and hallway area leading to the bedroom, SA [redacted] warned SA [redacted] to remain down on one knee to enable him to cover SA [redacted] back should the dog reappear and attack. The dog subsequently reappeared and charged at SA [redacted] back and left side. SA [redacted] quickly fired two rounds at the charging dog, hitting the animal in the shoulder area, causing the dog to veer past SA [redacted] and proceed down the hall. The dog returned toward SA [redacted] however, verbal commands resulted in the dog retreating into an empty bedroom.

b6
b7C

A male subject was subsequently located in another bedroom and secured. The injured dog remained in the bedroom until removed by a Phoenix Police Department animal control officer.

On 05/08/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, Operational Skills Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Washington Field Office; and SSA [redacted], Firearms Training Unit, Training Division. The only non-voting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the actions of SA [redacted] were justified and in conformance with the deadly force policy. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271898-D, 06/12/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Rm. 5155
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: ASAC [redacted] Office: Los Angeles
Date: 07/31/2003

Case ID #: 66F-LA-234326

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION;
05/29/2003

Character: ADMINISTRATIVE INQUIRY

Synopsis: On May 29, 2003 at approximately 7:00 p.m., members of Los Angeles Squad CE-1 prepared to conduct a buy/bust arrest of subject [redacted] in West Hollywood, California. Subject [redacted] was to meet with a [redacted] in the parking lot of a fast food restaurant called "Carl's Jr." [redacted] was to sell a large amount of the drug MDMA also known as "Ecstasy". [redacted]

At about 7:20 p.m. on this same date, subject [redacted] arrived at the restaurant, parked his vehicle, and met the [redacted] inside the restaurant. The subject's vehicle was a black Chevrolet Avalanche which is a large heavy-duty pickup. The subject returned to his vehicle accompanied by the [redacted]

b6
b7C
b7D

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] a surveillance van holding five FBI agents drove towards [redacted] vehicle to block it from trying to exit.

As the FBI vehicle approached subject [redacted] pick-up, he apparently realized he was about to be arrested. He drove forward in an attempt to drive around the van and the two vehicles collided with both left front corners making contact. Subject [redacted] continued driving forward and struck the driver's side door as SA [redacted], the driver of the van, attempted to exit the vehicle. The door slammed back against SA [redacted] causing an injury to his left arm.

Subject [redacted] continued driving forward at a high rate of speed in the parking lot. At this time, SA [redacted] had driven forward in his vehicle to assist the members of his squad. Subject [redacted] collided head on into SA [redacted] vehicle causing such severe damage to the vehicle it was totaled out. The large pick-up being driven by subject [redacted] bounced to the right and landed atop a sidewalk which runs adjacent to the restaurant's building. SSA [redacted] had been inside the restaurant surveilling the drug buy. As SSA [redacted] opened the exit door of the restaurant to assist in the arrest, he noticed subject [redacted] vehicle coming towards him, atop the sidewalk, and at a high rate of speed. SSA [redacted] stepped back just in time to avoid being injured as subject [redacted] vehicle slammed into and destroyed the door.

Subject [redacted] continued driving forward in an effort to escape from the scene. SA [redacted] who was now on foot and walking towards the area where the arrest was to take place, was standing in the path where the subject's vehicle was now headed. As the vehicle approached him, SA [redacted] saw the subject he knew as [redacted] and fired two rounds at him. One of the rounds struck the vehicle on the front passenger door while the other missed the vehicle causing no damage. The subject's vehicle continued out of the parking lot, drove west and then north from the area. SA [redacted] was not harmed during the incident. At this time it was unknown whether or not subject [redacted] had been shot.

Members of Squad CE-1 chased subject [redacted] in their vehicles as he fled from the area. [redacted] drove about a mile and then abandoned his vehicle in a residential neighborhood. The FBI, the Los Angeles Police Department (LAPD) and the Los Angeles Sheriff's Department (LASD) set up a perimeter at the location. They searched for subject [redacted] but were unable to locate him.

b6
b7C

b6
b7C

Subject [redacted] was eventually arrested on May 30, 2003 at approximately 3:00 a.m. in downtown Los Angeles by the FBI. During the arrest, there was another shooting incident. See 66F-LA-234327 and 89B-LA-234329 for the facts and circumstances behind this incident. Subject [redacted] along with the already pending drug distribution charges, will be charged with several counts of Assault on a Federal Officer.

b6
b7C

The Los Angeles FBI Agent Involved Shooting (AIS) team responded to the area to conduct an administrative inquiry following the incident. The team conducted interviews of the agents involved as well as witnesses to the incident. The neighborhood, which is all businesses, was canvassed for any other witnesses but none were located. The AIS team coordinated the investigative requirements from the LASD and the LAPD at the scene. Neither the LAPD or the LASD generated any reports for this incident. SA [redacted] after providing information as to public safety issues concerning the rounds he fired and being given an EAP contact, was released from the scene. His weapon used during the incident was retrieved by the AIS prior to his departure and he was provided another Bureau issued weapon of the same make and model.

The Los Angeles FBI Evidence Response Team (ERT) responded to the location and processed the scene at the restaurant parking lot. They retrieved shell casings fired from SA [redacted] weapon as well as other items of evidence at the crime scene. They made sketches and took photographs of the scene to include the injury to SA [redacted] One of the rounds fired by SA [redacted] was located inside the passenger compartment of subject [redacted] vehicle on the floorboard on the driver's side. The round appears to have struck the passenger side door and then ricocheted off the vehicle's mirror before finally coming to a rest inside the vehicle. Efforts to locate where the other round struck were made, but the round could not be found. Area hospitals were checked with negative results as to ensure the random round had not struck anyone.

b6
b7C

SA [redacted] received medical attention two days after the incident, but was not injured to the extent he needed to miss work. No other agents assaulted during this incident received any medical treatment.

- P -

66F-LA-234326

DETAILS:

This case was predicated upon information that SA [redacted] assigned to the Los Angeles Division of the Federal Bureau of Investigation (FBI), had been involved in a shooting incident at approximately 7:30 pm, on May 29, 2003. SA [redacted] was involved in this incident when he was in the process of apprehending drug dealer [redacted]

b6
b7C

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 08/19/2003

To: Director's Office Attn: A/AD Charlene B. Thornton
Inspection AD Lynne A. Hunt
Training A/AD Andrew R. Bland III

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne [redacted]
Clemens Michael [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271699-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
05/15/2003
LAS VEGAS DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/15/2003, involving Supervisory Special Agent (SSA) [redacted] assigned to the Investigative Training Unit, Training Division. SSA [redacted] was attending and assisting in the conduct of a Certified Public Accountant (CPA) in-service in Las Vegas, Nevada, when he fired two shots into a refrigerator located in a casino. SIRG members made no recommendations regarding this matter due to the matter being previously referred to the Office of Professional Responsibility (OPR).

Administrative: Reference Electronic Communication of SSA [redacted] of the Las Vegas Division, dated 06/02/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Director's Office From: Inspection
Re: 297-HQ-A1271699-D, 08/19/2003

Details of the Shooting Incident

The Training Division, FBIHQ, conducted an in-service for FBI CPAs on Monday, 05/12/2003, through Friday, 05/16/2003, at the Flamingo Casino and Hotel in Las Vegas, Nevada. The in-service was a training opportunity for the FBI's CPAs to receive training and information in the latest trends and techniques regarding professional accounting.

On Thursday, 05/15/2003, an employee at the Barbary Coast Casino and Hotel was about to exit the rear door of the kitchen onto the loading dock area of the hotel when he heard two gun shots. The employee observed an individual wearing a blue shirt and blue pants replacing a pistol into a holster on his right hip. The employee immediately called security to respond to the area. The subject was observed walking through the kitchen area towards the front of the kitchen. The hotel employee returned to the loading dock area and observed two bullet holes in the front of a large walk-in refrigerator located on the loading dock.

Hotel security officers reported that a white male subject matching the description of the shooter was observed walking towards the valet area at the front of the Barbary Coast Casino. The supervisor for Security responded to the valet area and confronted the male subject. A security guard arrived, approached the subject, and handcuffed him for the safety of officers due to the nature of the incident. Although compliant, the subject was reportedly extremely confused and intoxicated. Upon patting the subject down, a handgun was discovered on the right hip of the subject as well as two loaded magazines on his left hip. The subject was escorted to the security offices where security officers notified the Las Vegas Metropolitan Police Department (LVMPD) who responded to the scene. Upon arrival of the LVMPD officers, the subject was identified as SSA [redacted]

Officers of the LVMPD cited SSA [redacted] with a misdemeanor of unlawful discharge of a firearm in a prohibited area and took possession of his Glock 21 pistol. SSA [redacted] was released to Unit Chief [redacted] of the Investigative Training Unit. b6 b7C

According to SSA [redacted] earlier in the afternoon he consumed approximately four beers and subsequently consumed several additional beers and a glass of Scotch before going to dinner. During dinner SSA [redacted] consumed a glass of wine. After dinner, SSA [redacted] advised that his next memory was that of an acquaintance playing craps at an unknown location and remembered nothing until he was in the security office with several uniformed people. SSA [redacted]

advised that he knew he was being detained and remembered someone telling him that he shot a refrigerator. He recalled being briefly handcuffed and being read his Miranda Warnings as the uniformed personnel viewed a video of the shooting incident. SSA [redacted] advised that he had no recollection of how he got to the security office.

After being released to Unit Chief [redacted], SSA [redacted] went to his hotel room where he remained until he left Las Vegas.

On 08/14/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted], Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Transfer Unit; Administrative Services Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] Operational Skills Unit, Training Division; and SSA [redacted], Washington Field Office. The two non-voting members present were [redacted] and [redacted] Management/Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members held a brief discussion regarding the actions of SSA [redacted] however made no recommendations regarding this matter due to the matter being previously referred to the OPR.

To: Director's Office From: Inspection
Re: 297-HQ-A1271699-D, 08/19/2003

LEAD (s):

Set Lead 1:

DIRECTOR'S OFFICE

AT OPR

For information only.

Set Lead 2:

INSPECTION DIVISION

AT WASHINGTON, D.C.

For information only.

Set Lead 3:

TRAINING DIVISION

AT QUANTICO, VIRGINIA

For information only.

To: Director's Office From: Inspection
Re: 297-HQ-A1271699-D, 08/19/2003

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Mrs. Thornton, Rm. 7125
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Bland, Quantico
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] SDOJ
1 - Mr. Vasey, OIG
1 - Mr. Cromwell, Rm. 6012
(Attention: Mr. Lewis)
1 - Mr. Elder, Rm. 5155
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted], Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861)

b6
b7C

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: ASAC LARRY R. KUHL Office: DETROIT
Date: 07/22/2003

Case ID #: 297-HQ-A1271480-D

Title: SHOOTING INQUIRY;
REPORT OF SHOOTING INCIDENT
DETROIT DIVISION
May 14, 2003

Character: ADMINISTRATIVE INQUIRY/CIVIL RIGHTS

Synopsis: Captioned matter relates to a shooting incident which was predicated upon the attempted apprehension of a subject of an Unlawful Flight to Avoid Prosecution (UFAP) investigation. While law enforcement personnel were attempting to arrest the subject, he fled and fired at an Agent. The Agent returned fire. Neither the shots fired by the Agent or subject caused any injury. The subject then shot himself in the head, causing a fatal injury.

- P -

DETAILS:

On 05/13/2003, Eric Carpenter became an FBI subject based on the anticipation of the initiation of a UFAP process being issued regarding Carpenter. Carpenter was wanted on two separate homicide warrants and implicated in a third homicide, all emanating from investigations conducted within the city of Detroit by the DPD. Carpenter was known to carry two handguns and also possessed two AK47 assault rifles. On the evening of 05/13/2003, the Wayne County Prosecutors Office requested Unlawful Flight assistance in locating subject Carpenter by making the request to the Metropolitan Violent Crimes Street Gangs and Alliance Fugitive Task Force.

On 05/14/2003, at approximately 12:00 p.m., a confidential source advised VCTF members that the subject

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

was in Detroit driving a Chevrolet Corvette bearing a temporary North Carolina license certificate. Further, the subject had been seen within the hour in the vicinity of 3332 Clements Street, Detroit, Michigan.

VCTF units were dispatched to the area of 3332 Clements in an effort to find the vehicle.

On 05/14/2003, at approximately 1:00 p.m., Carpenter was observed while driving the Corvette bearing the North Carolina temporary registration. The vehicle was observed in the area of Davison and Santa Rosa (which is near the address of 3332 Clements). The vehicle was subsequently lost in traffic.

The vehicle was spotted again at approximately 3:00 p.m., at which time officers and Agents conducting surveillance observed the subject driving at a high rate of speed, again in the Corvette. The subject was followed to a school where he picked up a young child. Communication between the surveillance team during this period of time resulted in the collective concurrence that no attempts would be made to arrest him while he was near the school or in possession of the child. At the same time, Carpenter was in the accompaniment of a black female passenger, who had gotten out of the Corvette and gone into the school. When Carpenter departed the school he, in the company of the female companion and the child, was again followed but lost in the area of Interstate 96 and Davison. Approximately 10 to 15 minutes later, task force units observed the Corvette in a McDonalds Restaurant on Livernois near I-96. After it departed, the Corvette was briefly lost again until the vehicle was again observed traveling in the vicinity of Dexter and Davison. The Corvette was followed to the vicinity of 3352 Clements. The adult female and child were observed getting out of the Corvette and Carpenter was observed first getting out of the Corvette and then returning to it. After Carpenter returned to the car, the adult female also returned to the vehicle.

At this time, SA [redacted] along with task force officers [redacted] and [redacted], all in separate vehicles, collectively formulated a plan to box in the vehicle in an effort to prevent Carpenter from escaping when the attempted arrest would be made. The four participants agreed to attempt to effect the arrest of Carpenter after the police vehicles negotiated down Clements Street and effectively "boxing it" in. Task Force Officer (TFO) [redacted] drove past the Corvette and then blocked the front of the vehicle in order to prevent Carpenter from driving forward. SA [redacted] angled his vehicle also in front

b6
b7C

of the passenger side of the Corvette in an effort to further block the vehicle. SA [redacted] approached the passenger side of the Corvette, identified himself as law enforcement at least three times, according to SA [redacted] statement. He further issued commands to Carpenter consistent with arrest procedures. Carpenter exited the Corvette and ran. SA [redacted] reported that he informed the others that Carpenter was running. The Corvette, apparently in gear, rolled forward, hitting SA [redacted] car. Carpenter ran up a driveway and SA [redacted] pursued, repeatedly shouting, "Police, police, stop, let me see your hands." b6 b7C

Carpenter was at the end of the driveway when he reached his right hand into the waist band and pulled out a handgun, firing three to four shots at SA [redacted] SA [redacted] communicated the fact that the gun had been fired at him to the others and he took cover behind some garbage bags and returned approximately six rounds at Carpenter. Neither the shots fired by Carpenter or the shots fired by SA [redacted] inflicted any damage to each other or to other individuals. There were no other individuals in the immediate vicinity of the shooting path at the time. SA [redacted] lost his sight of Carpenter when Carpenter disappeared into the backyard adjacent to the driveway. When SA [redacted] ran to the end of the driveway, he observed Carpenter proceed from a backyard down an alley. SA [redacted] continued to issue instructions to Carpenter, telling him to drop his gun. He observed Carpenter take his handgun, point it to his head and discharge one shot to his own head, thereafter dropping to the ground. When SA [redacted] and other officers approached the subject, SA [redacted] noted a hole in the right side of Carpenter's head. Officer [redacted] secured Carpenter's handgun and a magazine which was located underneath Carpenter's body. Subsequent to the shooting, notification was made to the FBI office and to appropriate individuals within the DPD. At the onset of the on-scene investigation, SA [redacted] turned over his weapon to SAC Hulon, where it was eventually provided to the DPD for appropriate testing. A subsequent ballistics examination, as well as on-scene homicide investigation and autopsy, demonstrated substantial amounts of evidence that subject Carpenter had taken his own life. A review of statements provided by numerous other task force personnel, as well as bystander witnesses, provides substantial amounts of corroboration to the version provided by SA [redacted] as well as other individuals involved in the attempted arrest. b6 b7C

The interview statements of SA [redacted] TFO [redacted] and citizen witness [redacted] are the most pertinent with regard to the issue of appropriateness of use of force by SA [redacted] Each of these individuals represent various facets of eye witness

statements. A review of information provided by them shows consistency of observations. The subject initiated fire after fleeing the arrest attempt and after being instructed to drop his gun. SA [redacted] returned fire after he was fired upon.

b6
b7C

The crime scene shows casings and bullet hole locations to be consistent with the statements provided by witnesses.

The Medical Examiner's office ruled Carpenter's death a suicide, noting the soot residue on the scalp and the upward trajectory of the bullet, from right to left.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SSA [redacted] Office: ST. LOUIS
Date: 06/06/2003

Case ID #: 297-HQ-A1271906-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
ST. LOUIS DIVISION
MAY 12, 2003

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred on May 12, 2003, at approximately 7:10 a.m. (CST) as a Special Agent of the Federal Bureau of Investigation (FBI), St. Louis Division, and two Special Federal Officers (SFOs) assigned to the St. Louis Division's Violent Crimes Fugitive Task Force (VCFTF) attempted to arrest [redacted] on a St. Louis County felony warrant for Trafficking in Drugs 2nd Degree, Unlawful Use of a Weapon, Resisting Arrest and Possession of a Controlled Substance. While attempting to arrest [redacted] he "rammed" his vehicle into a Bureau vehicle which was positioned to block [redacted] escape. After ramming the Bureau vehicle, the vehicle driven by [redacted] backed up and then proceeded forward directly at SA [redacted]. In fear of his life and for the safety of others, SA [redacted] discharged his personally owned Glock Model 22, .40 S&W caliber semi-automatic handgun twice through the driver's side window at the driver of the vehicle. The vehicle proceeded through several lawns at a high rate of speed and down the street where it navigated a dead end barricade. An attempt was made to surveil the vehicle by a member of the VCFTF until it was observed parked near a Taco Bell Restaurant. [redacted] was located in the parking lot of the Taco Bell on foot. [redacted] was subsequently arrested without further incident. [redacted] was injured and was taken to a hospital where he underwent surgery for a shattered elbow and a laceration in the general area of the right shoulder blade. As a result of [redacted] conduct on May 12, 2003, felony warrants were issued by the Circuit

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Court of St. Louis County for Assault First Degree on a Law Enforcement Officer, Armed Criminal Action and Resisting Arrest.

DETAILS:

By way of background, the St. Louis Division of the FBI sponsors the St. Louis Violent Crimes Fugitive Task Force (VCFTF). The purpose of the VCFTF is to locate and arrest individuals with outstanding warrants for acts of violence. The VCFTF has a standard arrest protocol that is followed when making arrests.

b6
b7C

On May 12, 2003, FBI Special Agent (SA) [redacted] Detective [redacted] St. Louis County Police Department, and Detective [redacted] St. Louis Metropolitan Police Department, were assigned to the VCFTF. At approximately 6:40 a.m., Detective [redacted] Detective [redacted] and SA [redacted] met in the vicinity of [redacted] Pagedale, Missouri, to discuss the possible arrest of [redacted] The last known address for [redacted] was [redacted] Pagedale, Missouri. Detective [redacted] provided a briefing regarding [redacted] which included name, description, photograph and the fact that [redacted] was wanted by St. Louis County for outstanding warrants for Trafficking in Drugs 2nd Degree, Unlawful Use of a Weapon, Resisting Arrest and Possession of a Controlled Substance. An operational plan for the surveillance and arrest of [redacted] was developed. The operational plan was consistent with the arrest protocol on file. The operational plan included wearing ballistic vests with a patch bearing the word "POLICE" across it.

SA [redacted] and Detective [redacted] initiated surveillance on the front of [redacted] in two separate vehicles. Detective [redacted] positioned himself and his vehicle at [redacted] Avenue to surveil the rear exit of the residence. SA [redacted] and Detective [redacted] observed a black female later identified as [redacted] exit [redacted] and head in an easterly direction across the street. The black female made contact with a black male sitting in the drivers' seat of a burgundy Pontiac Bonneville which was backed into the driveway and parked at [redacted] After a brief conversation, the female left the car and, as if returning to [redacted] passed the vehicles where Detective [redacted] and SA [redacted] are parked. After observing the law enforcement officers, the black female returned to the burgundy Pontiac Bonneville and had a second conversation with the same black male in the driver's seat. After a second brief conversation, the black female returned to [redacted]

b6
b7C

Detective placed a pretext telephone call to to determine if was present. A female answered the call and stated that was not present.

Believing that the black male in the burgundy Pontiac Bonneville may be SA and Detective decided to approach the male to determine his identity. Detective initiated a U-turn and approached while SA pulled forward to block the driveway at As SA positioned his vehicle, the unidentified male in the driver's seat ducked down behind the dashboard. As SA exited his vehicle, the driver re-appeared and the burgundy Pontiac Bonneville attempted to move forward. SA identified the driver as SA drew his weapon. Despite verbal instructions to "Stop," the vehicle continued forward. SA continued to yell "Stop. Police." and attempted to open the driver's door. did not comply with the commands and the vehicle struck SA Bureau vehicle.

b6
b7C

Meanwhile, Detective had exited his vehicle and approached the Bonneville from the passenger's side. Detective pointed his weapon at the driver and yelled "Police" and "Put your hands in the air and exit the vehicle." looked directly at Detective then put the vehicle in reverse, backed up, put the vehicle in drive and turned sharply to the left. The vehicle pulled forward quickly with dirt spinning from the tires and the engine running fast. The vehicle was proceeding directly at SA and in an attempt to run over SA In fear of his life and for the safety of others, SA discharged his personally owned Glock Model 22, .40 S&W caliber, semi-automatic handgun, serial number DWF336US, twice through the driver's side window at SA was able to leap away from the vehicle and avoid being struck.

The vehicle proceeded through several lawns at a high rate of speed. The vehicle then entered the street and proceeded south on Griefield. Detective initiated surveillance of the vehicle after ensuring the well-being of SA and Detective The street dead ends with a steel barricade. The vehicle navigated the barricade and fled the scene. Detective attempted to stay in visual contact with the vehicle while providing directions to SA and Detective After a short time, Detective observed the vehicle parked in the 6100 block of Rosedale with on foot approximately 75 yards from the vehicle. Detective observed removing articles of clothing and placing

b6
b7C

them in a trash can located at the rear of a Taco Bell Restaurant, 851 North Skinker. SA [redacted] and Detective [redacted] arrived, and together with Detective [redacted] placed [redacted] in custody without further incident. [redacted] was noted to be injured and was immediately transported by ambulance to Barnes-Jewish Hospital. [redacted] underwent surgery for a shattered elbow and received stitches for a laceration in the general area of the right shoulder blade.

After the incident, SA [redacted] telephonically notified Acting Assistant Special Agent in Charge (A/ASAC) Thomas B. Noble. A/ASAC [redacted] responded to the scene and took possession of SA [redacted] personally issued Glock 22, .40 S&W caliber semi-automatic handgun. The handgun was placed in a sealed bag and transferred to Relief Supervisory Special Agent [redacted] A/SSA [redacted] transported the handgun to the St. Louis County Crime Lab where it was test fired and returned to A/SSA [redacted] A/SSA [redacted] then returned the handgun to SA [redacted] The handgun was a Glock Model 22, .40 S&W caliber semi-automatic pistol, serial number DWF336US.

b6
b7C

[redacted] was interviewed at Barnes-Jewish Hospital by Agents of the FBI. [redacted] was advised of his Miranda Rights. [redacted] stated that he was approached by two armed white males in ballistic vests with gold lettering while sitting in his vehicle at [redacted] The two males ordered him from his vehicle. [redacted] did not recall if the individuals identified themselves as law enforcement officers. Thinking he was being robbed, [redacted] attempted to drive away. [redacted] heard one of the men order him to "Stop" but he did not comply. He heard two or three gunshots and was struck once in the elbow and grazed by another across the back. [redacted] escaped by driving over some grass and around the vehicle that was parked in front of him. [redacted] advised that at no time did his vehicle make contact with any other vehicle. [redacted] declined to provide any further information.

b6
b7C

The St. Louis County Police Department conducted an investigation of the incident and formalized their investigative report (refer to complaint number 03-0042019). One person who was interviewed was [redacted] who resides at [redacted] Pagedale, MO. [redacted] is familiar with [redacted] and witnessed the events of May 12, 2003, from her apartment window. [redacted] was drawn to the window at approximately 7:30 a.m., when she heard yelling outside. Upon looking out, she observed [redacted] in his car and a police detective ordering [redacted] not to move his car. [redacted] stated that the detective had the word "police" on a jacket he was wearing. [redacted] stated that

there was an unmarked car blocking the exit path of [redacted] car. [redacted] advised [redacted] car was not backed into her driveway. [redacted] observed [redacted] car move forward while the detective was yelling for him to stop the car and exit it immediately. A few seconds later, [redacted] heard what sounded like two cars hitting. [redacted] looked back out and observed [redacted] move the vehicle to a position so that it was facing directly at the detective. The detective took several steps out of the path of the car. [redacted] then observed the car change directions so that it was again pointed directly at the detective. [redacted] heard tires squealing and the car drove forward at the detective. The detective jumped to his right to avoid the car and while doing so, [redacted] observed the detective fire two shots at the vehicle. [redacted] observed the vehicle continue across the lawn and down the street until it was lost from sight. [redacted] stated that if the detective had not jumped to the side, he would have been struck by the car.

b6
b7C

[redacted] was interviewed. [redacted] is the son of [redacted] and resides at [redacted], Pagedale, MO. [redacted] is readily familiar with [redacted] and his vehicle. [redacted] advised that after being awoken by his mother to get ready for school, he heard someone yelling outside of his window. When he looked out, he observed someone being ordered to get out of a car. [redacted] advised that [redacted] car was moving back and forth in the driveway. [redacted] observed what he believed to be a police detective by the car with his gun drawn. [redacted] stepped away from the window and heard a loud noise "like two cars had collided." A second or two later, [redacted] heard at least two shots fired from the front of the house. [redacted] did not look back out of the window and did not see who had fired the shots.

[redacted] was also interviewed. [redacted] resides at [redacted], Pagedale, MO, and is the mother of [redacted] advised that sometime between 7:00 a.m and 7:15 a.m., on May 12, 2003, she last saw her son. She was leaving her residence when she observed her son in a red vehicle parked in the 1200 block of Griefield. She spoke briefly with him and departed giving him a hug. She walked a short distance and remembered she had forgotten to give her mother a message. She turned around and walked back to her residence. Upon stepping inside, she heard what sounded like several gunshots nearby. She continued talking with her mother and thought nothing more of the shots. [redacted] declined to provide any further information.

b6
b7C

[redacted] was also interviewed. [redacted]

resides at [redacted] Pagedale, MO, with her daughter, [redacted] and [redacted] two children. Early in the morning of May 12, 2003, she received a phone call from someone asking for [redacted] advised the caller that [redacted] was not home. Shortly after the phone call and while getting [redacted] children ready for school, she heard what sounded like gunshots. She went to the front door and observed [redacted] standing in the street. [redacted] observed a car drive by her son towards the dead end of the street. b6 b7C

The crime scene was processed by the St. Louis County Police Department Crime Scene Unit (CSU). Photographs and sketches were made. One bullet was recovered from the passenger front seat of the Pontiac Bonneville. One bullet was recovered from [redacted] at the hospital. Two shell casings were recovered from the scene. At the rear of the Taco Bell Restaurant, 851 North Skinker, was located a trash barrel. Inside the trash barrel were a cell phone, two keys, a pack of cigarettes and a face plate for a Clarion automobile radio.

The St. Louis County Police Department Crime Lab assigned Lab Number 099-2003-42019 to their report. The Lab compared the bullet test fired from SA [redacted] handgun with the bullet recovered from the Pontiac Bonneville. The lab stated that "there are insufficient individual identifiable characteristics to make a positive identification." The Lab compared the bullet test fired from SA [redacted] handgun with the bullet recovered from [redacted] at the hospital. The Lab stated that "there are insufficient individual identifiable characteristics to make a positive identification." The test shell casing was compared to the two shell casing recovered from the scene. The Lab concluded that the recovered shell casings were "definitely fired" from SA [redacted] handgun. b6 b7C

A Missouri Uniform Accident Report number 03-45526 documenting the collision between the vehicle driven by [redacted] and SA [redacted] Bureau assigned vehicle was completed.

Special Agent [redacted] was interviewed pursuant to the investigation. SA [redacted] is the Principal Firearms Instructor for the St. Louis Division. SA [redacted] advised that SA [redacted] was authorized to carry a personally owned semi-automatic Glock Model 22, .40 S&W caliber pistol, serial number DWF336US. SA [redacted] last qualified on the Pistol Qualifications Course (PQC) with the Glock serial number DWF336US on April 15, 2003. SA [redacted] scored a 98 on the PQC. It was

also noted that SA [redacted] is a certified FBI Firearms Instructor and was last certified on February 24-28, 2003, at the FBI Academy. SA [redacted] is a certified Tactical Instructor and Defensive Tactics Instructor and is currently the Tactical Coordinator and the Defensive Tactics Coordinator for the St. Louis Division. SA [redacted] last underwent judgmental/decision-making scenario-based firearms training using the Firearms Advanced Training System (FATS II) on April 1, 2003. SA [redacted] has had several years of experience and training while serving on the SWAT team, St. Louis Division. SA [redacted] was afforded deadly force related training as well as other legal training updates by the St. Louis Division Chief Division Counsel (CDC) Peter J. Krusing during each firearms session. b6 b7C

On Tuesday, May 13, 2003, Detectives from the St. Louis County Police Department met with Chief Warrant Officer [redacted] of the St. Louis County Prosecuting Attorney's Office. Mr [redacted] prepared warrants charging [redacted] with Assault First Degree on a Law Enforcement Officer, Armed Criminal Action and Resisting Arrest. The warrants were presented to the Honorable Joseph A. Goeke, Judge, Circuit Court of St. Louis County who issued the warrants for [redacted]

On May 22, 2003, Mr. [redacted] St. Louis County Prosecuting Attorney, St. Louis County Justice Center, Clayton, Missouri, advised that he did not intend to seek prosecution against SA [redacted] regarding his actions on May 12, 2003.

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/18/2003

**To:** Inspection **Attn:** Assistant Director
Lynne A. Hunt

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Hunt Lynne A
Clemens Michael

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271970-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
04/17/2003
WASHINGTON FIELD OFFICE

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 04/17/2003, involving Special Agents (SAs) [redacted] and [redacted]. Both Agents shot and killed a pit bull dog during the execution of a search warrant. SIRG members recommended that no administrative action be taken against either SA as a result of their involvement in this shooting incident. b6 b7C

**Administrative:** Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 07/18/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 08/18/2003

b6
b7C

Details of the Shooting Incident

On 04/17/2003, members of the Washington Field Office Safe Streets Task Force executed a search warrant at a Southeast Washington, D.C., residence known to be a drug distribution site. Investigation also determined that the residence was a stash location for numerous firearms, including long arms.

Several pre-operational briefings were conducted prior to the execution of the search warrant emphasizing the strong possibility of firearms on or around the premises which could pose a threat to the search team. A discussion was also held regarding the possibility of an aggressive and ferocious pit bull dog being at the location. SA [redacted] was tasked with carrying a shotgun for the purpose of engaging the dog if the need arose.

Members of the entry and search teams arrived at the search location at approximately 4:00 p.m., and observed the dog roaming freely in the front yard. As soon as SA [redacted] exited his vehicle, the pit bull charged; however no contact was made because the dog got caught on top of a fence and fell. As the Agent pulled his firearm to neutralize the dog, he noticed an individual running from the back of the residence towards the search team. As SA [redacted] focused his attention on the approaching individual, the dog continued to prohibit the entry team from passing through the front gate. SA [redacted] believing the search team was in imminent danger of serious physical injury, fired once striking the dog. The gunshot failed to slow the dog's attack resulting in both SAs [redacted] and [redacted] firing additional rounds, killing the dog. Entry team members secured the residence without further incident and requested that District of Columbia personnel dispose of the dead animal.

On 08/14/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Transfer Unit; Administrative Services Division;

SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] Operational Skills Unit, Training Division; and SSA [redacted] Washington Field Office. The two non-voting members present were [redacted] and [redacted] Management/Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the actions of SAs [redacted] and [redacted] were justified and that no action should be taken against them as a result of their involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 08/18/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident. b6 b7C

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Cromwell, Rm. 6012
(Attention: Mr. [redacted]
1 - Mr. Elder, Rm. 5155
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted], WFO
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861)

♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 10/20/2003

**To:** Inspection **Attn:** Assistant Director
Steven C. McCraw

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** McCraw Steven C
Clemens Michael [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271749-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
09/04/2003
MILWAUKEE DIVISION

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/04/2003, involving Special Agent (SA) [redacted] SA [redacted] shot and killed an injured deer that had been struck by his bureau vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of SA [redacted], dated 09/15/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271749-D, 10/20/2003

**Details of the Shooting Incident**

On 09/04/2003, at approximately 9:50 a.m., SA [redacted] struck a deer while driving his Bureau vehicle. Upon striking the deer, SA [redacted] immediately stopped and exited his vehicle and observed the deer attempting to get up as it lay next to the road. SA [redacted] notified the Sawyer County Sheriff's Department about the accident and the injured deer. A Sheriff's Department investigator advised SA [redacted] that no county officers were immediately available to respond to the incident and asked if he could shoot the deer. SA [redacted] discharged one round from his Bureau-assigned Glock Model 22, 40 caliber pistol, killing the deer. b6 b7C

On 10/15/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Assistant Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Physical Surveillance Unit, Counterintelligence Division; [redacted] UC, National Firearms Program, Training Division (TD); [redacted] UC, Investigative Law Unit, Office of the General Counsel (OGC); [redacted] UC, Firearms Training Unit, Training Division; [redacted] Program Manager, Practical Applications Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, OGC; and SSA [redacted] Washington Field Office. The three non-voting members present were SSA [redacted] Operational Skills Unit, TD; [redacted] and [redacted] Management/Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to; (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and

(4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the actions of SA [redacted] were justified and that no action should be taken against him as a result of this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271749-D, 10/20/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. McCraw, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. [redacted] Rm. 5155
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

b6
b7C

♦♦

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/19/2003

**To:** Inspection **Attn:** AD Lynne A. Hunt

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Hunt Lynne A
Clemens Michael

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271898-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/22/2003
PHOENIX DIVISION

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/22/2003, involving Special Agent (SA) [redacted] SA [redacted] shot and killed a deer that was severely injured by a vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication (EC) of Assistant Special Agent in Charge Ray P. Churay, dated 08/04/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 07/22/2003, while on official duty, SA [redacted] stopped to render assistance at the scene of a vehicle-deer accident. The deer was alive but off the highway, posing no threat to anyone's safety. SA [redacted] decided to wait for the arrival of Department of Public Safety (DPS) officers to handle the injured deer; however, the deer began to drag itself towards the highway. SA [redacted], concerned for the safety of individuals traveling on the highway, fired two shots with his Glock Model 22, .40 caliber pistol, killing the deer.

On 08/14/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Transfer Unit; Administrative Services Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] Operational Skills Unit, Training Division; and SSA [redacted], Washington Field Office. The two non-voting members present were [redacted] and [redacted] Management/Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and

(4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in compliance with the deadly force policy and that no administrative action should be taken against him as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271898-D, 08/19/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Cromwell, Rm. 6012
(Attention: Mr. [redacted]
1 - Mr. Elder, Rm. 5155
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861)

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC HERBERT M. BROWN Office: Los Angeles
Date: 07/24/2003

Case ID #: 66F-LA-234327

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION;
05/30/2003

Character: ADMINISTRATIVE INQUIRY

Synopsis: On May 30, 2003 at approximately 3:00 am, members of Los Angeles Division Squad CE-1 were involved in the apprehension of a drug dealer, subject [redacted]. During the arrest of subject [redacted] a shooting incident occurred involving three members of the Squad CE-1. Prior to this incident, on May 29, 2003, another shooting incident involving another member of Squad CE-1 happened during an effort to apprehend subject [redacted].

The initial shooting incident of May 29, 2003 played an integral part in what occurred during the May 30, 2003 incident. The facts behind this incident will be provided prior to outlining what happened on May 30, 2003.

On May 29, 2003 at approximately 7:00 p.m., members of Los Angeles Squad CE-1 prepared to conduct a buy/bust arrest of subject [redacted] in West Hollywood.

b6
b7C
b7D

[redacted]

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] a surveillance van holding five FBI agents drove towards [redacted] vehicle to block it from trying to exit. b6 b7C b7D

As the FBI vehicle approached subject [redacted] pick-up, he apparently realized he was about to be arrested. He drove forward in an attempt to drive around the van and the two vehicles collided, both left front corners making contact. Subject [redacted] continued driving forward and struck the driver's side door as SA [redacted] the driver of the van, attempted to exit the vehicle. The door slammed back against SA [redacted] causing an injury to his left arm.

Subject [redacted] continued driving forward at a high rate of speed in the parking lot. At this time, SA [redacted] had driven forward in his vehicle to assist the members of his squad. Subject [redacted] collided head on into SA [redacted] vehicle causing severe damage to the vehicle. The large pick-up being driven by subject [redacted] bounced to the right and landed atop a sidewalk which runs adjacent to the restaurant's building. As SSA [redacted] opened the exit door of the restaurant to assist in the arrest, he noticed subject [redacted] vehicle coming towards him, atop the sidewalk, and at a high rate of speed. SSA [redacted] stepped back just in time to avoid being injured as subject [redacted] vehicle slammed into and destroyed the door.

Subject [redacted] continued driving forward in an effort to escape from the scene. SA [redacted] who was now on foot and walking towards the area where the arrest was to take place, was standing in the path where the subject's vehicle was now headed. As the vehicle passed near him, SA [redacted] saw the subject he knew as [redacted] and fired two rounds at him. One of the rounds struck the vehicle on the front passenger door while the other missed the vehicle causing no damage. The subject's vehicle continued out of the parking lot and drove west and then north from the area. SA [redacted] was not harmed during the incident. At this time it was unknown whether or not subject b6 b7C

[redacted] had been shot.

Members of Squad CE-1 chased subject [redacted] in their vehicles as he fled from the area. [redacted] drove a few blocks and then abandoned his vehicle in a residential neighborhood. The FBI, the Los Angeles Police Department (LAPD) and the Los Angeles Sheriff's Department (LASD) set up a perimeter at the location. The Los Angeles FBI SWAT team also responded to the area to assist in the matter. They searched for subject [redacted] but were unable to locate him. b6 b7C

Subject [redacted] was eventually arrested on May 30, 2003 at approximately 3:00 a.m. in downtown Los Angeles by the FBI. During the arrest, there was another shooting incident. See 66F-LA-234327 and 89B-LA-234329 for the facts and circumstances behind this incident. Subject [redacted] along with the already pending drug dealing charges, will be charged with several counts of Assault on a Federal Officer.

The Los Angeles FBI Agent Involved Shooting (AIS) team responded to the area to conduct an administrative inquiry following the incident. The team conducted interviews of the agents involved as well as witnesses to the incident. The neighborhood, which is all businesses, was canvassed for any other witnesses but none were located. The AIS team coordinated the investigative requirements from the LASD and the LAPD at the scene. Neither the LAPD or the LASD generated any reports for this incident. SA [redacted] after providing information as to public safety issues concerning the rounds he fired and being provided an EAP contact, was released from the scene. His weapon used during the incident was retrieved by the AIS prior to his departure and he was provided another Bureau issued weapon of the same make and model.

The Los Angeles FBI Evidence Response Team (ERT) responded to the location and processed the scene at the restaurant parking lot. They retrieved shell casings fired from SA [redacted] weapon as well as other items of evidence at the crime scene. They made sketches and took photographs of the scene to include the injury to SA [redacted] One of the rounds fired by SA [redacted] was located inside the passenger compartment of subject [redacted] vehicle on the floorboard on the driver's side. The round appears to have struck the passenger side door and then ricocheted off the vehicle's mirror before finally coming to a rest inside the vehicle. Efforts to locate where the other round struck were made, but the round could not be found. b6 b7C

SA [redacted] received medical attention two days after

the incident, but was not injured to the extent he needed to miss work. No other agents assaulted during this incident received any or claimed to require any medical treatment.

Following this incident, members of Squad CE-1 conducted further investigation to determine subject [redacted]s location. The squad located an associate of subject [redacted] who advised he had a white van registered to him. In addition, the associate advised [redacted] was probably staying at [redacted] Street in Los Angeles, California. The Los Angeles FBI SWAT team was asked to respond to this general area while members of Squad CE-1 set up a surveillance at the residence.

b6
b7C

It was approximately 2:15 am on May 30, 2003 when surveillance units from Squad CE-1 arrived [redacted] A white van registered to subject [redacted] was located parked near the residence on Colyton Avenue. A surveillance team made up of SA [redacted] and SA [redacted] parked in the area to watch the van which appeared unoccupied. Another surveillance team made up of SA [redacted] and SA [redacted] also parked near this area.

While watching the white van, SA [redacted] and SA [redacted] noticed a newer SUV driving by the residence at [redacted] on two occasions. The second time it drove by they decided to follow it to get a look at the occupant(s). SA [redacted] and SA [redacted] followed the first surveillance team should they conduct a traffic stop and would need back up assistance. SA [redacted] and SA [redacted] followed the SUV a short ways and then drove past the vehicle's left side to get a look at the driver. They were able to determine this was not subject [redacted] and then continued on to return to their original position to watch the white van registered to subject [redacted]

SA [redacted] and SA [redacted] decided to continue following the SUV in case the occupants were possibly associated with subject [redacted] About three blocks from the [redacted] address, they decided to conduct a traffic stop. They activated their emergency lights and the SUV came to a stop near the southeast corner at the intersection of 4th Street and Alameda Avenue.

b6
b7C

SA [redacted] and SA [redacted] were in the process of contacting the driver of the SUV via the public address (PA) system of the Bureau vehicle. They were giving the driver commands through the PA system. SA [redacted] had exited the Bureau vehicle and was in the process of approaching the SUV when SA [redacted] heard someone on the Bureau radio communicate that the

white van belonging to subject [redacted] was now moving.

After having seen the driver of the SUV and determining it was not subject [redacted] SA [redacted] and SA [redacted] had returned to the area of [redacted] At approximately 3:00 am they observed the backup lights of the white van illuminated and the vehicle began backing. It was at this time they advised the other surveillance units at the location the van was moving and this is what SA [redacted] heard as SA [redacted] was approaching the SUV three blocks away. SA [redacted] tried to advise SA [redacted] what was happening but SA [redacted] did not hear his communication. b6 b7C

As the white van was backing up it positioned itself to turn north on Colyton Avenue. SA [redacted] drove north past the van as he and SA [redacted] tried to determine if the driver was subject [redacted] After driving past the white van and slowing down, SA [redacted] stated he could clearly see the driver who matched the description of subject [redacted] He was now certain this was subject [redacted] SA [redacted] had turned his vehicle to the right which made it somewhat perpendicular to the white van. SA [redacted] whose passenger side window was open exposed his upper torso to subject [redacted] SA [redacted] had the letters "FBI" clearly showing on his person. In addition, he was holding his handgun in his right hand while waving for subject [redacted] to stop the white van. He was also yelling the words, "FBI stop!"

Subject [redacted] suddenly turned the van to the left in the middle of the street and appeared to be trying to make a U-turn in the middle of the street. SA [redacted] also began a U-turn thinking the subject was attempting to travel south on Colyton Avenue. It was at this time when the white van being driven by subject [redacted] accelerated in reverse directly towards the passenger side of the Bureau vehicle occupied by SA [redacted] and SA [redacted] SA [redacted] yelled for SA [redacted] to drive forward to avoid the collision. The van was only a few feet from striking the area where SA [redacted] was seated when SA [redacted] was able to move the Bureau vehicle. The two vehicles barely missed colliding in the street.

Subject [redacted] continued driving in reverse at a high rate of speed north on Colyton Avenue. SA [redacted] turned his vehicle to drive forward while pursuing the subject. The two vehicles reached the intersection of 4th Street and Colyton Avenue and turned west on 4th Street. Subject [redacted] was still driving in reverse and was approximately 100 feet from Alameda Avenue when SA [redacted] fired one round at the white van. The round struck the left front corner of the vehicle's windshield. b6 b7C

SA [redacted] and SA [redacted] had exited their vehicle as they were still in the process of contacting the driver of the SUV at 4th Street and Alameda Avenue. At this time they heard a gunshot(s) around the corner on 4th Street. Both FBI agents had moved forward to see what was occurring.

Subject [redacted] was still traveling in reverse at a high rate of speed as he came to Alameda Avenue. At this time he turned the vehicle to travel south onto Alameda Avenue but he cut the corner to close. Subject [redacted] drove atop the sidewalk and struck a traffic lightpole on the southeast corner of 4th Street and Alameda Avenue. As he was about to strike the traffic lightpole, he almost struck both SAs [redacted] and [redacted] who each had to quickly move to avoid being injured.

b6
b7C

Subject [redacted] vehicle, after striking the traffic lightpole came to a stop. SA [redacted] and SA [redacted] were now on the passenger side of the white van. Subject [redacted] exited the vehicle and began to run westbound in the intersection. SA [redacted] yelled for the subject to stop but he kept on running. SA [redacted] had moved out into the intersection and to the front of the van to begin chasing subject [redacted] At this same time, SA [redacted] began to fire three rounds at subject [redacted] SA [redacted] stopped and also fired one round at the subject.

Subject [redacted] once the rounds had been fired, came to a stop a few yards west of the intersection on 4th Street. He fell prone onto the ground as SA [redacted] and SA [redacted] were now able to drive to him and place him under arrest. Subject [redacted] told the agents he was not injured and had not been struck by any rounds either during the incident on May 29, 2003 or the one on May 30, 2003.

Subject [redacted] after being taken into custody, was taken to the Los Angeles Metropolitan Detention Center (MDC). He refused to make a statement to arresting agents. As noted earlier, subject [redacted] will not only be facing the drug dealing charges but also several counts of an Assault on a Federal Officer. See 89B-LA-234329 concerning the assault charges.

b6
b7C

The Los Angeles FBI AIS team responded to the scene to conduct an investigation and an administrative inquiry of what had occurred. The team conducted an interview of the one witness located at the scene. This was the driver of the SUV that had been stopped by SAs [redacted] and [redacted] The LAPD responded to the location and conducted a traffic accident investigation due to the traffic lightpole having been damaged by subject [redacted] vehicle. The FBI AIS team spoke with Lt. [redacted] of the

LAPD concerning the shooting incident. It was decided the LAPD would conduct no further investigation into the incident other than the traffic accident. The LAPD provided perimeter control while the FBI AIS team finished obtaining information at the crime scene. They also provided a copy of the accident report to the FBI.

The Los Angeles ERT was asked to respond to the location to process evidence at the site. They retrieved four (4) shell casings located near or in the intersection of 4th Street and Alameda Avenue. They also located another round located on 4th Street several hundred feet east of Alameda Avenue. They also located several other items at the location belonging to subject [redacted] This is to include a broken garage door opener found near the area where subject [redacted] finally stopped and was apprehended. The Los Angeles ERT, under the instruction of the Los Angeles AIS team, also made sketches and took photographs of the crime scene.

Efforts were made to locate where the five rounds that had been fired during the incident had struck. One round, as noted above, struck the left front corner of the subject vehicle's windshield. The other rounds were fired in a westerly direction down 4th Street. This is an older "rundown" business area where there are mostly large industrial type buildings. The area was canvassed but no other rounds could be definitively shown to have struck a particular location. Area hospitals were checked with negative results as to ensure no random rounds had struck anyone. b6 b7C

Subject [redacted] is currently incarcerated at the MDC in Los Angeles. There was no handgun associated with subject [redacted] located at the crime scene.

None of the FBI agents assaulted during this incident received any injuries.

- P -

66F-LA-234327

DETAILS:

This case is predicated upon information that SAs [redacted], and SA [redacted] assigned to the Los Angeles Division of the Federal Bureau of Investigation (FBI), had been involved in a shooting incident at approximately 3:00 am on May 30, 2003., The FBI agents, while on official duty, had been in the process of arresting subject [redacted] when the shooting incident occurred.

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: ASAC HERBERT M. BROWN Office: Los Angeles
Date: 12/20/2003

Case ID #: 66F-LA-235822

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION;
OCTOBER 26, 2003

Character: ADMINISTRATIVE INQUIRY

Synopsis: On October 26, 2003, Special Agent (SA) [redacted] credential number [redacted] assigned to the Los Angeles Division of the Federal Bureau of Investigation (FBI), was off-duty when he was involved in a shooting incident. He was carrying his off-duty weapon along with his FBI badge in a fanny pack.

At approximately 11:15 am on this date, SA [redacted] was in a rental truck parked near a "Home Depot" home center in Marina Del Rey, California. He was being accompanied by his girlfriend who was parked behind him in a separate vehicle. The two of them had rented the truck and planned on moving their belongings to a new residence. It was SA [redacted] intention to hire two day laborers who had gathered near the home center looking for work to assist him in moving his furniture. b6 b7C

SA [redacted] picked out two individuals he intended to hire indicated to them to get into his rental truck. Before they could enter the truck two other day laborers, [redacted] and [redacted] entered his truck on the passenger side. [redacted] told them both to exit his vehicle as he did not want to hire them. The three of them were having a verbal argument, the subjects speaking primarily what SA [redacted] presumed was Spanish while the agent spoke in English.

Subject [redacted] was closest to the passenger door when he grabbed a plastic drinking bottle belonging to SA

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] He exited the vehicle while the agent was still yelling for [redacted] to get out of his truck. [redacted] then leaned back into the vehicle and, while yelling back at SA [redacted] threw the plastic bottle at the agent. The bottle did not strike SA [redacted] but landed on the steering column of the vehicle.

At this time SA [redacted] verbally identified himself as a police officer while continually telling both subjects to get out of his vehicle. [redacted] then lunged over the lap of [redacted] and with his right hand struck the right side of SA [redacted] face. The strike did not have much of an impact because the agent moved his head. [redacted] then grabbed the agent's fanny pack which contained his off-duty weapon. It was lying on the agent's lap and unattached to his person at the time. SA [redacted] was able to wrestle the fanny pack away from [redacted] who then exited the vehicle. As he was leaving the vehicle [redacted] twice said the word "pistola" to [redacted]

b6
b7C

SA [redacted] took the keys from the vehicle and exited the driver's side door. At this time [redacted] came around the front of the truck and once again lunged toward and tried to strike the agent who avoided the assault by moving out of the way. He continually told the subjects he was a police officer and did not want any trouble from them.

SA [redacted] tried to put some space between himself and the subjects by backing away from them, but they kept trying to get closer to him. He pulled his FBI badge out of his fanny pack and displayed it to them in hopes it would convince them to stop.

SA [redacted] reached the area behind his rental truck and then noticed a third male approaching him also. This male was identified as [redacted] The three males formed a circle around the agent as he tried to move away from them. While displaying his FBI badge, he was still yelling for them to back away from him and that he was a police officer.

b6
b7C

SA [redacted] believed his actions were not having an effect as all three subjects were becoming more aggressive. He placed his hand on his off-duty weapon which was still in his fanny pack. The three continued to grab and lunge toward the agent as he attempted to move away from them. At this time he decided to pull his weapon out of his fanny pack. He pointed the weapon at each of the subject's chests while still yelling for them to back away and that he was with the police. This caused the subject's to back up two or three yards.

SA [redacted] stated he was addressing both [redacted] and [redacted] as they continued to circle him. The agent then noticed [redacted] had moved to the sidewalk adjacent to the road and was now four or five yards away from him. [redacted] had picked up a large shopping cart and was holding it over his head. SA [redacted] turned and pointed his weapon at [redacted] chest. He then threw the cart at the agent who was forced to move or the cart would have struck him.

SA [redacted] then moved onto the sidewalk to avoid both [redacted] and [redacted] who still were trying to grab him. He was still being confronted by [redacted] who was yelling at the agent and attempting to grab him. At this time SA [redacted] observed approximately ten more day laborers walking towards his location. The agent said he feared if he were to shoot and harm or kill [redacted] it could start a riot amongst the crowd of day laborers. b6 b7C

SA [redacted] advised [redacted] was now getting more agitated. He was using hand gestures with his fists. When the agent tried to move away from the three subjects, they moved into his path. SA [redacted] felt he could not leave his girlfriend in harm's way as she was about twenty-five feet away in her vehicle. The agent wanted to get far enough away to make a cellular telephone call to ask for assistance. Considering all of the above, SA [redacted] felt he had no option left other than to fire a round in order to disperse the subjects and the crowd.

SA [redacted] stated he pointed his weapon to the area where there was an empty lot and some new construction. He did not observe anyone that could be harmed if he were to fire a round in the direction of the construction area. At this time he fired one round.

SA [redacted] said after the round was fired, the three subjects, [redacted] and [redacted] continued to encircle and lunge towards him. The agent moved into the Home Depot home center parking lot. At this time a bystander intervened and grabbed [redacted] and took him to the ground and held him. Once [redacted] was on the ground, [redacted] and [redacted] slowly backed away from the area. This gave SA [redacted] time to telephone for assistance. The LAPD responded to the scene and all three subjects were taken into custody and transported from the scene. All three of them were booked for attempted armed robbery. b6 b7C

The FBI Los Angeles Agent Involved Shooting (AIS) team responded to the scene to conduct an administrative inquiry of the shooting incident. The team met with the detectives from the LAPD concerning jurisdictional issues. It was determined SA

[redacted] was off duty at the time he was assaulted and the shooting incident occurred. FBI Los Angeles advised the LAPD it would conduct an administrative inquiry separate from the LAPD's assault case. (See administrative matters on cover page E of this report for details).

FBI Los Angeles conducted a search of the area where SA [redacted] round was directed towards. No one was found to have been injured and there was no damage to any property located. Checks of medical facilities following the shooting did not reveal anyone having been shot or harmed. The round itself was not found.

b6
b7C

Subjects [redacted] and [redacted] were subsequently released by the Los Angeles District Attorney as they had not physically struck SA [redacted] Subject [redacted] was charged with and convicted of assault with a deadly weapon and battery. He was sentenced to five months incarceration and is subject to deportation from the U.S. to El Salvador upon his release.

SA [redacted] did not require any medical attention following the assault. No one else at the scene was harmed.

DETAILS:

This case was predicated upon information that SA [redacted] assigned to the Los Angeles Division of the Federal Bureau of Investigation (FBI), had been involved in a shooting incident at approximately 11:15 a.m. on October 26, 2003. SA [redacted] was off-duty at the time of the incident. b6 b7C

- P -

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 02/26/2004

**To:** Inspection **Attn:** AD Steven C. McCraw

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** McCraw Steven
Clemens Michael

**Drafted By:** [redacted]:lrr

b6
b7C

**Case ID #:** 297-HQ-A1271917-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/03/2003
SAN FRANCISCO DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/03/2003, involving Special Agent (SA) [redacted] SA [redacted] fired one shot from her Bureau-issued Sig Sauer, Model 228, nine millimeter, pistol at a charging pit bull dog during the execution of a search warrant. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 10/07/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271917-D, 02/26/2004

**Details of the Shooting Incident**

As part of an ongoing investigation, Agents of the San Francisco Division were assisting in the service of approximately 26 Federal arrest warrants and 29 Federal search warrants. SA [redacted] was assigned to assist in the service of a search warrant at a residence located in Brentwood, California.

On 10/03/2003, a briefing was conducted at the FBI-directed Command Post. At the conclusion of the overall briefing, secondary briefings were held with individual teams where a discussion was held regarding the possible presence of an aggressive pit bull dog at the Brentwood address.

At approximately 6:05 a.m., members of the Brentwood Police Department Special Weapons and Tactics (SWAT) Team arrived at the Brentwood address, knocked, announced their presence and their intention of serving the search warrant. An individual from within the residence initially refused to open the door, however, a short time later partially opened it. SWAT personnel observed a pit bull dog growling inside the residence, while a resident restrained the dog by holding its collar. The resident then released hold of the dog's collar resulting in the dog running out the front door towards the officers. A Brentwood Police Officer fired four shots at the animal without injuring the dog. b6 b7C

Positioned outside the residence, SA [redacted] heard the gunfire and turned to see the dog charging down the pathway toward herself and SA [redacted] SA [redacted] concerned for her safety as well as the safety of other law enforcement personnel on the scene, fired one shot at the dog. Although not injured, the dog turned and ran away upon hearing the gunshot. The dog was eventually controlled by one of the occupants from inside the home.

No personal injuries or property damage were incurred as a result of SA [redacted] discharged round.

On 02/13/2004, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ;

Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Manuel E. Mora, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Acting Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), Counterproliferation Unit, Counterintelligence Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted], Firearms Training Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] National Firearms Program, TD; [redacted] Program Manager, Operational Skills Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Members recommended that no administrative action should be taken against her as a result of her involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271917-D, 02/26/2004

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C

1 - Mr. Gebhardt, Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. McCraw, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] SDOJ
1 - Mr. Vasey, OIG
1 - Mr. Mora, Rm. 5155
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 6050
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr [redacted], Quantico
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: DAD, Inspection Division
Attn: Shooting Incident Review Group
Firearms Training Unit

Report of: SHOOTING INQUIRY Office: Denver

Date: 11/14/2003

Case ID #: 297-HQ-A1271466-D

Title: SHOOTING INQUIRY
DENVER DIVISION
10/25/2003

Character: INSPECTION DIVISION
SHOOTING INQUIRY

Synopsis: On 10/25/2003, SA [redacted] was involved in a shooting incident at 4110 E. Hale Parkway, Denver, CO. SA [redacted] was conducting spot checks of locations in regards to a 52B investigation (Theft of Government Property - Weapon).

Details: On 08/25/2003, SA [redacted] Glock Model 22, 40 caliber pistol was stolen out of his locked and alarmed bureau vehicle. The weapon was stolen out of SA [redacted] vehicle while watching his son's football practice at his high school which is in the most direct route from the office to SA [redacted] home. A 52B case, Theft of Government Property-Weapon was opened in the Denver Division and was assigned to SA [redacted] Squad 3. b6 b7C b7D

In addition to the FBI investigation, Denver Police Department (DPD) developed source information that the stolen weapon was in the possession of [redacted] and [redacted] and [redacted] and [redacted] arrived at the meeting location and saw the [redacted] to a DPD officer, so they fled the scene, leading police on a high speed chase. The [redacted] indicated that SA [redacted] stolen weapon had been in the car occupied by [redacted] and [redacted] They were not apprehended.

Approximately, one week prior to the shooting,

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] was keeping SA [redacted] apprized of the status of DPD's drug investigation as it pertained to [redacted] and [redacted] and provided him with several addresses which they were known to frequent. SA [redacted] had no involvement with the investigation prior to 10/17/2003, when he was contacted by SA [redacted] to provide details of items stolen from his bureau vehicle. The information was needed for search warrants that DPD was going to be conducting on 10/17/2003 on [redacted] and [redacted] for possible drug violations. DPD conducted arrests of the two subjects on drug related charges, however, the Glock was not located.

b6
b7C

SA [redacted] indicated on 10/24/2003, he told Acting ASAC [redacted] and SA [redacted] Applicant Coordinator assigned to Squad 3, in separate conversations, that he was going to do spot checks at several addresses that DPD had developed in regards to the case. SA [redacted] conducted spot checks of the identified locations during the early evening of 10/24/2003.

Acting ASAC [redacted] indicated he and SA [redacted] have had several conversations concerning the stolen weapon as SA [redacted] is responsible for the OPR investigation on that matter. Acting ASAC [redacted] can not recall with specificity a conversation regarding the spot checks. However, SSA [redacted] indicated he had no authority to authorize nor did he authorize SA [redacted] to conduct these checks. SA [redacted] indicated SA [redacted] mentioned the spot checks on the day before the shooting and was asked if he would be available to do some surveillance on Saturday, however, SA [redacted] told SA [redacted] he was unavailable. SA [redacted] is the Principal Firearms Instructor and directly reports to ASAC Raul E. Carballido.

ASAC Carballido indicated he did not authorize SA [redacted] participation in the 52B case and had no conversations regarding him conducting spot checks. ASAC Carballido indicated he had been out of the office for the majority of several weeks prior to the shooting, although he had been in the office the four days immediately prior to the shooting. SSA [redacted] supervises Squad 3 which was responsible for the 52B case. He was out of the office the week immediately preceding the shooting and he did not authorize or have knowledge of SA [redacted] involvement in the case. Acting SSA [redacted], Squad 3, indicated he had no knowledge of SA [redacted] intentions to conduct spot checks on the case.

b6
b7C

The Case Agent [redacted] stated he had no knowledge of SA [redacted] intentions of conducting spot checks in regards to the case. SA [redacted] indicated he had conversations with SA [redacted] on 10/24/2003, when SA [redacted] asked SA [redacted]

to make a phone call to a cable company regarding possible information one of their installers may have had concerning [redacted] showing off an FBI Agents gun during the installation of cable at a Denver residence. SA [redacted] said no crime scene diagrams were prepared by FBI Evidence Response Team after the shooting as DPD was handling that part of the investigation.

On 10/25/2003, SA [redacted] went into service at 6:45 AM for the purpose of conducting spot checks at the locations identified by DPD. At approximately 8AM, SA [redacted] observed a green Ford Expedition in the vicinity of 4110 E. Hale Parkway, which he believed to be stolen and in the possession of [redacted] He contacted SSA [redacted] who indicated he would come to the site when his wife returned home. SSA [redacted] indicated he was called by SA [redacted] at approximately 8:20AM and he told SA [redacted] he needed to contact DPD as they had jurisdiction regarding the stolen vehicle. SA [redacted] contacted Officer [redacted] DPD, at home. Officer [redacted] was involved in the stolen weapon investigation. He told SA [redacted] that the vehicle was stolen and that he was en route to SA [redacted] location. SA [redacted] was unaware Officer [redacted] lived in Strasburg, CO and he had to drive approximately 30 miles to arrive at his location. DPD uniformed officers were not contacted at this point by SA [redacted] or Officer [redacted]

At approximately 9AM and prior to Officer [redacted] arriving, [redacted] exited a residence and approached the Expedition. SA [redacted] contacted Officer [redacted] who indicated he was close to the location, however he did not give an exact location, and SA [redacted] told him he was going to effect a stop on the vehicle. SA [redacted] heard Officer [redacted] calling on the radio for uniformed officers for assistance.

SA [redacted] was in a parking lot south of the Expedition and drove out of the parking lot and had his vehicle positioned in the street facing north. (See DPD Crime Scene Diagram on Page 75 of this report). [redacted] got into the parked, southbound facing Expedition on Albion Street, but did not immediately close the door. SA [redacted] was now sitting in his bureau Ford Expedition facing north on Albion Street. About one minute later, when [redacted] closed the door, SA [redacted] drove his vehicle to where [redacted] was parked. There were two vehicles parked in front of [redacted] vehicle. SA [redacted] hoping to block [redacted] in, stopped his vehicle at the front bumper of [redacted] Expedition. [redacted] vehicle was still in the parallel parking spot and SA [redacted] vehicle was facing north in the southbound traffic lane. SA [redacted] who was not wearing any law enforcement identifying insignia rolled down his driver's side

b6
b7C

b6
b7C

window to identify himself. According to SA [redacted] pointed a handgun through his front windshield at SA [redacted] and SA [redacted] jumped out of the front driver's side of the bureau vehicle verbally identifying himself as a police officer. SA [redacted] was now on foot, adjacent to the front driver's side bumper of [redacted] vehicle.

The bureau vehicle had not been placed in park and it proceeded down the street where it came to rest against a brick wall. [redacted] began to drive his vehicle out of the parking spot and at SA [redacted] who jumped out of the way to avoid being hit. SA [redacted] feared for his life and began shooting at [redacted] while the Expedition was passing by him. SA [redacted] shot six rounds at [redacted] before determining his aim could no longer be accurate due to the distance of the fleeing vehicle. [redacted] was not hit, however, the Expedition was hit five times. [redacted] drove away from the scene at a high rate of speed. SA [redacted] retrieved the bureau vehicle and attempted to locate [redacted] and the Expedition, but was unsuccessful. Within one to two minutes, [redacted] returned to the scene to meet the DPD uniformed officers who were responding to the scene. [redacted] was arrested later that day by the FBI and DPD.

After the arrest, [redacted] told DPD Detective [redacted] that he left his apartment to make a phone call and saw a vehicle pull to a stop in the street in front of him. The vehicle came closer and a man with a mean look on his face exited the vehicle. [redacted] stated he was into a lot of things and there are people out to get him, so he was scared and he drove away. Then he heard gun shots and bullets flying by his head. He denied having a gun and firing a gun at an FBI Agent.

In a second interview with DPD, [redacted] indicated he did not have a weapon in the Expedition. After thinking about it, [redacted] said maybe when he was putting the Expedition in gear, that the Agent may have thought he had a gun. [redacted] was unsure if SA [redacted] identified himself as a law enforcement officer due to all the noise. [redacted] stated he did not have a gun and did not shoot at the Agent.

[redacted] Date of Birth [redacted] was arrested on 12/31/2001 and 10/03/2002 for vehicle theft. He was also arrested for possession of dangerous drugs on 10/03/2002 and 04/13/2003. On 10/17/2003, he was arrested for motor vehicle theft. On 10/25/2003, the day of the FBI shooting involving SA [redacted] and [redacted] he was arrested for first degree felony assault by DPD and FBI at approximately 2000 hours.

Neither SA [redacted] or [redacted] were injured at the time of the shooting incident. There was damage to the bureau vehicle driven by SA [redacted] the stolen Ford Expedition, and a blue Mazda which was parked on the street. After SA [redacted] exited his vehicle and failed to put the vehicle in park, it came to rest against a retaining wall which had visible scrapes. A blue Mazda, license plate Wyoming [redacted] which had been parked on the street, had damage to the driver's side rear quarter panel which occurred after SA [redacted] retrieved his vehicle. SA [redacted] vehicle had damage to the front which was consistent with striking the retaining wall and damage to the left front was consistent with the damage to the blue Mazda. There was [redacted] extensive damage to the stolen Ford Expedition driven by [redacted] at the time of the shooting. The vehicle was found abandoned at 1600 Colorado Boulevard and had been hit by several bullets and the rear window had been shot out.

b6
b7C

There was no conflict in the evidence collected, or unresolved issues. There were no witnesses to the shooting. Per discussions with the Assistant District Attorney, there was no, nor did he expect there to be a Grand Jury convened on the shooting incident and no charges will be filed against SA [redacted]

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/19/2004

To: Inspection Attn: AD Steven C. McCraw

From: Inspection
Contact: [redacted] Extension 1837

Approved By: McCraw Steven C
Clemens Michael

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271777-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/01/2003
MINNEAPOLIS DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/01/2003, involving Special Agent (SA) [redacted] SA [redacted] fired three shots from his Bureau-issued Glock, Model 23, .40 caliber, semi-automatic handgun, killing a horse that had been hit by a Bureau vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 12/02/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271777-D, 02/19/2004

Details of the Shooting Incident

On 10/01/2003, SAs [redacted] and [redacted] were on official Bureau business in South Dakota. As SA [redacted] was driving down a very dark highway, a horse suddenly appeared and attempted to cross the road. SA [redacted] immediately applied the vehicle brakes; however, hit the horse broadside. The horse hit the top of the vehicle's grill, slid along the hood, hit the windshield, and landed on the ground. b6 b7C

After determining there were no personal injuries as a result of the impact, SA [redacted] observed the horse laying on its side in the middle of the road kicking frantically. Due to the serious injuries of the horse, SA [redacted] fired three rounds into the horse's head.

The animal was subsequently removed from the roadway by a citizen possessing the proper equipment. State authorities, as well as the owner of the horse, were notified of the incident.

On 02/13/2004, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Manuel E. Mora, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), Counterproliferation Unit, Counterintelligence Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] National Firearms Program, TD; [redacted] Program Manager, Operational Skills Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271777-D, 02/19/2004

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Members recommended that no administrative action should be taken against him as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271777-D, 02/19/2004

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Gebhardt, Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. McCraw, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Mora, Rm. 5155
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 6050
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

# 2003

Savage-1859

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/12/2006

**To:** Inspection **Attn:** AD Charlene B. Thornton

**From:** Inspection
**Contact:** [redacted] Extension 4-1837

**Approved By:** Thornton Charlene B
[redacted]

**Drafted By:** [redacted] R:lrr

**Case ID #:** 297-HQ-A1271292-D

b6
b7C

**Title:** SHOOTING INCIDENT
CLEVELAND DIVISION
12/23/2003

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/23/2003, involving Special Agents (SAs) [redacted] and [redacted] During the attempted arrest of subjects involved in the kidnaping of a [redacted], SA [redacted] fired one round from his Bureau-issued H & K MP-5, 10 millimeter carbine, and SA [redacted] fired two rounds from his Bureau-issued Colt Model M-4, .223 gauge carbine. SIRG members recommended that no administrative action be taken against either Agent as a result of their involvement in this shooting incident.

**Administrative:** Reference report of former Inspector [redacted] dated 12/25/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

b6
b7C
b7D

On 12/22/2003, between 9:00 p.m., and 9:20 p.m., SA [redacted] of the New York Field Office was telephonically contacted by [redacted] Darnell Lester. Lester seemed frightened and SA [redacted] believed he had been kidnaped during an unauthorized narcotic transaction. At one point Lester stated "Get the stuff together, the mans are here." Lester indicated that he was being held against his will by five or six armed men in a house in Cleveland, Ohio. Lester told SA [redacted] to call a male at telephone number [redacted] to rectify the situation.

At approximately 9:42 p.m., SA [redacted] spoke to Cleveland Division Duty Agent [redacted] SA [redacted] began obtaining subscriber information for the telephone number of Lester's original call to SA [redacted] It was determined the number belonged to a pre-pay cellular telephone, with no subscriber listed.

At approximately 9:58 p.m., Cleveland Division Supervisory Special Agent (SSA) [redacted] spoke to SA [redacted] and also called SA [redacted] advised SA [redacted] that the telephone number provided by Lester was the cellular telephone number of Cleveland Division SA [redacted] Based on the information received from SSA [redacted] SA [redacted] believed Lester had given [redacted] communication that he needed FBI Cleveland to urgently help him. b6 b7C b7D

SSA [redacted] called SA [redacted] and instructed him to contact Cleveland Division Technically Trained Agents (TTAs) to obtain cellular tracking equipment and to obtain cell tower information to assist in tracking efforts. SA [redacted] determined the cell phone was "hitting" off of a tower at East 105th and Carnegie Streets in Cleveland. SSA [redacted] then contacted Cleveland Division Executive Management (EM) to advise of the situation.

At approximately 10:30 p.m., Lester called SA [redacted] and stated, "the dudes" (suspected kidnapers) would be at East 83rd and Euclid driving a green 4-door Jimmy in 15 minutes (to collect ransom). While Cleveland Agents were discussing a course of action, SA [redacted] received a call from SA [redacted] advising Lester would not be in the Jimmy. ASAC John G. Kavanagh was briefed on the situation and utilization of the Special Weapons and Tactics (SWAT) Team was discussed.

Fearing that Lester would be harmed if the occupants of the subject vehicle escaped, made a phone call, or failed to cooperate with law enforcement, SSA [redacted] requested that SA [redacted] contact SA [redacted] and request that he call Lester and delay the meeting. b6 b7C

At approximately 10:52 p.m., SA [redacted] called Lester and advised him Agents needed one and one half hour to get it (ransom) together. Lester stated, "you'll have to tell him." SA [redacted] repeated the information to an unknown male who then hung up. SSA [redacted] contacted Assistant United States Attorney (AUSA) [redacted] and briefed him on the situation. AUSA [redacted] advised if a house was located, exigent circumstances existed to make entry into the house without a warrant. Cleveland Division EM was again briefed on the situation, and SA [redacted], SWAT Team Leader, initiated a call out to other SWAT Team members. Two TTAs departed the scene to

initiate the tracking of the signal from the cellular phone used by Lester.

Between 11:20 p.m. and 11:30 p.m., Cleveland Police Department (CPD) Lieutenant (Lt.) [redacted] and Detective [redacted] a hostage negotiator, were contacted. Lt. [redacted] arrived at the Command Post at 12:20 a.m. Between 12:15 a.m and 12:50 a.m, on 12/23/2003, SA [redacted] met with fourteen SWAT operators and briefed them on the facts of the case and disseminated a photograph of [redacted] SA [redacted] advised SWAT members the operation could take place at a building location, a residence, or during a felony vehicle stop once [redacted] location was determined. b6 b7C b7D

Prior to the departure of the SWAT teams, assignments were made for five vehicles. The first four vehicles responded to the east side of Cleveland where the most recent electronic cell phone data from [redacted] was being received. As the SWAT teams deployed, information was relayed by SSA [redacted] advising the felony vehicle stop plan was the most likely scenario to occur. The briefing point was a strip shopping mall near East 81st and Euclid Streets on the east side of Cleveland where all of the SWAT vehicles were together and a briefing was provided by SAs [redacted] and [redacted] with updated information. At approximately 1:15 a.m., the SWAT operators were advised that the subject vehicle was to meet [redacted] associates, who were Cleveland Undercover Agents assigned to the drug squad, at the parking lot of the Rally's Restaurant located at East 81st and Euclid Streets to exchange drugs and/or money for [redacted] After viewing the restaurant parking lot it was determined that subject containment, as well as precision coordination of the five SWAT vehicles, was of concern along with the fact this was to be a felony vehicle stop/box-in situation. SA [redacted] advised the SWAT operators the plan was to box in the subject vehicle and block all escape routes in and around the restaurant. During the assignments SA [redacted] emphasized the fact that with one SWAT operator on foot and with the potential of others going on foot during the execution of the felony vehicle stop, the use of a vehicle as a weapon posed a great risk to those operators. A vehicle could be considered a weapon if it started to move toward the operators on foot, putting them in a life and death situation. b6 b7C b7D

TTA [redacted] advised participants that Lester's cellular phone was two to four miles northeast at a 45 degree angle from the cellular tower at East 105th and Carnegie Streets.

At 12:30 a.m., Lester called SA [redacted] who was able to stall for another hour by agreeing with Lester's assertion that SA [redacted] was in Akron, Ohio. When SA [redacted] asked Lester how much to bring, Lester replied "three."

At 1:00 a.m., SSA [redacted] contacted SA [redacted] and advised him the cellular tracking was not working well and the TTAs needed additional time. At 1:07 and 1:10 a.m., Lester placed calls to SA [redacted] from two different telephone numbers. Lester advised SA [redacted] to meet at Rally's, East 81st and Euclid. SA [redacted] and SSA [redacted] discussed the fact that based on the tenor of the calls, time was running out. SWAT members proceeded to the East 81st and Euclid area. A basic take down plan was formulated by SSA [redacted] which called for SAs [redacted] and [redacted] to go to Rally's and when they sighted Lester in the subject vehicle, call for a SWAT takedown. SSA [redacted] told SA [redacted] to advise Lester to be in the car - "make sure we need to see his face." Get vehicle description and tell him we're in a black Denali. b6 b7C

At 1:42 a.m., Lester called SA [redacted] SA [redacted] stated the kidnapers were "all over Lester" and that he couldn't talk. SA [redacted] could no longer obtain information or stall the kidnapers and described the situation as desperate. Lester told SA [redacted] to meet at Rally's in fifteen to twenty minutes.

As the events unfolded and it was determined that Cleveland could not successfully triangulate Lester's cell phone, a new meeting/exchange was set for the vicinity of Rally's on 81st and Euclid Streets. It was determined that the SWAT team would box-in the subject vehicle at the meeting site, and once arrests were made, they would attempt to determine Lester's location from the arrested individuals.

At 1:50 a.m., TTAs [redacted] and [redacted] observed a Jimmy at 90th and Euclid Streets headed eastbound. Cellular tracking equipment also hit on Lester's cell phone in the area just prior to the sighting of the subject vehicle.

SA [redacted] had placed the SWAT vehicles just as the subject vehicle was observed and verified in the area of the meet. Information was received from several SWAT operators regarding the location of the subject vehicle and the fact that the subject vehicle was in the parking lot backing into a space against a brick wall. SA [redacted] team assumed control of the operation and SA [redacted] gave the order for all SWAT units to execute the felony vehicle stop plan previously discussed by saying, "Go, Go, Go" over the radio. b6 b7C

SWAT vehicle #1 moved in with blue emergency lights activated and SWAT vehicle #2, operated by SA [redacted] pulled out and into a "T-bone" position to the subject vehicle, stopping short of hitting it. The driver looked at SA [redacted] and began driving forward. SA [redacted] accelerated and rammed his Tahoe SUV into the rear driver's side door of the subject vehicle.

SA [redacted] exited the second SWAT vehicle and noticed the subject vehicle facing him. The subject vehicle, attempting to get out, lurched forward, picked up speed, and was turning and headed towards SA [redacted] SA [redacted] observed a bright flash from inside the vehicle, made eye contact with the driver, and fired one shot from his Colt M-4 carbine at the driver as the vehicle was coming towards him. After firing the first shot, SA [redacted] was moving backwards and to the side in an attempt to get out of the vehicle's path when he immediately fired a second round.

SAs [redacted] and [redacted] were assigned to set up a block or two away from the scene in order to prevent any escape by the subject vehicle should it break free from the original containment area. SA [redacted] observed the subject vehicle escaping the parking lot and turning away from SA [redacted] vehicle. SA [redacted] believed a vehicle chase was about to take place; however, the subject vehicle crashed between a fence and telephone pole and stopped. SA [redacted] observed the rear driver's side door of the subject vehicle open and the rear passenger stick his hand out of the open door pointing a handgun in their direction. SA [redacted] then saw a muzzle flash from the weapon and heard several rounds fired, causing him to fire one shot from his H & K MP-5 submachine gun through the windshield of the Bureau vehicle toward the subject who fired. SAs on the scene were outside of their vehicles, repeatedly giving loud verbal commands to the subjects, "FBI, Police, Hands Up, Don't Move." The subject in the rear seat exited the subject vehicle and was handcuffed. Agents removed the subject from the scene, conducted a high-risk search, and asked the subject questions regarding the location of Lester. SA [redacted] observed the driver and front passenger of the subject vehicle with their hands up. SA [redacted] observing the driver's hand bloody, concluded that both front seat passengers had been shot. SAs [redacted] and [redacted] pulled the driver threw the window of the car and proned him out on the street. SA [redacted] heard other Agents yell to call the Emergency Medical Service and recalled the subject on the ground tell him he had a bullet in his mouth. SA [redacted] approached the driver and asked about Lester's location. The driver told SA [redacted] that Darrell was in the front passenger seat. Although SA [redacted] did not believe the individual in the front passenger seat was Lester because the passenger looked much heavier than Lester appeared in a photograph provided during one of the briefings, the passenger in the subject vehicle confirmed Lester was occupying the front passenger seat. SA [redacted] approached Lester who appeared to have been shot, raised his shirt and discovered what appeared to be a bullet wound in Lester's torso. SA [redacted] attempted to render first aid; however, Lester died within a few minutes.

b6
b7C

b6
b7C

The bullet recovered from Lester's body was determined to have been fired from the Colt, Model M-4, 223 caliber rifle in the possession of SA [redacted]

On 12/01/2005, a declination of prosecution dated 05/03/2005, was received from the United States Department of Justice, Civil Rights Division, regarding the actions of SAs [redacted] and [redacted] in this shooting incident. b6 b7C

On 03/08/2006, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Daniel Lee Cloyd, Inspection Division, chaired the meeting and was a non-voting member. The following voting members were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, Criminal Section, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Charles J. Cunningham, Section Chief (SC), Transnational Criminal Enterprise Section, Criminal Investigative Division; SC Jay C. Manning, CD-6, Counterintelligence Division; [redacted] Unit Chief (UC), Firearms Training Unit, Training and Development Division (TDD); UC [redacted] National Firearms Program, TDD; UC [redacted] SWAT Operations Unit, Critical Incident Response Group; SSA [redacted] Program Manager, Operational Skills Unit, TDD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); and SSA [redacted] Washington Field Office. [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division, a non-voting member, was also in attendance. Additionally, the following two observers were present during this meeting: [redacted] Deputy General Counsel, OGC; and UC [redacted] Operational Skills Unit, TDD.

b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the FBI's deadly force policy. Members opined that although a tragic incident, the Agents' actions were appropriate. The SIRG also discussed the fact that this was a

fluid situation and Cleveland management responded appropriately by utilizing the SWAT Team.

Although no official recommendations were issued, one member commented regarding Agents positioning themselves in front of vehicles and stated training should emphasize this should not happen unless extreme circumstances exist. The Operational Skills Unit, TDD, representative advised members that current training is conducted to that effect.

Other areas of discussion pertained to the necessity of law enforcement personnel ensuring vehicles are immobilized before approaching them and the fact that contingency plans should be discussed in pre-briefings including proper "locking down" of boxed-in vehicles and personnel staying behind cover.

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 05/12/2006

**LEAD(s):**

**Set Lead 1: (Action)**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Mr. Clovd, Room 7825
1 - Ms. [redacted], USDOJ
1 - Mr. [redacted], USDOJ
1 - Mr. [redacted] Room 7837
1 - Mr. Cunningham, Room 3548
1 - Mr. Manning, Room 1B045
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] CIRG
1 - Ms. [redacted] Room 7326
1 - Mr. [redacted] uantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 7861
♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/12/2003

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A LAH [redacted]

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271895-D b6 b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/03/2002
PHILADELPHIA DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/03/2002, involving Special Agent (SA [redacted]. During the arrest of a drug gang subject, SA [redacted] having no cover and fearing that he was going to be run over, fired five shots from his Bureau-issued Colt M16A1 rifle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 08/27/2002, and submitted to Inspection Division in April, 2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 06/12/2003

Details of the Shooting Incident

On 07/03/2002, Agents assigned to the Allentown Resident Agency, along with members of the FBI led Reading Area Violent Crime Task Force (RAVCTF) were involved in a shooting incident during the arrest of drug gang subject [redacted]

Task Force members had been investigating a violent drug trafficking gang based in the Reading, Pennsylvania, area. Information was developed that [redacted] was believed to be a mid-level distributor for a gang who supervised drug distribution houses and re-supplied them with crack cocaine. The gang was also believed to be responsible for several drug related shootings and homicides. County and local authorities working with the task force had executed several search warrants in connection with the investigation where drugs, body armor, and weapons had been recovered. b6 b7C

The investigation of [redacted] began in approximately March, 2002, when an undercover detective from the Burks County District Attorney's Office had contact with [redacted] and discussions ensued where [redacted] agreed to supply the detective with whatever drugs were needed. The detective and [redacted] met several times resulting in the exchange of money for cocaine.

On 07/03/2002, SA [redacted] obtained a Federal Complaint and Warrant charging [redacted] with drug violations as well as possession of a firearm. He developed a plan to arrest [redacted] when he met with the undercover detective again to receive payment for previous drugs as well as deliver additional cocaine. SA [redacted] and Lieutenant (Lt.) [redacted] conducted an arrest briefing with task force members and other officers assisting in the arrest where specific assignments were made. b6 b7C

At approximately 3:04 p.m., the undercover detective, accompanied by a second detective, arrived in their vehicle and parked in an open area of the parking lot of the Fairgrounds Square Mall awaiting the arrival of [redacted]

At approximately 3:40 p.m. [redacted] drove into the parking lot area with an unknown female in the passenger seat of his vehicle. As planned, Corporal [redacted] drove an undercover pickup truck into the parking lot and parked it directly behind [redacted] vehicle with the truck's front bumper a

few feet away from the rear bumper of [redacted] vehicle. Corporal [redacted] exited the truck and proceeded towards the mall's stores.

At that time, Lt. [redacted] gave the command over the police radio for the arrest van to move in and execute the arrest of [redacted]. At approximately 3:42 p.m., the arrest van, occupied by SA [redacted] pulled directly in front of [redacted] vehicle with the complete arrest team exiting. SA [redacted] exited the passenger side front of the van bringing his Colt M16A1 up to his shoulder while yelling commands to [redacted] to put his hands up. [redacted] vehicle immediately went into reverse and crashed into the undercover truck, then accelerated forward towards SA [redacted] SA [redacted] having no cover and fearing that he was going to be run over, fired five shots from his rifle. The subject vehicle veered to the left, traveling 25 to 30 yards and crashed into a large unoccupied delivery truck.

Emergency Medical Services were notified and a Med-evac helicopter was utilized to transport [redacted] from the scene to the Lehigh Valley Hospital where it was determined that wounds to one of [redacted] hands and his chest were non-life threatening.

On 05/08/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Operational Skills Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms Training Unit, Training Division. The only non-voting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 06/12/2003

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in compliance with the deadly force policy. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 06/12/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] m. 7142
1 - Mr. [redacted] Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr [redacted] USDOJ
1 - Ms [redacted] USDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] m. 5155
1 - Mr [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] Rm. 7326
1 - Mr [redacted] Quantico
1 - Mr [redacted] WFO
1 - Mrs [redacted] Rm. 7861

♦♦



Savage-1872

(Rev. 01-31-2003)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 10/21/2004

To: Inspection Attn: AD Charlene B. Thornton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Thornton Charlene B
[redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271801-D

Title: SHOOTING INCIDENT
OKLAHOMA CITY DIVISION
12/08/2003

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/08/2003, involving Special Agent (SA) [redacted] During the arrest of a fugitive, SA [redacted] fired one round from his Glock Model 22, .40 caliber pistol, striking the subject in the left side of the neck. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his discharge of his weapon in this shooting incident. However, the incident was referred to the Office of Professional Responsibility (OPR) regarding comments made to the subject by SA [redacted] after the shooting.

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 01/09/2004.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

On 12/08/2003, the Marietta, Oklahoma, Police Department (PD) received a telephone call regarding the location of convicted felon [redacted] also known as [redacted] The PD was advised [redacted] was the subject of an outstanding warrant issued in California for parole violation. Information was provided that the subject had recently confided that he had robbed a bank in Ardmore, Oklahoma. Additionally, the subject's wife suspected he also robbed a bank in Yucca Valley, California, prior to the couple moving to Oklahoma. b6 b7C

The caller advised [redacted] was becoming increasingly paranoid, and displaying violent tendencies towards the caller and the subject's wife. The caller also stated [redacted] had purchased a pistol and ammunition, installed a surveillance camera in his home, and made statements regarding plans for the use of his gun. [redacted] reportedly said if law enforcement confronted him, he would not surrender peacefully but go out in a "blaze of glory."

Based on the information received from the caller, a PD supervisor conducted an inquiry to confirm the outstanding warrant. He also telephonically contacted the Ardmore Resident Agency (ARA) to set up a meeting to formulate a plan to locate and apprehend [redacted]

Investigation by the ARA disclosed [redacted] had previously been convicted of armed bank robbery and confirmation was obtained that a federal warrant was outstanding for violation of probation. The inquiry also disclosed [redacted] was considered Armed and Dangerous and had violent tendencies.

SAs [redacted] and [redacted] of the ARA met with local authorities to exchange additional information and develop a practical plan. Information was obtained that an individual who resided with [redacted] was observed in town, stopped for questioning, and advised that [redacted] was last seen in his living room watching the video monitor. After acquiring this information, SA [redacted] notified Supervisory Senior Resident Agent (SSRA) [redacted] regarding the updated information received from the local authorities as well as their progress locating the subject. SSRA [redacted] suggested that the Agents consider a tactical team during the apprehension of the subject. b6 b7C

The Ardmore PD was contacted regarding assistance from the SWAT Team to effect [redacted] arrest when he was located. While SAs [redacted] and [redacted] along with the local authorities, were awaiting the arrival of the SWAT Team, a 911 call was

received by the Love County Sheriff's Office from a resident who resided down the street from [redacted] The caller, [redacted] advised [redacted] was outside of the residence inquiring about his [redacted] location. [redacted] advised the Sheriff's Office he felt threatened by [redacted] and believed his life was in danger. Following the 911 call, the local officers and Agents who were assembled at a gas station, along with additional local enforcement officers, responded to the location of [redacted] During the questioning of a female resident, she observed [redacted] in his vehicle and identified him to the officers at the scene. A broadcast of [redacted] location was announced over the radio at which time a search of the surrounding neighborhood was initiated by the officers and Agents. Street officers observed [redacted] and issued a command for him to stop. [redacted] ignored the commands and began fleeing in his vehicle. b6 b7C

Believing [redacted] posed a public threat, SAs [redacted] and [redacted] began searching for him in separate vehicles. They subsequently located and observed [redacted] traveling at a high rate of speed, jumping curbs, and traveling erratically through residential yards. During the pursuit through several neighborhoods, SA [redacted] became positioned directly behind [redacted] vehicle which subsequently crashed into a residence. SA [redacted] exited his vehicle and identified himself to [redacted] who was attempting to flee. Several times SA [redacted] ordered [redacted] to stop and get on the ground. [redacted] reached for and attempted to remove his pistol located in the waistband of his pants. Believing that his life was in imminent danger, SA [redacted] fired one round from his Glock Model 22, .40 caliber pistol, striking [redacted] in the left side of the neck.

[redacted] collapsed to the ground and as officers went to secure him began struggling and was observed forcefully pushing his right hand underneath himself as though reaching for something. [redacted] was brought under control, handcuffed and afforded medical treatment by officers on the scene. [redacted] was transported by ambulance to the Mercy Memorial Hospital in Ardmore, where he received medical treatment. b6 b7C

By letter dated 01/14/2004, District Attorney [redacted], 20th Judicial District, Ardmore, Oklahoma, advised his office would take no action relative to the shooting incident. On 05/18/2004, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, regarding SA [redacted] discharge of his weapon in this incident.

On 10/13/2004, the SIRG met to discuss the above-captioned shooting incident. Chief Inspector [redacted]

Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Assistant Section Chief, Operational Support Section, Criminal Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), National Firearms Program, Training Division (TD); [redacted] UC, CD-6B, Counterintelligence Division; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Operational Skills Unit, TD; SSA [redacted] Firearms Training Unit, TD; SSA [redacted] National Firearms Program, TD; and SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC). The two non-voting members present were [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division; and [redacted] Intern, Leadership Development Institute, Training and Development Division, Quantico.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

Members discussed the fact that subsequent to the subject being shot, a Police Officer observed SA [redacted] kneel down by the subject and ask, "do you know Christ is your personal savior? Will you take him as your savior?". As the subject stated, "yes", SA [redacted] said, "praise Jesus," and walked away from the area. SIRG members opined that the comments made by SA [redacted] could have been construed as a violation of the subject's First Amendment rights and unanimously concurred that the matter should be referred to the OPR to determine if any violations occurred as a result of SA [redacted] statements.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271801-D, 10/21/2004

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his discharge of his weapon in this shooting incident.

OPR

AT WASHINGTON, DC

That OPR review this matter to determine if SA [redacted] actions merit further investigation.

1 - Mr. Pistole, Room 7142
1 - Ms. Caproni, Room 7427
1 - Ms. [redacted] Room 11255B
1 - Mr. [redacted], Room 7837
1 - Ms [redacted] USDOJ
1 - Mr [redacted] USDOJ
1 - Mr [redacted] Room 5155
1 - Ms. Harrison, Room 6050
1 - Mr. [redacted] Quantico
1 - Mr. Manning, Room 1B045
(Attention: Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted])
1 - Ms. [redacted] oom 7326
1 - Mrs [redacted] Room 7861

♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/29/2004

**To:** Inspection **Attn:** AD Steven C. McCraw

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** McCraw Steven C
[redacted]

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271741-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENTS
05/29/2003 and 05/30/2003
LOS ANGELES DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed two shooting incidents that occurred on 05/29/2003 and 05/30/2003, involving Special Agents (SAs) [redacted] and [redacted] On 05/29/2003, SA [redacted] fired two shots from his Glock, Model 22, .40 caliber pistol, striking the vehicle of a subject attempting to hit him with the vehicle while eluding arrest. On 05/30/2003, SAs [redacted] and [redacted] fired multiple shots at the same subject who was again attempting to elude arrest. SA [redacted] fired one round from his Glock, Model 23, .40 caliber pistol; SA [redacted] fired three rounds from his Glock, Model 22, .40 caliber pistol; and SA [redacted] fired one round from his Glock, Model 22, .40 caliber pistol. None of the shots resulted in physical injury. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in these shooting incidents.

b6
b7C

**Administrative:** Reference reports of Assistant Special Agent in Charge (ASAC) Herbert M. Brown, dated 07/31/2003 and 07/17/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shootings.

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 04/29/2004

**Details of the Shooting Incident**

On 05/29/2003, Agents of the Los Angeles Division prepared to conduct a buy/bust arrest of [redacted] who was to sell a large amount of the drug "Ecstasy" [redacted] The plan called for [redacted] to meet with [redacted] in the parking lot of a fast food restaurant and once [redacted] viewed the drugs, he would then contact the "buyer".

At approximately 7:20 p.m. [redacted] arrived at the restaurant, parked his black Chevrolet Avalanche vehicle, and met [redacted] inside. The subject and [redacted] returned to the subject's vehicle where he showed [redacted] pills he identified as being "Ecstasy". Agents were observing the transaction while sitting in vehicles parked in the restaurant parking lot. b6 b7C b7D

[redacted]

As the van approached the subject vehicle, [redacted] drove forward in an attempt to drive around the van and the two vehicles collided. [redacted] continued driving forward and struck the driver's side door of the surveillance vehicle as one of the Agents was attempting to exit the van. The door slammed back against SA [redacted] causing an injury to his left arm. [redacted] continued driving forward at a high rate of speed in the parking lot and collided head on with another Bureau vehicle driven by SA [redacted] causing severe damage to [redacted] vehicle. [redacted] vehicle bounced to the right and landed on the sidewalk adjacent to the restaurant's building. SSA [redacted] who was inside the restaurant surveilling the drug buy, opened the door of the restaurant to assist in the arrest. As he opened the door, he noticed [redacted] vehicle coming towards him at a high rate of speed. SSA [redacted] stepped back to avoid being injured as [redacted] vehicle slammed into and destroyed the door. b6 b7C

[redacted] continued driving forward in an effort to escape. SA [redacted] who was on foot and walking towards the area where the arrest was to take place, was standing in the path of [redacted] vehicle. As the vehicle approached, SA [redacted] saw the driver and fired two rounds at him. One of the rounds struck the

vehicle on the front passenger door. [redacted] continued out of the parking lot and away from the area while Agents pursued him. [redacted] drove approximately one mile from the scene and abandoned his vehicle in a residential neighborhood. A search of the area by law enforcement officers failed to locate the subject.

Following the shooting incident, squad members conducted further investigation to determine [redacted] location. An acquaintance of the suspect advised [redacted] had a white van registered to him and he was probably staying at a Fifth Street location in Los Angeles. The Special Weapons and Tactics (SWAT) Team was requested to respond to the Fifth Street area while squad members initiated surveillance at the residence.

b6
b7C

Members of the surveillance team located a white van, which was registered to [redacted] parked near the Fifth Street address. Two Agents parked in a position to surveil the white van while another team parked nearby. While watching the white van, Agents observed a newer Sports Utility Vehicle (SUV) drive by the residence twice and decided to follow the vehicle to view the occupants. Both surveillance vehicles followed the SUV and determined that the driver was not [redacted] SAs [redacted] and [redacted] returned to the original surveillance area to continue watching the van while SAs [redacted] and [redacted] continued to follow the SUV.

The SUV was about three blocks from the Fifth Street address when SAs [redacted] and [redacted] decided to conduct a traffic stop. They activated their emergency lights and the SUV came to a stop. The driver of the SUV was given commands through the public address system and as SA [redacted] exited the Bureau vehicle to approach the SUV, SA [redacted] heard a radio transmission advising that the white van belonging to [redacted] was moving.

At approximately 3:00 a.m., SAs [redacted] and [redacted] observed the backup lights of the white van illuminate, the vehicle began moving backwards and was positioned to turn north on Colyton Avenue. SA [redacted] along with SA [redacted] as a passenger, drove past the van in an attempt to determine if the driver was [redacted] After passing the van, SA [redacted] stated he could clearly see the driver and he matched the description of [redacted]

b6
b7C

SA [redacted] turned his vehicle to the right making it somewhat perpendicular to the white van. SA [redacted] whose passenger side window was open, exposed his upper torso to [redacted] with the letters "FBI" clearly showing. Additionally, he was holding his handgun in his right hand while waving for [redacted] to stop the van. He was also yelling, "FBI stop"!

[redacted] suddenly turned the van to the left in the middle of the street and appeared to be attempting a U-turn. SA [redacted] also began a U-turn; however, the van accelerated in reverse directly towards the passenger side of the Bureau vehicle. SA [redacted] yelled for SA [redacted] to drive forward to avoid the collision. [redacted] continued driving in reverse at a high rate of speed while SA [redacted] turned his vehicle to drive forward during his pursuit of [redacted] Both the subject vehicle and Bureau vehicle reached the intersection and turned on to 4th Street. [redacted] continued driving in reverse and was approximately one hundred feet from Alameda Avenue when SA [redacted] fired one round at the white van, striking the left front corner of the windshield. b6 b7C

SAs [redacted] and [redacted] were attempting to make contact with the individual in the SUV located at 4th Street and Alameda Avenue, when they heard the gunshot. Both Agents moved forward in an attempt to see what happened. [redacted] was still traveling in reverse at a high rate of speed when he approached Alameda Avenue. He turned the vehicle to travel south onto Alameda Avenue; however, cut the corner too close, drove onto the sidewalk and struck a traffic lightpole. [redacted] van came to a stop and SAs [redacted] and Vargas approached the passenger side. [redacted] exited the vehicle and began running into the intersection. [redacted] ignored SA [redacted] commands to stop, resulting in SA [redacted] beginning a foot chase. SA [redacted] fired three rounds at [redacted] and SA [redacted] stopped and fired one round.

When the shots were fired, [redacted] came to a stop and fell prone onto the ground where he was arrested.

On 02/13/2004, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: b6 b7C [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Manuel E. Mora, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), Counterproliferation Unit, Counterintelligence Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC);

SSA [redacted] National Firearms Program, TD; [redacted] Program Manager, Operational Skills Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy. Members recommended that no administrative action be taken against any Agent involved in these shooting incidents.

To: Inspection From: Inspection
Re: 297-HQ-A1271741-D, 04/29/2004

**LEAD (s):**

**Set Lead 1:**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in the shooting incidents.

1 - Mr. [redacted] Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. McCraw, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Mora, Rm. 5155
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 6050
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

b6
b7C

♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/19/2003

**To:** Inspection **Attn:** AD Lynne A. Hunt

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Hunt Lynne [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271480-D

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
05/14/2003
DETROIT DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/14/2003, involving Special Agent (SA) [redacted] During the attempted apprehension of an individual wanted for two homicides, SA [redacted] exchanged gunfire with the subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Assistant Special Agent in Charge Larry R. Kuhl, dated 07/07/2003.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271480-D, 08/19/2003

Details of the Shooting Incident

On 05/13/2003, Eric Carpenter became an FBI subject based on the anticipation of the initiation of an Unlawful Flight to Avoid Prosecution process stemming from two separate homicide warrants in Detroit. A request was made by the Wayne County Prosecutor's Office for the Metropolitan Violent Crimes Street Gangs and Alliance Fugitive Task Force to assist in locating the subject.

On 05/14/2003, at approximately 12:00 p.m., a source advised Task Force members that the subject was in Detroit and was driving a Chevrolet Corvette bearing a North Carolina license certificate. Further information was received that Carpenter had been seen in the Clements Street area of Detroit less than one hour before Task Force members were contacted. Task Force units were dispatched to the area in an effort to locate the subject vehicle.

At approximately 1:00 p.m., Carpenter was observed driving the subject vehicle, however, sight of the vehicle was lost in traffic. The vehicle, driven by Carpenter with a female passenger, was spotted a second time at approximately 3:00 p.m., traveling at a high rate of speed. Surveillance team members followed Carpenter to a school where he picked up a young child. A decision was made that no attempt would be made to arrest Carpenter while he was near the school or in possession of the child. Surveillance continued, however sight of the vehicle was again lost for approximately fifteen minutes. Further surveillance located the vehicle traveling in the vicinity of Dexter and Davison Streets and was followed to the Clements Street address. The adult female and child were observed exiting the vehicle along with Carpenter. Carpenter immediately returned to the vehicle followed by the adult female.

b6
b7C

SA [redacted] along with task force officers, formulated a plan to "box in" Carpenter's vehicle in an effort to prevent him from escaping when the arrest was attempted. One task force officer drove past the Corvette and blocked the front of the vehicle in order to prevent Carpenter from driving forward while SA [redacted] angled his vehicle in front of the passenger side of the vehicle. SA [redacted] approached the passenger side of the Corvette, identified himself as law enforcement, and issued commands to Carpenter. The subject exited the vehicle and ran up a driveway with SA [redacted] in

pursuit repeatedly shouting, "Police, police, stop, let me see your hands."

Carpenter was at the end of the driveway when he reached his right hand into the waist band of his pants and pulled out a handgun, firing three to four shots at SA [redacted] SA [redacted] advised other participants that the subject had fired at him and he took cover behind several garbage cans and returned fire. SA [redacted] lost sight of Carpenter as he disappeared into a backyard down an alley. SA [redacted] continued issuing instructions for Carpenter to drop his gun. At that point, SA [redacted] observed Carpenter take his handgun, point it to his head and fire one shot. Carpenter dropped to the ground. b6 b7C

A subsequent ballistics examination, an on-scene homicide investigation and an autopsy, indicated that Carpenter had taken his own life. The Medical Examiner's Office ruled Carpenter's death a suicide. No other personal injuries or property damage were incurred as a result of the shots fired by SA [redacted] and Carpenter.

On 08/14/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Transfer Unit; Administrative Services Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] Operational Skills Unit, Training Division; and SSA [redacted] Washington Field Office. The two non-voting members present were [redacted] and [redacted] Management/Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271480-D, 08/19/2003

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in compliance with the deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271480-D, 08/19/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. [redacted] m. 7837
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Cromwell, Rm. 6012
(Attention: Mr. [redacted]
1 - Mr. Elder, Rm. 5155
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted], Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861)

b6
b7C

♦♦

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/18/2004

To: Inspection Attn: AD Steven C. McCraw

From: Inspection
Contact: [redacted] Extension 1837

Approved By: McCraw Steven C [redacted]

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271906-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
05/12/2003
ST. LOUIS DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/12/2003, involving Special Agent (SA) [redacted] SA [redacted] fired two shots from his personally owned, Bureau-approved, Glock Model 22, .40 caliber, semi-automatic handgun, hitting a subject attempting to injure him with a vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 06/06/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

On 05/12/2003, SA [redacted] along with two members of the Violent Crimes Fugitive Task Force (VCFTF), met to discuss the possible arrest of [redacted] was wanted by St. Louis County authorities for Trafficking in Drugs 2nd Degree, Unlawful Use of a Weapon, Resisting Arrest, and Possession of a Controlled Substance. During the meeting, an operational plan was developed for the surveillance and arrest of [redacted] b6 b7C

SA [redacted] and Detective [redacted] in separate vehicles, initiated surveillance on the front of a Griefield residence in Pagedale, Missouri, which was the last known address for the suspect. Detective [redacted] positioned himself for surveillance at the rear exit of the residence.

SA [redacted] and Detective [redacted] observed a black female, later identified as [redacted] the subject's mother, exit the Griefield address and make contact with a black male sitting in the driver's seat of a burgundy Pontiac Bonneville which was backed into the driveway and parked at [redacted] After a brief conversation with the male, [redacted] left the car and proceeded in the direction of SA [redacted] and Detective [redacted] As she passed the law enforcement officers in their vehicles, [redacted] returned to the burgundy Pontiac and had a second conversation with the black male. After a brief conversation, [redacted] returned to the Griefield residence.

Detective [redacted] placed a phone call to the residence to determine if [redacted] was inside. A female answered the phone and advised that [redacted] was not present.

Believing the black male in the burgundy vehicle was [redacted] SA [redacted] and Detective [redacted] decided to approach the individual to determine his identity. Detective [redacted] initiated a U-turn and approached the Griefield address while SA [redacted] pulled forward to block the driveway. As SA [redacted] positioned his vehicle, the male in the driver's seat of the Pontiac ducked down behind the dashboard. As SA [redacted] exited his vehicle, the subject re-appeared and the burgundy vehicle attempted to move forward. SA [redacted] identified the driver of the vehicle as [redacted] drew his weapon, and issued verbal instructions to "Stop"; however, the vehicle continued forward. SA [redacted] continued to yell "Stop. Police", and attempted to

b6 b7C

open the driver's door. [redacted] did not comply with SA [redacted] commands and the subject vehicle struck his Bureau vehicle.

Detective [redacted] approached the Pontiac from the passenger's side, pointed his weapon at the driver and yelled, "Police, put your hands in the air and exit the vehicle". [redacted] looked at Detective [redacted] put the vehicle in reverse, backed up, put the vehicle in drive and turned sharply to the left. The vehicle pulled forward quickly and proceeded toward SA [redacted] In fear of his life as well as the safety of others, SA [redacted] fired two shots at the subject through the driver's side window of the vehicle. b6 b7C

The vehicle proceeded through several lawns at a high rate of speed, entered the street and proceeded south. Knowing that both SA [redacted] and Detective [redacted] were not injured, Detective [redacted] initiated surveillance of the vehicle and after a short period of time, observed it parked on another street. Detective [redacted] observed [redacted] on foot approximately 75 yards from the vehicle removing articles of clothing and placing them in a trash can. SA [redacted] and Detective [redacted] arrived on the scene with Detective [redacted] and placed [redacted] under arrest without further incident. It was determined that [redacted] was injured and he was immediately transported by ambulance to a hospital where he underwent surgery for a shattered elbow and received stitches for a laceration in the area of his right shoulder blade.

Subsequent investigation determined that the shots fired by SA [redacted] resulted in the injuries sustained by [redacted]

On 05/22/2003, the St. Louis County Prosecuting Attorney advised that he did not intend to seek prosecution against SA [redacted] as a result of his involvement in this shooting incident. A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, on 10/24/2003, regarding SA [redacted] actions in this shooting incident.

b6
b7C

On 02/13/2004, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of

Inspections, Inspection Division; Manuel E. Mora, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), Counterproliferation Unit, Counterintelligence Division; SSA [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] National Firearms Program, TD; [redacted] Program Manager, Operational Skills Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. Members recommended that no administrative action should be taken against him as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271906-D, 02/18/2004

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr [redacted] Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. McCraw, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Mora, Rm. 5155
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 6050
1 - Mr [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦



Savage-1893

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/19/2004

To: Director's Office Attn: A/AD [redacted]
Inspection AD Steven C. McCraw

From: Inspection
Contact: [redacted] Extension 1837

Approved By: McCraw Steven
Clemens Michael

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271741-D

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/26/2003
LOS ANGELES DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/26/2003, involving Special Agent (SA) [redacted] SA [redacted] fired one round from his Glock Model 27, .40 caliber, off duty pistol during an altercation with several individuals in a parking lot. SIRG members recommended that SA [redacted] be censured, suspended from duty for a period of three days, and receive documented legal training as well as remedial firearms training for his neglect in practicing routine firearms safety procedures.

Administrative: Reference report of Assistant Special Agent in Charge Herbert M. Brown, dated 12/20/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

On 10/26/2003, while off duty, SA [redacted] was in a rental truck parked near a Home Depot store in Marina Del Rey. SA [redacted] was accompanied by his girlfriend who was in a second vehicle parked behind his rental truck. In anticipation of moving to his new residence, SA [redacted] intended to hire two day laborers to assist in the move.

SA [redacted] selected two individuals he intended to hire and indicated to them to enter his rental truck. Before they could enter, two other day laborers, identified as [redacted] and [redacted] entered his truck on the passenger side. SA [redacted] instructed [redacted] and [redacted] to get out of the truck because he was not going to hire them, resulting in a verbal altercation that turned physical. [redacted] grabbed a plastic drinking bottle belonging to SA [redacted] exited the vehicle, leaned back into the vehicle, and threw the bottle at him. SA [redacted] identified himself as a police officer while continually telling the individuals to get out of the vehicle. [redacted] lunged over the lap of [redacted] and struck SA [redacted] in the face. [redacted] grabbed for SA [redacted] fanny pack containing his off duty weapon; however, SA [redacted] was able to get the fanny pack away from [redacted] who then exited the vehicle.

SA [redacted] removed the keys from his vehicle and exited the driver's side door. [redacted] came around the front of the truck and lunged toward SA [redacted] in an attempt to hit him. SA [redacted] continued to advise the day laborers that he was a law enforcement officer and did not want any trouble.

While attempting to back away from the subjects, SA [redacted] displayed his FBI badge hoping it would convince the subjects to stop. As he reached the area behind his rental truck SA [redacted] observed a third subject approaching, subsequently identified as [redacted] The three subjects formed a circle around SA [redacted] while he continued to state that he was a law enforcement officer and told the individuals to back away from him. b6 b7C

With the subjects becoming more aggressive, SA [redacted] placed his hand on his off duty weapon located in his fanny pack. The three individuals continued to grab and lunge toward him as he attempted to move away. He pointed his weapon at the chest of the individuals while simultaneously yelling for them to back away continuing to tell them he was the police. SA [redacted] was addressing [redacted] and [redacted] as they continued to circle around him. SA [redacted] then noticed subject [redacted] had moved to the sidewalk

and was four or five yards away from him. [redacted] then picked up a large shopping cart and was holding it over his head. SA [redacted] turned and pointed his weapon at [redacted] chest resulting in [redacted] throwing the cart at him.

According to SA [redacted] was getting more agitated and when he tried to move away, the three subjects moved into his path. Concerned for the safety of his girlfriend and himself, SA [redacted] believed he had no other alternative than to fire a round in order to attempt to disperse the crowd. SA [redacted] pointed his weapon toward the area of an empty lot with ongoing construction, and observing no one in the line of fire, discharged one round from his pistol. b6 b7C

The individuals continued to circle around and lunge towards SA [redacted] as he moved into the Home Depot parking lot. A bystander intervened and grabbed subject [redacted] and held him on the ground. Subjects [redacted] and [redacted] slowly backed away from the area allowing SA [redacted] time to telephone for assistance. The Los Angeles Police Department responded to the scene, arrested the three perpetrators, and transported them from the scene.

No personal or property damage was incurred as a result of SA [redacted] discharge of his weapon.

On 05/12/2004, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), CD-6B, Counterintelligence Division; UC [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] National Firearms Program, TD; SSA [redacted] Operational Skills Unit, TD; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The two non-voting members present were [redacted] and [redacted] Management Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

To: Director's Office From: Inspection
Re: 297-HQ-A1271741-D, 05/19/2004

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members discussed the fact that, although the situation was successfully handled, the discharge of SA [redacted] weapon could have incited other individuals in the area. Additionally, members opined that SA [redacted] could have placed innocent third parties in harms way by discharging his weapon into a parking lot. SIRG members reiterated the fact that policy dictates no warning shots are to be fired. This discussion resulted in the recommendation by a majority of SIRG members that SA [redacted] should be censured, suspended from duty for three days, and receive documented legal training as well as remedial firearms training, for his neglect in practicing routine firearms safety procedures. b6 b7C

To: Director's Office From: Inspection
Re: 297-HQ-A1271741-D, 05/19/2004

LEAD (s):

Set Lead 1:

DIRECTOR'S OFFICE

AT OPR

That SA [redacted] be censured and suspended from duty for a period of three days for his failure to employ routine firearms safety procedures. Additionally, SA [redacted] should receive additional legal training as well as remedial firearms training regarding proper handling of firearms and this training should be properly documented.

Set Lead 2:

That the Adjudication Unit, OPR, include in the ADIC's copy of the letter of suspension, the need for legal training as well as remedial firearms training for SA [redacted] regarding the proper handling of weapons. Additionally, the letter should advise that this training should be properly documented and that a copy of the documentation should be forwarded to the SIRG Chairman upon completion.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. [redacted] Rm. 7125
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted] USDOJ
(Attention: Mr. [redacted])
1 - Ms. Harrison, Rm. 6050
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted])
1 - Mr. Mora, Rm. 5155
(Attention: Mr. [redacted])
1 - Mr. [redacted] Quantico
(Attention: Mr [redacted])
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Rm. 7326
1 - Mr. [redacted] uantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted])
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861
♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/05/2004

To: Inspection AD Steven C. McCraw

From: Inspection

Contact: [redacted] Extension 1837

Approved By: McCraw Steven [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271466-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/25/2003
DENVER DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/25/2003, involving Special Agent (SA) [redacted] While conducting an investigation regarding the theft of his Glock Model 22, 40 caliber pistol from his Bureau vehicle, SA [redacted] fired six rounds at a subject who was driving a vehicle towards him. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 11/25/2003.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

On 08/25/2003, SA [redacted] Bureau-issued pistol was stolen from his locked and alarmed Bureau vehicle, while he was attending his son's football practice at a high school. A Theft of Government Property-Weapon investigation was opened and assigned to SA [redacted] of the Denver Division.

In addition to the FBI investigation regarding the stolen weapon, the Denver Police Department (DPD) developed source information that the weapon was in the possession of two individuals identified as [redacted] and [redacted] Information obtained by the DPD indicated that a [redacted] the two suspects. Upon their arrival at the arranged meeting location, the two suspects observed the source talking to a DPD officer and fled the scene resulting in a high speed chase. Although the suspects were not apprehended during the chase, the source advised authorities that SA [redacted] stolen weapon was in the vehicle. b6 b7C b7D

Further investigation by the DPD resulted in search warrants being obtained for the two individuals on drug related charges. On 10/17/2003, the search warrants were executed by DPD officers with both [redacted] and [redacted] being arrested, however, SA [redacted] stolen weapon was not located.

SA [redacted] kept SA [redacted] advised of the status of the local drug investigation relating to the suspects, and provided him with several addresses which they were known to frequent.

SA [redacted] advised that on 10/24/2003, during separate conversations, he advised Acting Assistant Special Agent in Charge [redacted] and SA [redacted] that he was going to initiate spot checks at several addresses regarding the investigation. SA [redacted] conducted the spot checks during the early evening on 10/24/2003. Case Agent [redacted] advised that he had no knowledge of SA [redacted] intention to conduct the spot checks. However, during a conversation between the two on 10/24/2003, SA [redacted] asked SA [redacted] to make a phone call to a cable company regarding the possibility of a cable installer having information concerning subject [redacted] showing off an FBI Agent's gun during the installation of cable at a Denver residence. b6 b7C

On 10/25/2003, SA [redacted] went into service at 6:45 a.m., for the purpose of conducting spot checks at the locations provided by the DPD. At approximately 8:00 a.m., SA [redacted] observed a green Ford Expedition parked in the vicinity where he was conducting a spot check. Believing the vehicle to be stolen and in the possession of subject [redacted] SA [redacted] contacted

SSA [redacted] who, according to SA [redacted] indicated he would come to the site when his wife returned home. According to SSA [redacted] he was contacted by SA [redacted] regarding the situation and advised SA [redacted] to contact the DPD since they had jurisdiction regarding the stolen vehicle. SA [redacted] contacted DPD Officer [redacted] who was involved in the stolen weapon investigation and provided him information regarding the vehicle. Officer [redacted] advised SA [redacted] that the vehicle was indeed stolen and further stated he was en route to SA [redacted] location. Uniformed DPD officers were not contacted about the situation. b6 b7C

Prior to the arrival of Officer [redacted] SA [redacted] observed subject [redacted] exit a residence and approach the stolen vehicle. He re-contacted Officer [redacted] who indicated he was close to SA [redacted] location. SA [redacted] advised Officer [redacted] he was going to effect a stop on the vehicle. SA [redacted] heard Officer [redacted] call out on the radio for uniformed officer assistance.

SA [redacted] drove out of the parking lot and positioned his vehicle in the street. Subject [redacted] entered the Expedition but did not immediately close the vehicle door. As [redacted] closed the door to his vehicle, SA [redacted] drove his vehicle to the area where [redacted] was parked, and hoping to block [redacted] vehicle, stopped his vehicle at the front bumper of the suspect vehicle. Although not wearing any law enforcement identifying insignia, SA [redacted] rolled down his window to identify himself. According to SA [redacted] pointed a handgun through his front windshield at him causing SA [redacted] to jump out of his Bureau vehicle verbally identifying himself as a police officer. [redacted] began to drive his vehicle out of the parking space and toward SA [redacted] who jumped out of the way to avoid being hit by the suspect vehicle. Fearing for his life, SA [redacted] began shooting at [redacted] while the Expedition was passing him. The suspect drove away from the scene at a high rate of speed. SA [redacted] retrieved his Bureau vehicle and unsuccessfully attempted to locate the suspect. The suspect was arrested later in the day by the FBI and the DPD.

On 02/13/2004, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: b6 b7C [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Jeff Vasey, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Manuel E. Mora, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division;

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 05/05/2004

[redacted], Unit Chief (UC), Counterproliferation Unit, Counterintelligence Division; SSA [redacted], Firearms Training Unit, Training Division (TD); SSA [redacted] Firearms Training Unit, TD; SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] National Firearms Program, TD; SSA [redacted] Program Manager, Operational Skills Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only non-voting member present was [redacted] Management Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

The only observation made by the SIRG was the fact that SA [redacted] was in the area alone and did not wait for assistance to arrive. However, members opined that Denver Division management had already recognized the situation and proactively handled the issue.

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 05/05/2004

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Rm. 7142
1 - Ms. Caproni, Rm. 7427
1 - Mr. McCraw, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Mr. Vasey, OIG
1 - Mr. Mora, Rm. 5155
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 6050
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 04/23/2002

To: Inspection Attn: Acting AD John [redacted] O'Connor

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271615-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/31/2002
JACKSON DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/31/2002, involving Special Agent (SA) [redacted] SA [redacted] shot and injured an attacking pit bull dog during the execution of a search warrant. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference Electronic Communication of Supervisory Senior Resident Agent [redacted], dated 02/08/2002.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271615-D, 04/23/2002

Details of the Shooting Incident

On 01/30/2002, SA [redacted] was present at a briefing regarding several search and arrest warrants that were to be executed at a local area on 01/31/2002. SA [redacted] was assigned to a search warrant team who was responsible for conducting a search warrant in Vancleave, Mississippi. During the briefing, a point was made that numerous pit bull dogs were known to be located at the property.

b6
b7C

At approximately 6:40 a.m., on 01/31/2002, the team arrived at the Vancleave property and observed several dogs in the yard. Two small dogs began to run towards the car and upon the exit of a Sheriff's Department Deputy and his canine, the dogs turned and began chasing them. SA [redacted] exited his vehicle and began running to the front door of the residence. As he ran up the sidewalk in front of the residence, SA [redacted] noticed something in his peripheral vision running towards the team. As he turned, SA [redacted] observed a pit bull dog attacking the team and, believing that team members were in imminent danger of serious physical injury, fired a two round burst from his MP-5 shoulder weapon. The animal yelped once, fell to the ground and appeared to be mortally wounded.

SA [redacted] and team members entered the home and cleared the residence. Upon completion of the search warrant, SA [redacted] exited the residence and returned to the area where the dog was last seen. The dog was no longer in the spot where he had fallen and a search of the area failed to locate him.

On 02/12/2002, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted], Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; William P. O'Hanlon, Section Chief, Facilities Management Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and SSA [redacted] Program Manager, Practical Applications

b6
b7C

Unit, Training Division. The only nonvoting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Therefore, a recommendation was made that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection From: Inspection
Re: 297-HQ-A1271615-D, 04/23/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Cousins, Rm. 5155
1 - Mr. Doherty, Rm. 4042
1 - Mr. O'Hanlon, Rm. 1B875
1 - Mr. [redacted] Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Rm. 7861

b6
b7C

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 12/05/2002

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A
Clemens Michael

b6
b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271971-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/02/2002
CRITICAL INCIDENT RESPONSE GROUP (CIRG)

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/02/2002, involving Supervisory Special Agent (SSA) [redacted] SSA [redacted] discharged his Bureau-issued Glock Model 22, 40 caliber pistol at a fox that attacked him as he attempted to enter his Bureau vehicle. SIRG members recommended that no action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication of SSA [redacted] dated 08/14/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 12/05/2002

Details of the Shooting Incident

On 08/02/2002, SSA [redacted] was entering his Bureau vehicle in his driveway when he noticed a fox attacking his left ankle. SSA [redacted] kicked the fox several times, however, it repeatedly attacked him and eventually hid under his car. After putting his dog inside his residence, SSA [redacted] observed the fox biting, growling and pulling at a fence. As the fox again charged at SSA [redacted], he shot the animal in the right flank. As the animal charged at SSA [redacted] a third time, he fired two shots into its chest, killing the fox. b6 b7C

Animal Control retrieved the fox and determined that it was rabid.

On 12/03/2002, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The only nonvoting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 12/05/2002

SIRG members unanimously agreed that the use of deadly force by SSA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 12/05/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] SDOJ
1 - Mr. Clemens, Rm. 7837
1 - Mr. Elder, Rm. 5155
1 - Mr. [redacted] Rm. 6650
1 - Mr. [redacted] Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: AIIP [redacted] Office: El Paso Division b6 b7C
SSA [redacted]
Date: 11/02/2002

Case ID #: 297-HQ-A1271507-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
EL PASO DIVISION
SEPTEMBER 12, 2002

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred while Federal Agents conducted a Special Weapons and Tactics (SWAT) mission in support of the Union Pacific Railroad Police Department (UPRRP) and the United States Border Patrol's (USBP) operations against railroad robberies and burglaries.

On September 12, 2002, members of the FBI SWAT Team, United States Customs Service (USCS) Agents, UPRRP, and USBP were involved in an operation whereby they were attempting to apprehend train robbers and train wreckers. (Train wreckers are defined as individuals who attempt to interdict or interrupt a moving train.) The trains travel along the United States-Mexico International border in Sunland Park, New Mexico, contiguous with Colonia Anapra, Ciudad Juarez, Chihuahua, Mexico. The law enforcement officers were staged within and around the train, identified as Union Pacific train ILBDA 10, in the vicinity of the Sunland Park, New Mexico railroad siding, in anticipation of a train burglary. Officials from the Republic of Mexico (ROM) Customs and the Juarez Municipal Police agreed to provide assistance to the U.S. officials in the apprehension of the train robbers and train wreckers by apprehending any Mexican Nationals fleeing from U.S. officials as they attempted to illegally re-enter Mexico.

The International border of the U.S. and Mexico in the Sunland Park, N.M. area is separated by a chain link fence,

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

approximately 12 feet in height, which is erected completely on U.S. soil. The area north of the fence is United States territory, as is the area immediately adjacent to the fence on the south side. The width of U.S. soil, and the actual International boundary, in relation to the southern side of the fence varies throughout the length of the fence. The actual U.S.-Mexico land boundaries are marked with "monuments" at various points along the border. There are two such monuments in the Sunland Park area, approximately 1½ to 2 miles apart. The location where the train wreckers and train robbers enter the U.S. is approximately 1 mile West of monument number 2 and 1 mile East of monument number 3, through a large opening cut through the chain link fence. Immediately south of the fence at the opening is an arroyo or draw approximately 20 feet deep, the south bank of which is in Mexico. No monument exists near the opening in the fence. This area is not designated as a lawful port of entry into the United States by immigration officials.

In support of the operation, both the FBI El Paso and Albuquerque SWAT teams, numerous USBP personnel, USCS, UPRRPD personnel and over 70 law enforcement officers from the ROM participated. Officers and Agents were prepositioned throughout the area, including positions on the train cars. Train ILBDA 10 stretched approximately one and half miles, with over one hundred cars. Teams one through six, comprised of FBI El Paso SWAT Team members, occupied the train cars near the point of the incident. The teams were spread out on various cars approximately 500 yards apart. SA [redacted], who discharged his weapon, was on Team 2.

At approximately 8:24 p.m., Train ILBDA 10, heading East on the Union Pacific Railroad tracks, stopped at the siding. As the train was stopping, according to SSA [redacted] of the UPRRP, seven unidentified individuals were seen, with the assistance of night vision goggles (NVG), running from the south side of the arroyo in single file and illegally crossing into the United States through the hole in the fence that separates the U.S. and Mexico. Additional individuals headed toward the fence, some from houses in Colonia Anapra, ROM and some from within the arroyo itself. After crossing into the U.S., the individuals approached the stopped train. Several individuals boarded the train, while others walked down the length of the train to other train cars. Additional individuals continued to approach the fence from Mexico.

b6
b7C

Almost immediately after the train stopped, a male, later identified as [redacted] boarded the top part of the well of the train car that contained SAs [redacted] and [redacted] known as Team 1 for the operation. As [redacted] walked north across the top portion

of the train car he was pulled into the well of the train car where he was apprehended by SA [redacted]. According to the SWAT Log, at approximately 08:25 p.m., SA [redacted] advised "1 in custody Team 1." Immediately following the arrest, SAs [redacted] and [redacted] heard individuals speaking in the Spanish language on the south side of the train. They also heard rocks striking the south side of the train.

As the train stopped, SAs [redacted] and [redacted] known as Team 2, heard voices originating from the south side of the train. SA [redacted] was responsible for operating the ballistic shield, SA [redacted] was responsible for radio communications, and SA [redacted] was responsible for carrying a shoulder weapon. According to SA [redacted] statement, shortly after the train came to a stop, a male, later identified as [redacted] a juvenile, boarded the train car. SA [redacted] attempted to apprehend [redacted] while still in his initial position, however, [redacted] jumped off the train and ran toward the fence opening. According to SA [redacted] he instantly jumped off the train, chased [redacted] and took him to the ground. According to the SWAT Log, SAs [redacted] and [redacted] advised via radio they were compromised. SAs [redacted] and [redacted] also disembarked from the train. (Note: There was no indication from the SWAT Log or any individual's statements, that any other party was aware that SAs [redacted] and [redacted] were off the train at this time.) SA [redacted] apprehended [redacted] near the fence opening on the north side of the fence. A struggle ensued, during which [redacted] kept his hands under his chest in order to prevent SA [redacted] from handcuffing him. After SA [redacted] placed [redacted] in handcuffs, a second unidentified male approached him. The man fled through the hole in the fence when SA [redacted] gestured to him.

According to SA [redacted] as she disembarked from the train, she saw and pursued a male, later identified as [redacted] a.k.a [redacted] toward the hole in the fence. SA [redacted] grabbed [redacted] as he approached the fence, but [redacted] was able to escape her hold. SA [redacted] was able to apprehend [redacted] again on the south side of the fence. As SA [redacted] handcuffed [redacted] they slid down the north side of the arroyo. According to the SWAT log, at approximately 08:26 p.m., SA [redacted] reported via radio "Got 2" and at 08:30 p.m. an agent from Team 2 believed to be SA [redacted] advised via radio that she had "one in custody". (Note: There is no evidence to suggest anyone other then Team 2 was aware that SA [redacted] was on the South side of the fence at the bottom of the arroyo at this time. According to the SWAT Log, at approximately 08:28 p.m. the 'vamanos' or execute order was given to the entire group.) According to SA [redacted] a large group of people had

b6
b7C

b6
b7C

gathered at the top of the south side of the arroyo at this time. The group was throwing large rocks, sticks and bricks at SA [redacted] and yelling to others to help free subject [redacted]. The group was yelling and encouraging others to throw rocks and bricks at "La Migra", meaning immigration officials. SA [redacted] was struck by numerous rocks and sticks. As SA [redacted] was attempting to move [redacted] up the north side of the arroyo, she was struck in the head by a brick that had been thrown by someone in the group on the south side of the arroyo, causing significant head trauma to SA [redacted]

SA [redacted] having seen SA [redacted] apprehending [redacted] proceeded to her location in the arroyo to provide assistance. Seeing SA [redacted] bleeding profusely and in need of assistance, SA [redacted] moved to her location in the arroyo and attempted to help her drag [redacted] up the north side of the arroyo. As SA [redacted] arrived at SA [redacted]s location, he was struck in the head by a large rock or brick thrown from the group of individuals atop the south side of the arroyo. SA [redacted] and SA [redacted] proceeded up the arroyo to the fence. As they moved toward the fence, an unidentified individual struck SA [redacted] in the back of the head with a club. SA [redacted] sustained a fracture to his skull, in addition to other injuries, which required emergency surgery and hospitalization.

b6
b7C

SA [redacted] recalled at the same time, observing a silhouette of an individual approach the hole in the fence from the South side. When the individual reached the opening in the fence, SA [redacted] recognized the individual as SA [redacted] and blood was flowing down his face. As SA [redacted] made his way to the north side of the fence, SA [redacted] instructed him to crouch down behind the same bush where he and his detainee, [redacted], were concealed.

b6
b7C

Meanwhile, [redacted] resisted SA [redacted] attempts to move him. As SA [redacted] struggled with [redacted], a male, later identified as FNU LNU, a.k.a. [redacted] struck SA [redacted] repeatedly on the right leg with a baseball bat. [redacted] then kicked SA [redacted] repeatedly in the torso, and then resumed striking her with the baseball bat. During the assault by [redacted] SA [redacted] was also struck in the left orbital region of the face with an unknown object. The group at the top of the arroyo continued throwing rocks and shouting in Spanish. SA [redacted] released [redacted] and both [redacted] and [redacted] fled. SA [redacted] then crawled to the top of the arroyo and through the fence. SA [redacted] suffered severe injuries to her head and the orbital region of her face, requiring hospitalization and surgery. SA [redacted] also suffered several additional injuries to her legs and torso region. At approximately 08:30 p.m., SA [redacted] advised via radio, "Team 2 compromised, needs assitance." Also at 08:30 p.m., SA [redacted] from

Team 1 advised via radio, "Team 2 needs help."

At approximately this time, SA [redacted] stated he saw SA [redacted] crawl through the opening in the fence, also severely injured and bleeding profusely from the head. As SA [redacted] rose to his knees to communicate with SA [redacted] escaped from his custody and ran towards the fence opening. Both SA [redacted] and SA [redacted] appeared to be incapacitated. When SA [redacted] regained control of [redacted] they were situated directly in front of the fence opening. At this same moment, SA [redacted] was struck in the back by a large rock originating from the south side of the fence. b6 b7C

After a few seconds, SA [redacted] saw approximately one dozen unidentified people approaching the fence opening from the south side. The group was yelling in Spanish, and throwing softball-size rocks and sand at SA [redacted] began kicking SA [redacted] in an attempt to escape SA [redacted] custody. SA [redacted] was hit in the eyes with sand and in the hand by a rock, thrown by the group. [redacted] yelled repeatedly in Spanish to the group approaching the fence opening. Fearing for his life and that of his incapacitated team members, SA [redacted] drew his pistol and aimed it at the group outside the opening in the fence. The group continued to throw rocks and sand at SA [redacted] Seeing a male about to throw a soft ball size rock at him, SA [redacted] aimed his pistol at the man and fired one round. Due to the sand in his eyes and the low ambient light, SA [redacted] was unable to get a clear sight picture prior to firing and therefore, was unsure if his round hit the subject. After the shot rang out, the group immediately fled from the fence opening to the south side of the arroyo. SA [redacted] sustained injures to his eyes, back, legs and finger as a result of [redacted] kicks and the rocks and sand being thrown by unidentified individuals.

As the group of unidentified individuals attempted to return to Mexico, Mexican officials took custody of several subjects. As members of the Disaster Medical Assistance Team (DMAT) evacuated the injured agents from the area, members of the SWAT Team, agents from USCS and USBP, and UPRR Police met the Mexican officials on the U.S. side of the Anapra Arroyo and took custody of and arrested at least ten individuals. Four additional subjects were apprehended by USBP while fleeing Northward. In total, 16 individuals were arrested, including the original two subjects apprehended by SAs [redacted] and [redacted] b6 b7C

The crime scene was immediately secured and preserved by the SWAT team members. Members of the El Paso ERT team searched the area at

daylight. ERT documented, diagramed and photographed the area. Numerous evidentiary items were recovered including but not limited to, a homemade hammer, bolt cutters, rocks wrapped in rags, sticks, blood stained rocks, and other improvised devices/weapons.

Interviews of law enforcement personnel, confidential informants, subjects, and media accounts failed to indicate any injuries or property damage resulting from the gun shot fired by SA [redacted] SA [redacted] weapon was submitted into evidence and reflected on the evidence log. The ERT search was unable to locate either a shell casing or bullet fragment at the scene. b6 b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: San Antonio
Date: 08/29/2002

b6
b7C

Case ID #: 297-HQ-A1271921 SUB D

Title: SA [redacted]
SA [redacted]
SA [redacted] - VICTIM;
SHOOTING INCIDENT/ACCIDENT, CAMP SANTIAGO, PUERTO RICO
07/26/2002

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred on 07/26/2002, while FBI Special Agents were conducting a Special Weapons And Tactic (SWAT) Team, Close Quarter Battle (CQB) training exercise within the Shoot House range at Camp Santiago, Salinas, Puerto Rico. The Camp Santiago range was under the control of the Puerto Rico National Guard. The Shoot House utilized for the training exercise was built for and is used primarily by Company C, 3rd Battalion, 7th Special Forces Group (Airborne) (3/7 SFG), Naval Station Roosevelt Roads, Puerto Rico. The Shoot House is a covered, open air, concrete structure with elevated catwalks for observation.

During the course of training for a two man entry training exercise involving a room within the Shoot House, FBI Special Agents [redacted] and [redacted] entered the room after the introduction of a flash-bang device and discharged H&K MP-5 weapons at a stationary target trap. The target trap was partially concealed by a wooden desk. The discharge of these weapons resulted in the ricochet of several rounds off the desk top, which also appear to have missed the target trap and ricocheted off the concrete wall immediately behind the target trap. One of these rounds ricocheted upwards toward the catwalk where SA [redacted] was observing and struck him in the right eye.

b6
b7C



This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

DETAILS:

1. THE SHOOT HOUSE, CAMP SANTIAGO:

The Camp Santiago Shoot House is located in a remote area on the eastern portion of the Camp Santiago National Guard Base, which is located in the town of Salinas, Puerto Rico. The structure was built, utilized, and maintained by Company C, 3/7th Special Forces Group, U.S. Army stationed at the Naval Station Roosevelt Roads. It has been utilized to practice, achieve proficiency, and maintain currency in breaching techniques and room clearance operations. Construction of the Shoot House was completed in March to May 2000. It is a concrete structure with a raised corrugated fiberglass roof supported by steel columns. On the second level of the structure a series of elevated catwalks which are positioned along and above the interior concrete walls and allow observation into the roofless interior rooms. The first floor is divided into multiple rooms utilizing existing concrete walls and plywood dividers stabilized by 2" X 4" studs.

- Company C, 3/7th Special Forces Group (SFG) (Airborne), U.S. Army, Naval Station Roosevelt Roads completed a risk assessment of the Shoot House, dated May 5, 1999, for: "Live Fire Close Quarter Combat (CQC) and Demolitions Breach, Multi-Team, Multi-Entry" training. In addition, the C 3/7th SFG also completed Standard Operating Procedures (SOP) for use of the Shoot House.

2. SHOOTING SCENE EVIDENCE COLLECTED:

The details of the incident reported in the San Juan Division post shooting investigation report, dated 07/30/2002, submitted to FBIHQ were generally confirmed by this SIRG investigation.

The incident occurred at approximately 11:58 a.m., 07/26/2002, in Room 2 in the interior of the east-southeast portion of the Shoot House. The San Juan report incorrectly identified this room as Room 1. The corners of the room were oriented in the cardinal directions with the entrance to the room being north. The northeast and northwest walls were temporary structures constructed of plywood and measured 8'1" in height and 12' in length. The southeast and southwest walls were constructed of concrete and rise 9'6" in height. The southeast

wall was 15.83' long and the southwest wall was 11.16' long. These walls are joined in the southern corner by a 8" section of concrete wall at roughly 45 degree angles. The concrete walls are topped by catwalks made of plywood and reinforced with 2" X 4" studs. The catwalks are enclosed by metal railings which rise to waist level. These catwalks extend over the concrete walls and protrude into the room.

At the time of the incident, the room contained a targeted bullet trap (l=3', w=2.2', h=3') propped in the southern corner of the room. The trap rested on the floor and contained a paper subject target pointing a pistol from the shoulder position. The target contained 4 bullet holes. Three of the holes were grouped in the right shoulder and the right hand, where the pistol was located. The fourth hole was located in the center mass, chest, region.

Approximately 2.83' in front of the trap was positioned an executive style wooden laminate desk (l=4', w=2', h=2.4'). This desk was placed between the trap and the shooters and obstructed approximately half the target. The top of the desk contained two gouges on the western side and one on the eastern side. The gouge on the eastern side appeared to have resulted in a larger laminate chip being displaced and subsequently located at the base of the trap. These gouges measured approximately 3", 3.25" and 2.5" respectively. All gouges were oriented toward the trap. A review of the video tape recorded of the training confirmed these gouges were the result of the shooting by SAs [redacted] and [redacted]

Above the trap, located on the concrete wall were marks that appeared to be impact marks from rounds. These marks appeared to investigators to be relatively fresh and showed striations indicating a ricochet. These marks were consistent with probable trajectories from the desk top. There were no rounds found imbedded in the concrete wall. The investigation was not able to conclusively determine these marks were the result of the shooting by SAs [redacted] and [redacted] The concrete walls contained numerous marks, the origin of which was inconclusive.

b6
b7C

The SIRG on-site review of the marks with San Juan Division SSRA [redacted] who conducted the initial post shooting review, confirmed the marks originally identified in the San Juan review as the probable marks resulting from the 07/26/2002 shooting. However, the incident scene had not been secured after the San Juan review and there was evidence the

scene had been contaminated. Specifically, two temporary plywood walls had been removed and the furniture repositioned within the Shoot House. No other contaminations were readily identifiable.

The San Juan review identified several .223 bullet casings on the floor which were discarded at the time of the review since only 10mm caliber rounds had been employed on 07/26/2002 by SAs [redacted] and [redacted] No other FBI shooters had used the Shoot House that day. Six shell casings for 10 mm rounds were found on the floor of the room as well as an expended MK-141 flash-bang diversionary device simulator and spoon. Also located along the northeastern wall was an empty two drawer filing cabinet.

All evidence collected from the room was photographed, measured and collected in accordance with FBI standards for evidence collection. In addition, the locations of all items in the room were identified in the scene diagram prepared during the San Juan review.

In the room adjacent to and located northwest of the shooting room, one 10mm shell casing was found and similarly processed and collected. b6 b7C

In the room adjacent to and located southwest of Room 2 (Room 4), a right sunglass eye lens was recovered during an immediate sweep of the area after the incident by SWAT Team personnel attempting to locate SA [redacted] injured eye. The San Juan Report incorrectly identified these as Room 1 and Room 3. The location was marked at the time of the recovery and later photographed and measured. The lens was similarly processed and collected.

The catwalk above the southwestern wall contained a dark red stain near the northern most steel support column which was subsequently identified as SA [redacted] blood from the eye injury. This area had been cleaned after the incident to prevent injury. This area was photographed during the San Juan investigation. Also located to the west of this stain on an adjoining catwalk was a pair of Bolle sunglasses, missing a right eye lens, which was later identified belonging to SA [redacted] The glasses were recovered during the immediate sweep of the area after the incident and the location marked for subsequent measurement and photographing. The glasses were similarly processed and collected.

During the San Juan review it was noted that the catwalks along both the southwest and southeast walls of Room 2 contained numerous small particles of concrete matter.

Additional evidence collected by San Juan was a 8 mm HG Maxell videotape of the room entry and shooting filmed by SSRA [redacted] and the bullet slug that penetrated SA [redacted] eye collected by FBI Philadelphia from the pathology lab at the Wills Eye Hospital in Philadelphia, Pennsylvania subsequent to its removal. The slug was photographed and measured during the SIRG investigation.

b6
b7C

Subsequent to the shooting, the San Juan Division conducted a review which resulted in the collection of the evidence noted above. In addition, a scene reconstruction was prepared to identify the probable bullet trajectory based upon available evidence. The SIRG investigation, performed subsequent to the scene contamination, concluded the bullet trajectory identified by San Juan was the most probable path of the bullets fired by SAs [redacted] and [redacted] A subsequent graphic depiction of the post-shooting evidence collection sites was prepared by the Investigative and Prosecutive Graphics Unit, FBI Laboratory Division and is made a part of this report.

3. INCIDENT RECONSTRUCTION

On Thursday, 07/25/2002, members of the FBI San Juan SWAT Team participated in a firearms training session at the Isla de Cabras firing range. This training was intended to prepare the team to conduct a Close Quarter Battle (CQB) live fire training exercise at the Camp Santiago Shoot House the following day. The training consisted of firing 2 Personal Qualification Courses (PQCs) with assigned sidearms and several "move and shoot" drills utilizing Heckler and Koch MP-5 submachine guns and assigned sidearms. Transition drills from the MP-5 to the sidearm were conducted. Additionally, door entries were discussed and rehearsed utilizing a mock door frame and no ammunition. Also, use and deployment of the flash-bang distraction device was discussed and demonstrated. This training was conducted without incident.

Based on the physical evidence found and obtained at the scene, eyewitness accounts and interviews the following is what is believed to have occurred on 07/26/2002 at the Camp Santiago Shoot House:

Arrangements for use of the Shoot House were made prior to 07/26/2002 through Major [redacted] and Sergeant [redacted] Company C, 3rd Battalion, 7th Special Forces Group (C3/7 SFG), Naval Station Roosevelt Roads, Puerto Rico. Major [redacted] was new to command of the 3/7 SFG, having recently replaced Major [redacted] Sgt. [redacted] had been the point of contact for the FBI San Juan SWAT Team Leader (STL) SA [redacted] since approximately August 2001, subsequent to a meeting with Major [redacted] Warrant Officer [redacted] and Sgt. [redacted] regarding use of the Shoot House range.

b6
b7C

Sometime between 8:30 a.m. and 9:00 a.m. members of the FBI San Juan SWAT Team arrived at the Camp Santiago Shoot House. There was no contact by any member of the FBI SWAT Team with the Puerto Rico National Guard (PRNG) Range Control to advise them of the FBI's use of the Shoot House. Although aware of the use of the Shoot House, no C3/7 SFG personnel were on site at the Shoot House on 07/26/2002.

The lack of contact with the PRNG Range Control was consistent with several prior uses of the Shoot House by the FBI SWAT Team under the leadership of STL [redacted] On most previous occasions C3/7 SFG personnel were on site either before and/or during the conduct of FBI SWAT Team training at the Shoot House.

In his interview, STL [redacted] advised he did not contact PRNG Range Control on 07/26/2002 despite a specific request by Sgt [redacted] that he do so. STL [redacted] explained that he did not think it was his responsibility to contact PRNG Range Control. STL [redacted] explained that by refusing to notify PRNG Range Control he was ensuring C3/7 SFG would be present whenever the FBI utilized the Shoot House. STL [redacted] unsuccessfully attempted to contact Sgt. [redacted] when he discovered he was not at the site. After the unsuccessful attempt, STL [redacted] authorized the initiation of training at the Shoot House. No range flags were hoisted at the site to identify a live range.

b6
b7C

After arrival, at approximately 9:00 a.m. the SWAT Team received detailed "talk through" and "walk through" training related to two and four man room entries and clearing techniques. This training was led by STL [redacted] who provided new operators copies of the SWAT Training Manual pertaining to CQB training. During the "walk through" training in the Shoot House the importance of shot placement, weapon discipline, safety and shot accuracy were emphasized to minimize the potential for ricochet dangers. During this training, STL [redacted] advised

operators to fully load their MP-5 weapons consisting of 25 rounds of 10mm, Full Metal Jacket (FMJ), "ball" type, ammunition.

During his interview, STL [redacted] advised he was aware of the potential dangers associated with ricochet rounds in the Shoot House but determined the risks were reasonable and acceptable given his assessment of the critical need for this type of training. b6 b7C

The SWAT Team utilized MP-5 weapons and 10mm, FMJ, ammunition during these and previous training exercises at the Shoot House. Attached to the weapons were a mixture of Aimpoint and C-More sights. These sights were calibrated at 25 to 35 yards and in CQB scenarios required compensation in the form of a two to three inch drop from sight picture to shot placement. Compensation for the sights during the Shoot House CQB training was verbally emphasized during training.

The interviews conducted by the SIRG determined training at the Shoot House consistently stressed the importance of accuracy to minimize ricochet. One Operator, SA [redacted] advised he recalled four prior instances when shooters had missed the targets and rounds had struck either the ground or the concrete wall. There was also one instance reported wherein a fragment had ricocheted and inflicted a minor injury to another member of the SWAT Team observing the activity. Additionally, C3/7 SFG personnel had observed the agents during previous training exercises miss the target trap and subsequently chastised them. In each instance after a miss, the training was suspended immediately and a discussion ensued to stress the importance of accuracy. In some instances the training pace was slowed in order to assist the shooter's accuracy. The awareness of potential ricochet risks and the emphasis on accurate shooting was consistent with the statements of other SWAT Team members. b6 b7C

After the "walk through" training exercises, a detailed safety briefing was also conducted by SA [redacted] the designated Safety Officer (SO). This safety briefing concentrated on identifying the designated ambulance in the event of an injury, EMT personnel, location of the Aid Bag, and air and ground MedEvac plans were coordinated and confirmed. The quality of this briefing and pre-incident coordination was evident in the excellent post injury response of the San Juan SWAT Team. This coordination and emergency response was specifically commended by Colonel Wilson Torres, Chief of Staff, Office of the Adjutant General, Puerto Rico National Guard.

After the safety briefing conducted by SA [redacted] at approximately 11:30 a.m., Assistant SWAT Team Leader (ASTL) SA [redacted] who is also a Certified Firearms Instructor, provided another safety briefing regarding the use of live ammunition in the Shoot House and again cautioned the team about potential ricochet danger. All team members were then instructed to put on their SWAT gear consisting of helmet, vest and hearing and eye protection.

b6
b7C

A final instruction and demonstration regarding the use and safe deployment of a flash-bang device was provided by STL [redacted] This included demonstration of a live flash-bang device. Afterwards, operators were instructed to leave the Shoot House so he could prepare the training room. He also instructed ASTL [redacted] to pair experienced and inexperienced operators together for the two man entry exercise.

The room utilized in the Shoot House contained two newly constructed plywood walls. The FBI did not build these walls and, therefore, it is presumed they were built by C3/7 SFG. The configuration of this room was not anticipated by the SOP, which discloses no such room in identifying approved areas of live fire. The effect of this new, temporary, room was to place the only available catwalks "down range" of the shooters. The permanent Shoot House rooms are carefully configured to enable observers to view from catwalk locations behind the shooters. The only catwalks available in this temporary structure were the southeast and southwest walls, with the target placed in the south corner. As a result, use of the available catwalks to view this temporary room would reasonably be considered to be of an unacceptable risk, except at the most extreme locations away from the target.

After the operators departed the Shoot House, STL [redacted] designed, participated and supervised the arrangement of the room to be used during the exercise. This included target/trap placement and the placement of an empty metal file cabinet and an executive style wood desk. The target/trap was placed in the extreme south corner of the room opposite the entry doorway. The file cabinet was placed in proximity to the northeast wall and east corner. The desk was placed in a position approximately 3'4" directly in front of the target/trap. The placement of the desk obscured at least half the target from view of the shooters.

b6
b7C

Although both ASTL [redacted] and SA [redacted] are both Certified Firearms Instructors, it appears that SSRA [redacted] (SWAT Advisor), ASTL [redacted] and SA [redacted] either participated

in the room arrangement and/or observed the room arrangement without objection to the placement of objects prior to the initiation of the first exercise. Nor was there any apparent discussion regarding the dangerous location of the available catwalks.

SSRA [redacted] was asked by STL [redacted] to videotape the exercise from a position on the catwalk to be determined by SSRA [redacted] The SIRG investigation did not determine exactly who provided what instructions on the specific training roles of ASTL [redacted] and SA [redacted] for the initial live fire exercise.

b6
b7C

For example, in an FD-302 report, dated 07/29/2002, prepared by STL [redacted] pursuant to the San Juan review he asked SA [redacted] to act as the range safety officer in an "over watch" position on the catwalk and further asked ASTL [redacted] to act as a second ground safety officer with STL [redacted]. This recollection is consistent with STL [redacted] SIRG interview, FD-302 report dated 08/20/2002, wherein he advised he appointed ASTL [redacted] as ground safety officer and SA [redacted] was instructed to maintain a position on the catwalk to watch for unsafe conditions such as a trip or unsafe movement.

However, according to a FD-302 report, dated 08/03/2002, prepared by San Juan SSRA [redacted] pursuant to an interview of SA [redacted] he reported that STL [redacted] assigned Range Safety Officer duties to SA [redacted] and SA [redacted] and left it up to them as to positioning....SA [redacted] and SA [redacted] discussed this and it was agreed that SA [redacted] would go up on the catwalk and fulfill his duties there while SA [redacted] would remain on the ground and observe the entry team from that vantage point. In his subsequent interview conducted by the SIRG, reflected in FD-302 report dated 08/20/2002, SA [redacted] advised he and SA [redacted] were assigned by STL [redacted] as alternating safety officers and evaluators, whereupon SA [redacted] agreed to take a position above the shooting area on the catwalk.

b6
b7C

In FD-302 reports, dated 07/26/2002 and 08/20/2002, ASTL [redacted] advised, SA [redacted] made the suggestion that he should observe the training from the catwalk, while ASTL [redacted] should observe the training from the floor.

Based upon these interviews it is not clear whether STL [redacted] instructed SA [redacted] to maintain a position during the exercise on the catwalk; whether this was a suggestion he made and agreed upon; or, whether this was an independent decision of SA [redacted] subsequently agreed to by ASTL [redacted]

during a reconciliation of their respective roles during the first exercise. STL [redacted], ASTL [redacted] and SA [redacted] were each interviewed regarding their respective roles, the directions they were given and the decisions they made that resulted in placing SA [redacted] on the catwalk. Each of their interviews provided results which, taken comparatively, indicates their recollections and perceptions are in conflict. STL [redacted] in an FD-302 prepared by him subsequent to the shooting and during his SIRG interview, indicates that he requested SA [redacted] to take a position on the catwalk. However, in the interviews of SA [redacted] and ASTL [redacted] they indicate the position of SA [redacted] during the exercise was determined through agreement between them and was not at the direction of STL [redacted] ASTL [redacted] even stated that the suggestion that SA [redacted] take the position on the catwalk was originated by SA [redacted] Therefore, given the statements of ASTL [redacted] and SA [redacted] it is possible but not probable that STL [redacted] specifically assigned SA [redacted] to the catwalk position. It is more probable that STL [redacted] suggested someone take a position on the catwalk and that, acting upon that suggestion and prior practice, ASTL [redacted] and SA [redacted] made a joint agreement on their respective positions. b6 b7C

- It also appears in the absence of specific instructions otherwise that overall range safety was the responsibility of STL [redacted] who, importantly, is not a Certified Firearms Instructor.

At approximately 11:45 a.m., ASTL [redacted] selected SA [redacted] and SA [redacted] as the first team to perform a two man entry exercise using live ammunition. ASTL [redacted] selected an experienced operator (SA [redacted] and an inexperienced operator (SA [redacted]. Both operators wore complete SWAT gear which included vest, helmet and ear and eye protection. Both were armed with H&K MP-5 weapons, loaded with 10mm Full Metal Jacket (FMJ), "ball" type, ammunition and fully loaded sidearms. The sidearms, although available, were not employed during this exercise. b6 b7C

Prior to commencement of the exercise, SA [redacted] did not adorn his helmet or protective goggles. He covered his eyes with Bolle sunglasses, which reportedly had some ballistic protective capabilities but were not of the quality of his goggles. SA [redacted] was challenged in this decision by ASTL [redacted] After noticing SA [redacted] without his protective helmet, ASTL [redacted] instructed him to put his helmet on. SA [redacted] explained his concern that ricochet rounds would come from a trajectory below his position and up from the range area.

He was concerned having read literature and studies regarding head wounds where the round was not able to exit due to the helmet. SA [redacted] preferred a clean exit wound and thereafter rationalized his helmet presented a liability given the probable trajectory of any ricochet dangers.

SA [redacted] had high quality, double pane, protective goggles which were adjusted to his protective helmet. He chose not to remove the goggles when he made the decision not to wear his helmet. Instead, he placed the Bolle sunglasses over his eyes. b6 b7C

SA [redacted] was not wearing either his protective helmet or his protective goggles at the time of the shooting. He substituted Bolle sunglasses with some undetermined, but lesser, protective capabilities for eye protection. In addition, SSRA [redacted] also did not wear a protective helmet, although he was wearing a protective vest as well as eye and ear protection.

During his SIRG interview, reported in FD-302 dated 08/20/2002, STL [redacted] advised he thought everyone, including safety officers/instructors, had on full protective gear. He was not aware SA [redacted] was not wearing a helmet. This statement is not consistent with a prior FD-302, dated 07/29/2002, prepared by STL [redacted] pursuant to the San Juan review which states:

> "After observing the room to be used for the training exercise SA [redacted] was verbally asked if he was ready for live exercises to begin. Upon receiving a thumbs up status from SA [redacted] in the catwalk and a verbal ready from TL [redacted] on the ground STL [redacted] advised SAs [redacted] and [redacted] that the live fire exercise was ready to begin."

According to ASTL [redacted] STL [redacted] checked to make sure that everyone was in place prior to giving the command to begin the exercise. It appears that STL [redacted] physically observed all personnel prior to commencement of the exercise and, therefore, should have noticed that SA [redacted] was wearing neither his helmet nor appropriate eye protection. b6 b7C

At approximately 11:58 a.m., all non-participants of the SWAT Team were located outside the Shoot House. The SIRG investigation identified the remaining involved individuals positioned as follows:

1. SSRA [redacted] - Located above the east corner on the catwalk.

2. SA [redacted] - Located above the west corner on the catwalk near the intersection of the southwest concrete wall and northwest wooden wall. (This starting position is different from the starting position reported in the San Juan review which placed him midway between the south and west corners.)

3. SA [redacted] - Located on the ground floor outside the north entrance to the room along the northwest wall. Positioned as the #1 man in the stack position or room entry. b6 b7C

4. SA [redacted] - Located on the ground floor outside the north entrance to the room along the northwest wall. Positioned as the #2 man in the stack position for room entry.

5. ASTL [redacted] - Located on the ground floor outside the north entrance to the room.

6. STL [redacted] - Located on the ground floor outside the north entrance to the room.

After being advised that observers, safety officers and evaluators were ready, STL [redacted] informed SA [redacted] and SA [redacted] that the live fire exercise was ready to begin. He provided each with a practice flash bang device and instructed them to prepare for room entry. Both were asked if they had any questions and both answered that they did not. Neither shooter was reminded at this time to adjust their point of aim to compensate for the calibration of their sights. STL [redacted] then informed them that on the count down, as previously rehearsed, they were to execute a two man single room live dynamic entry using the practice flash bang provided.

After the countdown was completed without incident, SAs [redacted] and [redacted] executed the two man entry. SA [redacted] being the number 2 man, successfully deployed the practice flash bang device he had removed from SA [redacted] vest into the room to initiate entry and retreated back to his number 2 position. b6 b7C

Just prior to the commencing of the live fire drill, SA [redacted] walked south on the catwalk toward the target corner to get a better view of the participants as they delivered

the flash bang device. Immediately after the flash bang device was delivered, SA [redacted] turned his head away from the room in order to protect his face and body from the detonation. After detonation, SA [redacted] turned back around to evaluate the participants.

After the device detonated, SA [redacted] entered the room to the left side followed by SA [redacted] who entered the room to the right side. Both began discharging their H&K MP-5 weapons shortly after entering the room. The discharge of the flash bang device and the subsequent discharge of weapons by SAs [redacted] and [redacted] were captured on videotape, a copy of which is enclosed with this report. b6 b7C

After SA [redacted] cleared the doorway STL [redacted] moved through the doorway. ASTL [redacted] had his observation momentarily obscured by the movement of STL [redacted] Prior to his view being obstructed, ASTL [redacted] believed he witnessed a puff of dust or a ricochet strike the concrete wall above the target trap. When SA [redacted] entered the room, SAs [redacted] and [redacted] had ceased firing.

SA [redacted] believed he was straddling the wide and narrow portions of the catwalk between the south and west corners near the target end when the shooting began. He recalled looking into the room at the shooters as they were firing and heard two or three shots before being struck in the eye by an object. The force of the impact spun him around forcing him to land in a prone position on his stomach. He realized he had been hit in the right eye, noted the missing right eye piece to his sunglasses and could feel blood running down his face. He removed his sunglasses and inspected his head with his fingers for exit wounds and ultimately concluded the object was lodged in his head. After a few seconds, SA [redacted] turned him over on his back and began to administer first aid.

A review of the videotape indicates SA [redacted] fired the first shot. SA [redacted] then fired the second and third shots, both of which appear to have struck the desktop, skipped the bullet, and probably went outside the target trap. The videotape does not disclose the target trap, thereby rendering the sequence of target hits impossible. SA [redacted] then fired the fourth shot, which stuck the desktop, skipped the bullet and probably went outside the target trap. Additional shots were fired and are believed to have struck the target. b6 b7C

A review of the target indicates four direct hits. The desktop indicates three bullet strikes, one from SA

[redacted] and two from SA [redacted] Post shooting evidence collection recovered a total of seven 10mm casings in the vicinity of the room. Six were located within the room and the seventh was located outside the room adjacent to the northwest wooden wall. This would indicate the probability of seven shots fired with three missing the target trap and probably ricochets. One of these undoubtedly ricocheted off the concrete wall behind the target trap and struck SA [redacted] in the right eye. b6 b7C

A review of the object removed from SA [redacted] eye during surgery, a photo of which is included with this report, indicates the object was not a fragment from a bullet or the concrete wall. The object removed from his eye was a partially flattened round, indicating an unfragmented ricochet.

4. FBI USE OF THE SHOOT HOUSE, CAMP SANTIAGO

The SIRG, after reviewing the initial shooting incident report by the San Juan Division, determined the inquiry needed to determine if a risk assessment had been conducted on the Shoot House, what standard operating procedures were in effect for the Shoot House and what the FBI personnel involved in training at the facility knew of the risks and operating procedures and when they knew it.

SHOOT HOUSE LIMITATIONS

An FBI interview was conducted of Colonel Josefina Cruz, Safety and Operational Health Manager, Puerto Rico National Guard (PRNG), Camp Santiago, Salinas, Puerto Rico. Col. Cruz presently serves as the Safety and Occupational Health Manager at Camp Santiago and is responsible for accident prevention, health promotion, and firearm range safety at Camp Santiago. b6 b7C

Col. Cruz advised that by a letter dated 06/28/2000, Major [redacted] Commanding Officer of Company C, 3rd Battalion, 7th Special Forces Group (3/7 SFG) requested the Adjutant General of the PRNG to grant 3/7 SFG a range waiver to conduct close quarter combat training at the new shoot house at Camp Santiago. In particular, the 3/7 SFG requested authority to shoot 9mm frangible ammunition, 9mm simunition ammunition, 5.56 frangible ammunition, 5.56 simunition, and 5.56 blue bolt (plastic) ammunition.

In consideration of that request, Col. Cruz ordered a trajectory analysis for the ammunition specified.

Thereafter, in a letter dated 08/01/2000, PRNG Adjutant General Emilo Diaz-Colon approved a one-year range waiver for 3/7 SFG, exclusively, conditioned on the following:

> "a. The only ammunition authorized for use is the 5.56mm simunition, 5.56mm plastic, 5.56mm frangible, 9mm frangible, and 9mm simunition. The waiver approval does not provide for use of standard ball munitions. If standard ball ammunition is proposed in the future, a separate safety assessment by TACOM-ARDEC must be conducted and the results of that assessment provided for analysis by this Command."

In addition, the PRNG's approval letter indicated that all operations conducted at the Shoot House must be coordinated with the Range Control Office at Camp Santiago. The Adjutant General of the PRNG renewed the 3/7 SFG's range waiver in October 2001 for a second one-year period.

Col. Cruz further advised sometime during November 2001, Captain [redacted] Executive Officer for the 3/7 SFG, sent an e-mail to the U.S. Army's Engineering and Research Center (ERC) at the Picatinny Arsenal, in New Jersey, to inquire about the safety implications of shooting 5.56 ball ammunition inside the shoot house at Camp Santiago. In a response e-mail to Capt. [redacted] that was copy counted to Col. Cruz, the ERC advised that a 3100' feet radius test would be required prior to the granting of authority to use 5.56 ball ammunition at the shoot house. Further, Col. Cruz informed Capt. [redacted] that the community of Sabana Llama was located approximately 2100' southeast of the shoot house, well within the maximum range of the 5.56 ball ammunition. Notwithstanding, Col. Cruz indicated that a waiver for use of that ammunition could be granted if the shoot house was appropriately modified to preclude projectile escapement on the structure's southeast side. According to Col. Cruz, the 3/7 SFG never pursued the matter further.

b6
b7C

Therefore, the use of "ball type" munitions in the shoot house has not been approved and is specifically prohibited.

A review of the enclosed Shoot House SOP, prepared by 3/7 SFG, indicates standard "ball type" ammunition is not approved nor is the placement of furniture permitted to

obstruct targets in the shoot house. This SOP further indicates the permitted target placement areas within each room of the shoot house and requires users to be equipped with appropriate body armor, helmet and eye and ear protection. It does not indicate permissible catwalk areas to be utilized for each shoot house location. Based upon the interviews conducted by SIRG it may be concluded that FBI personnel had not reviewed nor were they aware of the Shoot House SOP.

A review of the enclosed Shoot House Risk Assessment, prepared by 3/7 SFG, indicates the level of risk associated with the use of the shoot house under the approved conditions is "HIGH". It is logical to assume use of the shoot house using "ball type" munitions; locating furniture to obstruct targets; not adhering to personal protection requirements; and/or failing to notify PRNG Range Control, as specified in the SOP, would elevate risk to "VERY HIGH" and to an unacceptable level.

HISTORY OF FBI USE OF THE SHOOT HOUSE

The FBI, with the generous approval of the Puerto Rico National Guard, has utilized a number or ranges at Camp Santiago over the years. Some of the ranges and facilities are used and managed almost exclusively by Special Forces Group personnel. As a result, liaison between the FBI and SFG personnel is also required. The Shoot House range is such a facility and the FBI has been permitted to practice there due to the high quality of the FBI and Special Forces Group relationship.

The earliest known FBI use of the Shoot House range was May 2001. This use was coordinated by former SWAT Team Leader and Coordinator (STL/C) SA [redacted] In addition to his duties as the former STL/C during the period 1992 to 2001, SA [redacted] also served as the Principal Firearms Instructor (PFI) for five years, has served as a Firearms Instructor for twelve years, is a FBI Bomb Technician, Principal Tactical Instructor, Defensive Tactics Instructor and was a member of the San Juan Division SWAT team from 1986 until his resignation in 2001. b6 b7C

To arrange the use of the Shoot House during a week long SWAT Training session, along with other range facilities at Camp Santiago, SA [redacted] coordinated approval through both the Puerto Rico National Guard and the 3/7 Special Forces Group (3/7 SFG). The use of the Shoot House was confirmed by letter from SAC MARELENE M. HUNTER to both the PRNG and the SFG and is documented in FBI files. In addition, PRNG advised

the FBI of the cost of using various range facilities during this training session which include the cost of using the Shoot House.

In his interview, SA [redacted] advised that after securing PRNG and 3/7 SFG approval he always coordinated with the Camp Santiago S-3 Officer who was in charge of all training exercises conducted on the base. It was standard practice for the SWAT Team, when using a range, to stop at Range Control, leave an FBI radio to facilitate constant communication and obtain a "red flag" that would be raised at the specific range flag pole indicating training with live fire scenarios. Range Control would be informed, via radio, when the range became live and when it ended. At the conclusion of the exercise, the red flag would be returned and the FBI radio retrieved upon exit from the base. This standard practice was employed when the Shoot House was used for the first and only time under STL [redacted]. b6 b7C

When the FBI used the Shoot House in May 2001, 10mm and 9mm "ball type" ammunition was used. SA [redacted] advised he could not recall whether Range Control knew what specific type of ammunition was being used at the Shoot House. He further advised he was never informed by Range Control or Special Forces personnel that 9mm or 10 mm "ball type" ammunition could not be used.

STL [redacted] made no attempt to obtain frangible ammunition for use in the Shoot House, although he was aware it was more appropriate for that environment. He ensured safety by deliberately slowing down the exercises. He also ensured that the observers were situated on the catwalk overlooking the exercise behind the shooters. He emphasized the need for deliberation to his team members reiterating at all times to take as much time as needed to successfully hit the target and bullet trap. SA [redacted] recalled one occasion during an entry exercise where an assistant Team Leader placed as an observer situated on the catwalk, above and behind the entry, felt a ricochet of what he described as a piece of metal that grazed his hand. b6 b7C

The Shoot House was utilized on at least three other occasions. Specifically, 07/30/01, 10/26/01 and 01/25/02 the Shoot House was used by FBI SWAT Team personnel. Another training date, 04/26/2002, was scheduled but unused due to the STL [redacted] TDY assignment to Pakistan. The SIRT investigation determined 10mm "ball type" ammunition was regularly employed on each of the prior occasions. It is probable that sidearms weapons were utilized in transition scenarios and also utilized, although the investigation did not focus on this aspect of the training. Each of these training

scenarios were designed, arranged and supervised by STL [redacted]

RANGE CONTROL NOTIFICATION

It appears from interviews conducted that no effort was made by FBI SWAT Team leadership to arrange or notify Range Control of the use of the Shoot House after SA [redacted] took over as STL and Coordinator. STL [redacted] in his interview, advised he did not think it was his responsibility or the responsibility of the FBI to notify Range Control. All use of the Shoot House after STL [redacted] took control of the SWAT Team was arranged exclusively through 3/7 SFG. According to SA [redacted], by refusing to directly notify Range Control he was ensuring 3/7 SFG attendance during SWAT Team training at the Shoot House. In addition, SA [redacted] subsequently also advised as follows:

b6
b7C

> [redacted] advised he remembered another reason he did not check in with Range Control prior to using the house. He recalled he did check in with Range Control on a prior occasion and they asked him where C 3/7 was. He told them C 3/7 were at the Shoot House which wasn't true. He did not want to have to lie for C 3/7 so he refused to check in with Range Control. He acknowledged his failure to notify Range Control was a safety issue since no flag was raised indicating live fire at the location. Given the remote location of the Shoot House, he thought the risk of injury to a bystander was low."

Inasmuch as no 3/7 SFG personnel were in attendance at the Shoot House on 7/26/2002 and no effort was made by STL [redacted] to notify Range Control or to obtain a red flag to indicate a live range, it must be concluded that STL [redacted] either: (1) did not understand the responsibility to ensure Range Control was notified; or, (2) deliberately chose to ignore that responsibility.

Interviews of Range Control personnel indicated they were not aware of the FBI presence at the Shoot House on 7/26/2002 or their intended use of the facility. Documentation in the form of Camp Santiago Range Control Log (enclosed) for that day and correspondence between 3/7 SFG and PRNG (enclosed) regarding use of the Shoot House on that date also fail to reflect an FBI presence or intention to utilize the facility.

SHOOT HOUSE STANDARD OPERATING PROCEDURES

The initial San Juan Division shooting review indicated, via interview of Captain [redacted] 3/7 SFG, that Standard Operating Procedures (SOP) were in effect on 7/26/2002, which the FBI SWAT Team violated.

The SIRT investigation did confirm numerous FBI SWAT Team violations of the Shoot House SOP. The investigation interviewed 19 Special Agents who participated or used to participate (SA [redacted] in the San Juan SWAT Team. However, none acknowledged they were aware of or familiar with the Shoot House SOP provided by Capt. [redacted] In addition, none acknowledged they were aware of the limitations of ammunition which prohibited the use of 10mm "ball type" ammunition or the prohibition against placing furniture to obstruct targets in the Shoot House. b6 b7C

Although at least one SWAT Team member (Assistant Team Leader [redacted] recalled receiving a briefing from SFG personnel on one prior occasion regarding the use of the Shoot House, he did not recall ever receiving a briefing from SFG personnel on the limitations or restrictions of the facility. He was also unaware of the SOP, the limitations of ammunition which prohibited the use of 10mm "ball type" ammunition or the prohibition against placing furniture to obstruct targets in the Shoot House.

The majority of SWAT Team personnel interviewed indicated that SFG personnel were present on most occasions when the FBI utilized the Shoot House. Oftentimes SFG personnel took positions on the catwalk and served as safety observers during SWAT Training when 10mm "ball type" ammunition was utilized. On no occasion did anyone object to the use of 10mm "ball type" ammunition in the Shoot House.

Major [redacted] 3/7 SFG, in his interview, dated 08/20/2002, pursuant to the SIRG investigation, advised in a meeting with STL [redacted] which occurred the week before the shooting incident and which was also attended by SA [redacted] and Sgt. [redacted] that he specifically advised STL [redacted] that the FBI was not permitted to engage in live fire exercises at the Shoot House. b6 b7C

In their interviews, both STL [redacted] and SA [redacted] denied they were advised by Majo [redacted], or anyone else, that they were not permitted to use the Shoot House for live fire exercises or that they were not permitted to use 10mm "ball type" ammunition. Both denied that they were informed in this meeting with Maj. [redacted] that he specifically forbid them

from shooting live ammunition.

POST SHOOTING ACTIVITY

According to Lieutenant Colonel DANIEL MANGUAL, Operations Officer, Puerto Rico National Guard, Camp Santiago, Salinas, Puerto Rico, the following occurred after the shooting incident:

"On 07/26/2002, at approximately 12:10 p.m., the range control office at Camp Santiago received radio notification from C Company, 3rd Battalion, 7th Special Forces Group (3/7 SFG) that an accidental shooting resulting in a serious injury just occurred at the shoot house. The injured party was transported to the helicopter pad near the camp clinic. [redacted] and [redacted], assigned to the Training, Plans and Operations Division, immediately responded to the helicopter pad where they met a few men attired in BDU military clothing. They asked one of the men the whereabouts of the members of the 3/7 SFG. One of the men, unidentified, said the SFG personnel were back at the shoot house where the accidental shooting occurred. Thereupon, [redacted] and [redacted] drove to the shoot house six kilometers away where they found a group of men dressed similarly to those at the helicopter pad. [redacted] asked them if anyone from 3/7 SFG was present. The men, who did not volunteer their identities, replied that no SFG personnel were present."

b6
b7C

It is unclear who made the initial contact with Range Control after the shooting incident, but it must be presumed to have been someone from the FBI SWAT Team since no 3/7 SFG personnel were reportedly present at the scene. STL [redacted] in his interview dated 08/20/2002, advised the following:

"Following the shooting, Range Control showed up outside the house. [redacted] told them to call C 3/7 but he is not sure they understood him as his Spanish is weak... [redacted] ran into Range Control again and they asked him where C 3/7 was. He advised no C 3/7 personnel were present."

On 7/26/2002, ASAC JOSE FIGUEROA specifically instructed members of the San Juan SWAT Team, including STL [redacted], not to discuss the shooting until they had provided statements to the FBI pursuant to a shooting inquiry. Despite these instructions, STL [redacted] agreed to meet with Major [redacted] and Colonel CRUZ on 7/29/2002 to discuss the shooting.

He asked SA [redacted] to accompany him to this meeting. When SA [redacted] inquired about the ASAC's instructions he was reportedly informed by STL [redacted] that permission had been obtained from ASAC FIGUEROA.

In his interview, dated 08/22/2002, ASAC FIGUEROA denied having been asked or giving permission for STL [redacted] or any other personnel to meet or discuss the shooting incident with either Puerto Rico National Guard or Special Forces Group personnel.

b6
b7C

On 7/29/2002, a private meeting was held between STL [redacted], SA [redacted] and Major [redacted]. During that meeting a discussion ensued regarding the use of "ball type" ammunition and the events of 7/26/2002. A subsequent meeting was held which also included Col. CRUZ wherein the FBI's use of the Shoot House was discussed. The details of those meetings are reflected in the reports of interview (FD-302s) of STL [redacted] and SA [redacted]

5. CONCLUSIONS/INSPECTORS OBSERVATIONS

The events at the Camp Santiago Shoot House on 7/26/2002, which resulted in injury to SA [redacted] were the result of an accident. No specific individual responsibility for the accident can be attributed. The following decisions and actions contributed to the accident:

(1) The use of 10mm "ball type" ammunition in a Shoot House constructed of concrete results in an inherently high risk situation for injury resulting from ricochet to any shooter or bystander. Use of this ammunition, or any other "ball type" ammunition, is not presently authorized by either the Puerto Rico National Guard or the Special Forces Group. Leadership of the SWAT Team was aware of the risks of ricochet and took deliberate actions to emphasize the importance of accurate shot placement in the shooting traps and, when necessary, reportedly slowed the pace of training to accommodate the skills of the shooters. However, these precautions were not sufficient in this situation.

(2) FBI SWAT Team Leadership did not fully consider the risks associated with the use of "ball type" ammunition in the Shoot House when the training exercise and environment were developed. Although efforts were taken to ensure shooters were properly attired, shot placement emphasized and shooter pace matched to skill level, there was little

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/12/2003

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A LAH/B
Clemens Michael S

Drafted By: [redacted] lxr

b6
b7C

Case ID #: 297-HQ-A1271466-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/18/2002
DENVER DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/18/2002, involving Special Agent (SA) [redacted] SA [redacted] shot and killed a struggling deer that had been struck by a vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 12/19/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 06/12/2003

**Details of the Shooting Incident**

On 12/18/2002, at 11:20 a.m., SAs [redacted] and [redacted] were traveling on a highway in Colorado when they approached a work van occupied by two males who had just struck and injured a large mule deer buck. The deer's rear legs were broken and it was struggling and thrashing on the side of the road. The driver of the van advised the Agents that the deer had run into the road in front of his vehicle and he struck the deer causing damage to the front of his vehicle. The driver had unsuccessfully attempted to contact law enforcement authorities.

b6
b7C

While SA [redacted] attempted to contact the Colorado State Police via his radio, SA [redacted] decided to euthanize the deer due to the fact it was suffering and posed a potential threat to other motorists if it managed to get into the roadway. SA [redacted] advised the individuals to return to their van, waited until there were no other vehicles present and shot the deer in the chest and head, killing the animal.

SA [redacted] successfully contacted the State Police who dispatched a trooper to handle the details of the incident.

On 05/08/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Operational Skills Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Washington Field Office; and SSA [redacted], Firearms Training Unit, Training Division. The only non-voting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 06/12/2003

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the actions of SA [redacted] were justified and that no action should be taken against him as a result of this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 06/12/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Rm. 5155
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

b6
b7C

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: CHICAGO
Date: 12/20/2002

Case ID #: 297-HQ-A1271285-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CHICAGO DIVISION
DECEMBER 3, 2002

Character: ADMINISTRATIVE INQUIRY

Synopsis:

This shooting incident occurred on December 3, 2002 at the residence of FBI Special Agent (SA) [redacted] Berwyn, Illinois. On December 3, 2002, at approximately 11:50 pm, SA [redacted] was awakened by his spouse who was awakened by the barking of their dog. The barking was followed by a loud crashing noise. SA [redacted] grabbed his Bureau issued pistol and proceeded downstairs to investigate the noise. Upon arrival at the first landing of the staircase, SA [redacted] heard another loud noise. SA [redacted] shouted out, "FBI, get your hands up." He repeated the command six or seven times. Each time the intruder, JOHN FLAHIVE, replied, "No way. You gotta be kidding. No fucking way." When FLAHIVE failed to comply with SA [redacted] commands and took a step towards the staircase on which SA [redacted] was standing, SA [redacted] fired one shot through FLAHIVE's torso. When FLAHIVE fell to the floor, SA [redacted] asked his spouse, [redacted] to call 911. Both the Berwyn police and the EMS arrived within two minutes of the telephone call. Although he was initially expected to survive the shooting, FLAHIVE died at MacNeal Hospital on Friday, December 6, 2002.

b6
b7C

DETAILS:

On 12/03/2002, at approximately 11:50 PM, SA [redacted] and his spouse, [redacted] were sleeping in

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

their master bedroom in the upstairs portion of their residence at [redacted] Berwyn, Illinois. [redacted] was first awakened by the barking of their dog. The barking was followed by a loud banging noise downstairs. [redacted] awoke SA [redacted] who then heard a loud banging noise coming from the ground floor of the residence.

SA [redacted] retrieved his service weapon (Glock Model 22, .40 caliber pistol) and a flashlight, both of which were always kept on top of the night stand and proceeded downstairs to investigate. Upon arriving at the first of two landings of the staircase, SA [redacted] heard another loud banging noise. SA [redacted] shouted, "Who's there?" SA [redacted] then saw an unknown male entering his living room. SA [redacted] saw a white male with blonde hair, wearing eyeglasses, and dressed in dark clothes. SA [redacted] also noticed the intruder was carrying a knapsack.

b6
b7C

SA [redacted] identified himself as an FBI Agent and began to give a verbal command, "FBI, federal agent, I have a gun. Put your hands up." The intruder replied, "No way. You gotta be kidding. No fucking way." SA [redacted] repeated the same command five or six more times. The intruder kept repeating, "No way. You gotta be kidding. No fucking way."

To prove that he actually possessed a handgun, SA [redacted] took his flashlight and shone the light on his weapon. Again, FLAHIVE failed to comply and repeated the statement, "No way. You gotta be kidding."

When FLAHIVE took a step towards the staircase on which SA [redacted] was standing, SA [redacted] fired a single shot to the torso of FLAHIVE. FLAHIVE fell to the floor on his stomach. FLAHIVE then attempted to move his left hand towards his waistband, at which time SA [redacted] pointed his weapon and yelled out, "Let me see your hands." This time FLAHIVE complied with the command.

b6
b7C

SA [redacted] immediately asked his spouse, [redacted] to call 911. Within two minutes, the Berwyn police arrived on the scene, with the EMS following closely behind.

The intruder, previously known to the BERWYN PD Commander on the scene, was identified as JOHN R. FLAHIVE, white male, date of birth 08/27/1964, FBI #492557KA1. FLAHIVE was transported to MacNeal Hospital, Berwyn, Illinois, where he underwent surgery for his gunshot wound.

After the initial surgery, it was believed that FLAHIVE would survive the shooting. FLAHIVE underwent another surgery in the evening of 12/04/2002. On 12/05/2002, two additional surgeries were performed as a result of fracturing of the spleen.

On the afternoon of 12/06/2002, the BERWYN PD was notified that FLAHIVE had died at the hospital. An autopsy report would not be available from the Cook County Medical Examiner's Office for several weeks.

FBI Chicago was immediately notified of the shooting and notifications were made to SAC THOMAS KNEIR, ASAC DAVID CUTHBERTSON, CDC JAMES KRUPKOWSKI, SSA [redacted] ERT Team Leader [redacted] and the Media Coordinator [redacted] ASAC CUTHBERTSON, CDC KRUPKOWSKI, and SSA [redacted] proceeded to the scene.

Evidence recovery was conducted jointly between the FBI ERT and the BERWYN PD. A thorough search of SA [redacted] living room area failed to produce the round which passed through FLAHIVE. A fresh indentation was made in the hardwood floor in the vicinity of where FLAHIVE had been shot. A painstaking check for signs of entry of the round into a nearby sofa produced negative results. It was speculated that the round may have entered the large grill of a heater which was directly in line with the trajectory of the round. Forcible entry into the rear of SA [redacted] residence was evident. No weapon was recovered from FLAHIVE.

b6
b7C

FLAHIVE had a lengthy record containing previous arrests (**SEE ENCLOSURES**): obstructing and resisting a police officer, retail theft, disorderly conduct, controlled substance possession, domestic battery, and violation of a protection order. Commander [redacted] of the BERWYN PD advised that JOHN FLAHIVE and his brothers were known as "troublemakers" for many years. The FLAHIVE family was well-known to the BERWYN PD and the community for "many years of trouble."

After initially being declined by the Department of Justice for representation, on 12/05/2002 SA [redacted] was granted "Emergency Interim Legal Representation Authorized by the Department of Justice" regarding the incident. On 12/06/2002, SA [redacted] represented by [redacted] agreed to provide a voluntary statement regarding the shooting incident to officials of the BERWYN PD, the State Attorney's Office, and the FBI. An FD-927 was read and signed by SA [redacted] prior to the interview.

b6
b7C

On 12/13/2002, Assistant State's Attorney [redacted] Office of Professional Standards, advised that after reviewing the shooting incident, her office decided to decline prosecution. [redacted] also saw no reason for BERWYN PD to retain custody of SA [redacted] weapon. On 12/14/2002, the BERWYN PD released the weapon to SA [redacted]

The Inspection determined that the deadly force utilized by SA [redacted] was justified and within the guidelines

as set forth in the FBI's Deadly Force Policy. When the intruder ignored commands to show his hands on at least six occasions, and took a step towards where SA [redacted] standing, SA [redacted] felt that the intruder posed an imminent danger of death or serious physical injury to himself and/or his spouse.

Prior to firing the shot, SA [redacted] also gave FLAHIVE ample verbal warnings to submit to his authority. SA [redacted] took the additional step of shining the flashlight on his weapon when the intruder stated, "No way. You gotta be kidding. No fucking way." At no time did the intruder exhibit compliance to the commands.

b6
b7C

The Inspection also determined that SA [redacted] had no safe alternative to the use of deadly force since the intruder made no effort to flee once he was caught in the burglary act. In fact, the intruder failed to expose his hands when commanded to do so on several occasions and took a step towards where SA [redacted] was standing.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: NEWARK
Date: 12/05/2002

Case ID #: 297-HQ-A1271466 SUB D

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT;
DENVER DIVISION;
11/30/2002;
INSPECTION MATTERS

Character: ADMINISTRATIVE INQUIRY

Synopsis: This inquiry was initiated subsequent to a shooting incident which occurred in Colorado Springs, Colorado during the night of 11/30/2002.

b6
b7C

DETAILS:

At approximately 11:00PM on 11/30/2002, SA [redacted], EOD: 8/3/1997, Colorado Springs Resident Agency (RA), Denver Division, was en route to his residence from the RA in his personally owned vehicle (POV). SA [redacted] was in the RA from approximately 9:00PM to 10:45PM. SA [redacted] was eastbound in the 4300 block of Austin Bluffs Parkway and turned left (north) into the entry drive adjacent to a gas station located in the Grocery Warehouse parking lot, intent on buying gasoline for his POV.

While turning left, SA [redacted] saw a man and woman, later identified as [redacted] and [redacted], apparently arguing and physically struggling with each other behind a white Jeep Grand Cherokee. The vehicle was parked in a position facing north into the oncoming traffic lane of the parking lot entry drive. As he drove closer to the man and woman, SA [redacted] lowered his driver's side front window in an attempt to determine the nature of the problem. At that time the woman yelled to SA [redacted] "Help me, help me!" SA [redacted] then stopped his car, got out and walked toward the man and woman. As SA [redacted] approached, the man grabbed the woman and forced her to the driver's side of the vehicle, out of SA [redacted] sight.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] continued to approach the man and woman and drew his personally owned, FBI approved Glock 27,.40 caliber pistol from in his right front pants pocket, chambered a round and held the pistol close to his side. The man then grabbed the woman around the neck, apparently holding her between himself and SA [redacted] as a shield. SA [redacted] told the man that he was an FBI Agent and told the man and woman to calm down and tell him what was going on, at which time the man demanded proof of SA [redacted] identity. SA [redacted] then showed the man his FBI credentials which seemed to further agitate the man.

b6
b7C

SA [redacted] removed his cellular telephone from his left side waistband and called 911. He told the dispatcher that he was an FBI Agent and needed backup at the Grocery Warehouse. As he did so, the man advanced on SA [redacted] while still holding the woman as a shield and stated, "Shoot me, shoot me." The man also told SA [redacted] that he would not be able to shoot the man because he was holding the woman as a shield. The man and woman advanced close enough to SA [redacted] that he was forced to back away, hold his pistol closer to his body and extend his left arm to keep them away from him.

Witnesses reported seeing the man pull the woman toward the Jeep at which time, according to SA [redacted], the woman said, "Help me. Don't let him take me." SA [redacted] returned his cellular telephone to its holder and again advanced toward the man and woman. Witnesses reported the man then put the woman into the Jeep through the driver's side back door. SA [redacted] observed that the woman was either lying down on the back seat or was sitting on the passenger side of the back seat, still pleading for help. SA [redacted] then tried to stop the man from getting into the vehicle and driving away, fearing that the woman was being kidnaped or was the victim of a car jacking. SA [redacted] physically engaged the man while still holding his pistol, again in an attempt to keep the man from kidnaping the woman. In a further attempt to keep the man from fleeing with the woman, SA [redacted] kicked the man in the hip which caused the man to stumble into the side of the Jeep but did not keep him from getting into the Jeep's driver's position. Witnesses recalled that the man attempted to, or actually, punched SA [redacted] before entering the Jeep.

b6
b7C

SA [redacted] then attempted to stop the man from driving away by struggling with the man and trying to keep the man from putting the keys into the ignition. The man then drove forward and SA [redacted] backed away to avoid being struck by the passing vehicle.

As the Jeep drove away, SA [redacted] made the decision that he would be unable to safely and effectively give chase in his POV. SA [redacted] then made the decision to shoot the man in an attempt to stop the man from fleeing with the woman, who SA [redacted] believed was in imminent danger of grievous bodily harm or death as the victim of a kidnaping. SA [redacted] reported that at this point he believed the woman was exhibiting fear and terror based on the man's actions. From a range of between 10 and 25 yards, SA [redacted] aimed and fired five rounds at the driver's position through the tinted rear window of the Jeep, through which he could see the shape of the driver's head. SA [redacted] could clearly see that the female victim was not in his line of fire. b6 b7C

The Jeep then stopped and the man got out of the driver's door and fell to the ground. SA [redacted] then received a call on his cellular telephone from the 911 dispatcher. SA [redacted] told the dispatcher that shots had been fired, one person was hit and he needed an ambulance at his location. SA [redacted] then gave the telephone to a bystander who talked to the 911 dispatcher as SA [redacted] administered first aid to the injured man.

When officers of the Colorado Springs Police Department (CSPD) arrived at the scene, SA [redacted] surrendered his pistol to an officer at the officer's request. SA [redacted] provided a formal statement to a CSPD Detective, in the presence of a SIRT member, on 12/2/2002 at the CSPD.

The CSPD initiated a 2nd Degree Kidnaping investigation of this incident. It should be noted that [redacted] has a history of domestic violence-related arrests.

DETAILS OF THE EVENTS OF 11/30/2002 LEADING UP TO THE ABOVE-DESCRIBED SHOOTING INCIDENT, AS DESCRIBED BY WITNESSES AND IN POLICE REPORTS:

b6 b7C

On the evening of 11/30/2002, [redacted] and [redacted] were celebrating their 8th wedding anniversary in Colorado Springs, Colorado. They ate dinner at an Outback Steakhouse where they consumed approximately four beers. They then went to a pool hall and a strip club, consuming approximately one beer each at these establishments.

At some point in the evening, [redacted] and [redacted] engaged in an argument while riding in their white Jeep Grand Cherokee which [redacted] was driving. They stopped at a Burger King restaurant located on Austin Bluffs Parkway approximately one-quarter of a mile west of the eventual shooting scene in the Grocery Warehouse parking lot entry driveway.

[redacted] got out of the vehicle to call a friend to pick her up because she decided she did not want to ride home with [redacted]

After calling her friend, [redacted] began walking away from the Burger King. [redacted] did not leave the area, but instead followed behind [redacted] who was walking along Austin Bluffs Parkway toward the Grocery Warehouse. While between the Burger King and the Grocery Warehouse, a number of witnesses observed [redacted] and [redacted] physically fighting with each other along the roadway and in the entry driveway where the shooting incident eventually took place. Additionally, a number of witnesses saw [redacted] who was on foot, being chased by the Jeep. b6 b7C

[redacted] eventually ran from south to north across Austin Bluffs Parkway and [redacted] cut her off in the Jeep, stopping in the entry driveway to the Grocery Warehouse where their physical confrontation continued. Some of the witnesses passed [redacted] and [redacted] while they were fighting with each other and were so concerned with what they observed that they turned around, returning to where [redacted] and [redacted] were located, to determine if [redacted] needed assistance. A number of these witnesses also observed the shooting incident as described above.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: TAMPA
Date: 11/12/2002

Case ID #: 297-HQ-A1270919-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
ATLANTA DIVISION
OCTOBER 23, 2002

Character: ADMINISTRATIVE INQUIRY

b6
b7C

Synopsis: This shooting incident occurred as Agents of the Atlanta Division attempted to arrest [redacted] aka, on an Unlawful Flight to Avoid Prosecution (UFAP) warrant originating in the Detroit Division. In this regard, [redacted] had been the subject of a felony complaint charging him in Kalamazoo, Michigan, for Assault with Intent to Murder and Malicious Destruction of Personal Property. The Michigan State warrant charging [redacted] was issued on 09/25/2002. On 10/02/2002, the Kalamazoo Prosecuting Attorney requested the UNITED STATES ATTORNEY'S OFFICE for the Western District of Michigan to issue an Unlawful Flight to Avoid Prosecution Warrant for [redacted] Thereafter, the Detroit Division under file number 88A-DE-93279, initiated an UFAP investigation to locate [redacted] As the result of [redacted] criminal conduct on 10/23/2002, at the time of his attempted arrest by Atlanta Division Agents, a criminal complaint was filed in the UNITED STATES DISTRICT COURT, Northern District of Georgia, charging [redacted] with Assault on a Federal Officer in that [redacted] did "attempt to kill an officer/employee of the United States or any other agency of the United States Government..."

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

DETAILS:

This shooting incident occurred on October 23, 2002, as FBI Agents assigned to the Atlanta Division Squad 7 attempted to arrest [redacted] aka, who was the subject of a Detroit Unlawful Flight to Avoid Prosecution (UFAP) warrant. While attempting to effect the arrest of [redacted] on October 23, 2002, at approximately 11:00 a.m., [redacted] "rammed" a Bureau vehicle which was positioned to block [redacted] escape, which endangered the lives of Agents and, in turn, resulted in two Agents discharging their weapons at [redacted] who was the operator of a stolen 2000 Chevrolet Tahoe. Resultantly, [redacted] a passenger in the Chevrolet Tahoe suffered a non-life threatening bullet wound to his left shoulder. [redacted] managed to escape the arrest. b6 b7C

By way of background, on September 25, 2002, the Kalamazoo, Michigan, DEPARTMENT OF PUBLIC SAFETY, law enforcement personnel (detectives) attempted to arrest [redacted] aka, for Burglary and Theft. During that arrest, [redacted] attempted to "run over" two detectives with his vehicle and was not apprehended. Resultantly, the City of Kalamazoo Prosecuting Attorney charged [redacted] with two felonies, Assault with Intent to Commit Murder and Malicious Destruction of Property. By letter dated October 2, 2002, the Kalamazoo prosecuting attorney requested the United States Attorney's Office for the Western District of Michigan to issue an Unlawful Flight to Avoid Prosecution Warrant for [redacted]. Thereafter, the Detroit Division, under Detroit file number 88A-DE-93279, conducted an UFAP investigation to locate and arrest [redacted]. Through a Detroit symboled source, a telephone number of a residence in Atlanta, Georgia, was developed where [redacted] possibly was residing.

On October 22, 2002, Atlanta Division Squad 7 Acting Supervisory Special Agent (A/SSA) [redacted] received a call in the morning hours from SA [redacted] of the Detroit Division. SA [redacted] advised A/SSA [redacted] of background information concerning Detroit's UFAP investigation and informed A/SSA [redacted] that Squad 7 would be receiving a FedEx package, most probably later that morning, containing an Electronic Communication (EC), photographs of the fugitive, an arrest warrant and related affidavit. Subsequently, A/SSA [redacted] received that FedEx package later in the morning of October 22, 2002, and assigned the investigation in the afternoon hours of October 22, 2002, to SA [redacted] SA [redacted] was provided with all of the documentary information and the possibility, according to SA [redacted] that [redacted] could be staying at an address located at [redacted] Atlanta, Georgia. b6 b7C

After receiving this information and assignment, SA [redacted] determined that the address was the RIVERWOOD CLUB APARTMENTS and discovered the telephone number which was provided by the Detroit source was not listed. Thereafter, SAs [redacted] and [redacted] also assigned to Squad 7, conducted a surveillance at the RIVERWOOD CLUB APARTMENTS in the afternoon hours of October 22, 2002, and located two vehicles, both with Michigan plates. These vehicles were identified as a blue Ford pickup and an Oldsmobile Delta 88. Also parked next to the two vehicles with Michigan license plates was a 2000 Chevrolet Tahoe, which displayed an Indiana State license plate. The vehicles were parked near apartment C-3 of the RIVERWOOD CLUB APARTMENTS. An NCIC check regarding the Indiana registration did not identify it as being stolen.

b6
b7C

Attempts by SAs [redacted] and [redacted] to enlist the apartment manager to assist in the identification of the out-of-state cars were not productive. The manager, after being shown the picture of the UFAP subject, could not identify him as being a resident of the apartment complex. Notwithstanding, at the request of SA [redacted] the manager of the apartment complex provided the access code to operate an electronic gate to allow Agents' access into the apartment complex the next morning.

In the late afternoon hours of October 22, 2002, SA [redacted] returned to the Atlanta office to coordinate a surveillance for the next morning at the [redacted] location. At that time, SA [redacted] requested the assistance of five other Agents to assist him and SA [redacted] Those Agents were SAs [redacted] and [redacted] The Agents discussed the details of the investigation, and decided to meet the next morning at a PETRO service station at approximately 6:00 a.m. to assimilate a briefing plan.

b6
b7C

On October 23, 2002, at approximately 5:15 a.m., SA [redacted] checked the code for the electronic gate at the RIVERWOOD CLUB APARTMENTS to ensure its operation and, thereafter, drove to the PETRO service station for the briefing. All of the Agents involved in the surveillance viewed photographs of the subject, the arrest warrant and the affidavit for his arrest. The layout of the complex was discussed, and the particular apartment in question, C3, was also highlighted. Information regarding the location, make and color of vehicles which displayed the Michigan plates and the Chevrolet Tahoe with Indiana registration was also discussed.

There were two scenarios discussed at this early

morning briefing at the PETRO service station. The first plan called for the arrest of the subject in apartment C3. The second plan called for the subject, should he exit the apartment and get into a vehicle, to be taken down as the vehicle stopped at the electronic gate. The second plan, which was subsequently implemented, resulted in the vehicle occupied by SAs [redacted] and [redacted] which was parked on the west side of South Bolton Road, to act as a blocking vehicle when the subject departed through the electronic gate exiting the apartment complex. A second vehicle, occupied by SAs [redacted] and [redacted] was to be positioned behind the subject's vehicle to block the subject's vehicle from the rear. The Bureau vehicle operated by SAs [redacted] and [redacted] was to be angled to the left side of the subject's vehicle to secure the operator's side. The third Bureau vehicle operated by SAs [redacted] and [redacted] was to position itself in an offset fashion to the right side and secure the passenger side of the subject's vehicle. b6 b7C

In the briefing session, the Agents discussed the various scenarios, the closest trauma center, the use of body armor, weapons, deadly force, and communications as they had done many times in the past regarding car stops, arrests, and tactical operations. In fact, during the shooting inquiry, Atlanta Division's Senior SWAT team leader described the law enforcement and tactical abilities of the Agents assigned to Squad 7 as being very high, and further stated the squad was involved in more high-risk situations than any other squad in the Atlanta Division. SA [redacted] the Senior SWAT Team Leader, related that Squad 7 Agents were frequently involved in situations where they had to use police officer tactics, knowledge of firearms and arrest techniques, and implementation of arrest plans. SA [redacted] described SA [redacted], who is presently the Assistant Team Leader of Atlanta SWAT, as being exceptionally well versed in tactics and arrest situations. SA [redacted] opined that SA [redacted] abilities are such that SA [redacted] could easily be the Senior SWAT team leader of the Atlanta Division. Moreover, SA [redacted] related that at the request of then-SSA [redacted] he provided enhanced training to members of Squad 7 on October 28-29, 2000, regarding entries and advanced shooting techniques; on February 8, 2001, regarding the use of shields in making arrests, and on July 10, 2001, regarding tactical operations involving car stops.

After the Agents had a thorough briefing at the PETRO service station, they drove to the apartment complex and assumed their assigned duties. As related, one vehicle, operated by SAs [redacted] and [redacted] was located on the west side of South b6 b7C

Bolton Road. A second vehicle, operated by SAs [redacted] and [redacted], assumed a position near a mailbox pickup on the south side of the parking lot. The third vehicle, operated by SAs [redacted] and [redacted] assumed a position on the north side of the apartment complex where they could observe persons entering and exiting [redacted]

The surveillance began at approximately 6:30 a.m. on October 23, 2002. At approximately 9:30 a.m., a pretext telephone call was made to [redacted] which was the apartment of [redacted] No answer was received to this pretext telephone call. Thereafter, SA [redacted] requested that all of the arrest team Agents depart the area while SA [redacted] "checked a few more leads." At this time, SAs [redacted] and [redacted] traveled to another location at the MAPLE CREEK APARTMENTS[1]. At the MAPLE CREEK APARTMENTS, [redacted] photograph was identified as being the subject seen in the company of [redacted] b6 b7C

Resultantly, the Agents resumed their original positions. At approximately 10:55 a.m., a person matching [redacted] description was observed on the first/ground floor area outside of [redacted] talking on a cell phone. The source who made contact with SA [redacted] was requested to go to the vicinity of [redacted] and determine if, in fact, [redacted] was staying with [redacted] in [redacted] The plan called for the source to remove his baseball cap if the man seen talking on the cell phone closely resembled the UFAP subject.

The source entered the area and quickly removed his baseball cap providing the signal that a person meeting the UFAP's description was at that location. Shortly thereafter, the subject came out of the area and walked to the Chevrolet Tahoe and entered the operator's side. [redacted] came out behind the subject and entered the passenger seat. The Chevrolet Tahoe with the UFAP driving and [redacted] as a passenger drove toward the electronic exit gate. As the electronic gate slowly opened, the Bureau vehicle which was parked across South Bolton Road activated its visor lights and "wig-wag" lights, and pulled up to b6 b7C b7D

---

[1]A cooperating source approached SA [redacted] and SA [redacted] while they were parked on the west side of South Bolton Road. This source informed the Agents that [redacted] resided at the MAPLE CREEK APARTMENTS. While at the MAPLE CREEK APARTMENTS, SA [redacted] learned that the wanted photograph of [redacted] closely resembled the person who was staying at [redacted] with [redacted]

the front of the Chevrolet Tahoe in a blocking fashion. SAs [redacted] and [redacted] immediately pulled their vehicle to the back of the Chevrolet Tahoe thus blocking its ability to back up and/or change directions. The third Bureau vehicle operated by SAs [redacted] and [redacted] positioned their vehicle to the right rear of the Chevrolet Tahoe. All of the Agents on the arrest team displayed FBI raid jackets and other FBI insignia clearly identifying themselves as FBI. Commands were made by Agents for the occupants of the Chevrolet Tahoe[2] to get out of the vehicle with their hands up. When the occupants did not comply, attempts were made to shatter the passenger window with the butt of SA [redacted] M-4. At this time, the vehicle started moving forward, striking the Bureau vehicle that had been positioned as a blocking vehicle to the front of the Chevrolet Tahoe. A number of the Agents observed SA [redacted] fall backward as if he had been shot or hit by the car or was attempting to get out of the way. Collaterally, SA [redacted] s feet were underneath the running boards of the Chevrolet Tahoe and he had to quickly move out of the way or the Tahoe would have passed over his feet. SAs [redacted] and [redacted] positioned on the left side of the vehicle, discharged their weapons[3]. SAs [redacted] and [redacted] discharged their Glock model 22 .40 caliber pistols in an attempt to stop the operator from endangering SA [redacted] and/or other Agents at the scene. The Agents were hampered by the Chevrolet Tahoe's heavily-tinted windows and their inability to see within the vehicle. After the Chevrolet Tahoe rammed the Bureau vehicle, it was successful in pushing the Bureau vehicle out of the way approximately 35 feet backwards, thus allowing [redacted] to flee the scene.

b6
b7C

Thereafter, the Agents gave chase, but they were unable to apprehend [redacted]. A short time later, [redacted] was discovered at a AMOCO service station less that one-half mile from the scene of this incident. [redacted] had a gunshot wound to his left shoulder and was conveyed to the trauma unit at GRADY HOSPITAL. [redacted] was treated for a gunshot to the left shoulder and released the same day.

b6
b7C

The ATLANTA POLICE DEPARTMENT (APD) was conducting a homicide investigation nearby and immediately responded to this

---

[2]The windows of the Chevrolet Tahoe were darkly tinted making it very difficult to see within the vehicle.

[3]SA [redacted] discharged his Glock Model 22 .40 caliber pistol six times, SA [redacted] fired one shot from his Glock Model 22 .40 caliber pistol.

incident. The APD completed a number of investigative reports which included interviewing passenger [redacted] at GRADY HOSPITAL. [redacted] was also interviewed on the same date by Atlanta Division Agents. In both statements, [redacted] indicated he was unaware that [redacted], who he described as a relative, was wanted. [redacted] indicated that when the FBI attempted to stop him and his cousin, [redacted] the FBI Agents identified themselves as FBI Agents, had weapons drawn and demanded the doors be unlocked, and that both he and his cousin, [redacted], raise their hands. [redacted] related that as Agents attempted to break out the window of the vehicle, his cousin looked him "strangely in the eye" and put the Tahoe in reverse, then went forward, and rammed the FBI vehicle. b6 b7C

Another witness interviewed by the APD was [redacted] who resides in [redacted] RIVERWOOD CLUB APARTMENTS, [redacted] Northwest. [redacted] provided similar information as [redacted] had indicated, describing the blocking attempts by the FBI vehicle, the fact the FBI Agents had FBI "vests" on, and that there was absolutely no doubt that they were "feds." [redacted] related the Agents attempted to open the doors, attempted to break out the window, and then the Chevrolet Tahoe rammed the vehicle in front of it. [redacted] indicated the Agents had to jump out of the way, and he believed that possibly an Agent may have been hit by the Chevrolet Tahoe. [redacted] advised there was no doubt in his mind that the FBI Agents were in danger. b6 b7C

The crime scene was processed by the Atlanta Division's Emergency Response Team (ERT) in conjunction with APD personnel. The Atlanta ERT also took photographs and prepared a sketch of the shooting scene. The Investigative and Prosecutive Graphics Unit prepared diagrams of the shooting scene and worked in conjunction with the Firearms and Toolmarks Unit which undertook a ballistic/projectory analysis. The weapon discharged by SAs [redacted] and [redacted] will be examined by the Laboratory Division, Firearms Unit.[4] It should be noted that during the

---

[4]The Bureau issued weapons of SAs [redacted] and [redacted] were never examined by the SIRT. After this shooting, the weapons were immediately provided to SA [redacted] an Atlanta Division Firearms Instructor. SA [redacted] cleared the weapons and counted the rounds remaining in each magazine which had been contained in the weapons at the time of this shooting. In SA [redacted] magazine there remained 10 rounds of ammunition; in SA [redacted] weapon there were 13 rounds of ammunition. At the scene, APD Detective [redacted] collected six .40 caliber casings and one .380 caliber casing. The weapons, magazines, live ammunition and casings were then packaged and submitted into the Atlanta

ballistics/projectory analysis an "air gun" (pellet) .24 caliber Powerline/Airstrike weapon was found in the 2000 Chevrolet Tahoe (see attachments). None of the Agents involved in the attempted arrest of [redacted] reported seeing [redacted] or his passenger, [redacted], in possession of any weapon. b6 b7C

Division's Evidence Control Room.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: Chicago
Date: 10/23/2002

Case ID #: 297-HQ-A1271285-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CHICAGO DIVISION
MAY 9, 2002

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred on October 9, 2002, during the execution of an arrest warrant for [redacted] FBI Special Agents (SAs) and Federally Deputized Task Force Officers (TFOs) assigned to the CHICAGO DIVISION JOINT TASK FORCE ON GANGS participated in this arrest. In addition, a uniformed CHICAGO POLICE officer was also involved in the operation. At approximately 12:30 a.m. on October 9, 2002, [redacted] STATES on behalf of the FEDERAL BUREAU OF INVESTIGATION (FBI). The purpose of this call was to confirm [redacted] location in a third floor apartment located at [redacted] Chicago, Illinois. This information was relayed to members of the arrest entry team already positioned in the hallway outside of [redacted] apartment. After receiving confirmation [redacted] was located within the apartment, arrest entry team members, including SA [redacted] SA [redacted] TFO [redacted], TFO [redacted] and uniformed CHICAGO POLICE Officer [redacted] knocked on the apartment door and announced their identities. After [redacted] did not answer the door, TFO [redacted] began striking the door with a sledgehammer in attempt to open the door. After [redacted] struck the door approximately six to eight times, several shots were fired through the door from within the apartment. TFO [redacted] was struck in the index finger of his left hand. Arrest team members returned fire and removed TFO [redacted] from the path of the bullets emanating from the apartment doorway. At this point in time, the firing ceased. SA [redacted] situated on the perimeter

b6
b7C
b7D

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

outside the apartment building, observed several weapons, including a tech 9 semi-automatic machine pistol and a .9 millimeter RUGER, being thrown from [redacted] apartment window. SA [redacted] provided this information to members of the arrest entry team within the apartment building. Communication was established with [redacted] who elected to surrender.

b6
b7C

DETAILS:

On 05/07/2002, an arrest warrant for [redacted] was issued by UNITED STATES MAGISTRATE JUDGE MICHAEL T. MASON, NORTHERN DISTRICT OF ILLINOIS (NDI). The warrant was issued after the filing of a complaint charging [redacted] with violations of Title 21, United States Code (USC), Section 846, that is Conspiracy to Distribute a Controlled Substance.

During the evening of 10/08/2002, members of the JTFG, including Chicago Division Special Agents and Task Force Officers from the CHICAGO POLICE DEPARTMENT were conducting surveillance activities in an attempt to locate and to apprehend [redacted] in or around the Humboldt Park area on the west side of Chicago. A vehicle [redacted] was believed to have been utilizing,

b6
b7C
b7D

[redacted]

An arrest plan was formulated and all JTFG members participating in the arrest were provided with a detailed verbal briefing given by the arrest team leader SA [redacted] SA [redacted] disseminated information with the arrest team members concerning [redacted] background and also information concerning the location of the arrest. Specifically, SA [redacted] informed everyone about [redacted] criminal history including the fact that [redacted] had numerous drug and weapons arrests. SA [redacted] also advised that he had reason to believe that [redacted] was involved in a drug related kidnaping wherein the victim was tortured. Consequently, SA [redacted] told everyone that [redacted] should be considered armed and dangerous. SA [redacted] also provided everyone on the arrest team with information concerning the description of the

apartment building and the actual apartment where [redacted] was now residing. SA [redacted] obtained this information from sketches that [redacted] helped prepare and a discrete survey conducted by FBI SAs of the apartment building. The sketches were circulated among arrest team members and included such details as the direction [redacted] apartment door opened and the specific location of the door knob. SA [redacted] also gave everyone the description of the clothing that [redacted] was wearing earlier in the day when he was with [redacted] SA [redacted] also contacted his Supervisor, SSA [redacted] to brief him on the situation and provide him with details of the arrest plan. SSA [redacted] subsequently concurred in the execution of the arrest plan. This inquiry determined that every one of the arrest team members were told and understood the plan and their specific assignment. b6 b7C

[redacted] was located within the third floor apartment building as previously described by [redacted] This information was relayed to members of the arrest entry team already positioned in the apartment building. SA [redacted] then led the arrest entry team down a long hallway toward [redacted] apartment. In addition to the team leader, SA [redacted] four other people were included on the entry arrest team. The four other individuals were SAs [redacted] TFO [redacted], TFO [redacted] and uniformed CPD Officer [redacted] Just prior to knocking on [redacted] door, entry arrest team members were all placed behind SA [redacted], to the right of the door, The layout of the apartment building did not allow for any arrest team members to be to the left of the entry door. The entry arrest team members then began loudly knocking on the door and they shouted out their identities. Specifically, the SAs and CPD TFOs identified themselves as "FBI" and "Police." The door did not open and just as according to the plan, TFO [redacted] began striking the door with a sledgehammer within seconds after the entry arrest team members identified themselves. As TFO [redacted] was striking the door other arrest team members continued to yell out "Police." The door was very sturdy and continued to hold after TFO [redacted] struck it approximately six to eight times. At this point, numerous shots were fired from inside the apartment and through the door that TFO [redacted] was striking with the sledgehammer. SAs [redacted] and [redacted] as well as uniformed CPD Officer [redacted] immediately returned fire. TFO [redacted] yelled that an officer was hit and down. The officer was later identified as TFO [redacted] The exchange of gunfire ended within seconds. Entry arrest team members continued to yell "Police" and [redacted] replied b6 b7C b7D

to the effect, "I want to give up." During the entire exchange of gunfire, the apartment's entry door was never opened. The entry arrest team members instructed [redacted] to open the apartment door and come out. [redacted] attempted to open the door; however, the door was jammed, possibly as a result of being struck earlier with the sledgehammer. SA [redacted] subsequently used the sledgehammer to un-jam the door. [redacted] then opened the door and was arrested without further incident. Also inside the apartment and taken into custody was a woman identified as [redacted] b6 b7C

TFO [redacted] was immediately taken to the hospital to have his gunshot wound treated. Specifically, TFO [redacted] was treated for a shattered index finger on his left hand. TFO [redacted] was released later that day.

After being advised of and waiving his Miranda Rights, [redacted] was interviewed by CHICAGO DIVISION SAs and CPD Detectives. [redacted] claimed he thought his apartment was being broken into by home invaders and was not aware law enforcement officers were outside his door. [redacted] stated that he began to shoot into the hallway of the apartment building in response to what he thought was a home invasion. Non-law enforcement witnesses, specifically, other apartment building residents, provided statements that they heard arrest team members announce themselves as law enforcement officers prior to shots being fired from [redacted] apartment.

It is the conclusion of the inspector that the use of deadly force was within the Deadly Force Policy. The imminent danger element of the policy requires that SAs [redacted] and [redacted] must have had knowledge of facts and circumstances that would have caused a reasonable officer to conclude, amid the very rapidly evolving sequence of events at the scene, that [redacted] either a) possessed a weapon under circumstances indicating an intention to use it against the Agents or others, or b) was armed and running to gain the tactical advantage of cover. b6 b7C

As to the imminent danger element, the SAs and TFOs were fired upon during their attempted arrest of [redacted] after identifying themselves as law enforcement officers. The SAs and TFOs repeatedly shouted out their identities and, in addition, a uniformed CPD officer was present on the entry arrest team. As was in the this case, the Inspector cannot think of any other instance that satisfies the "imminent danger" element of the Deadly Force Policy than to be fired upon by a subject and have an officer hit and go down as a result of the subject's gunfire directed at the arresting law enforcement officers.

It is also reasonable to conclude that the "absence of a safe alternative" element of the Deadly Force Policy is also satisfied. [redacted] repeatedly fired shots at arresting officers, one officer was struck by this gunfire, and other law enforcement officers were not in a position of good cover. Given these circumstances, SA [redacted] SA [redacted] TFO [redacted] and uniformed CPD Officer [redacted] acted in an appropriate manner in attempt to neutralize the threat, specifically, the gunshots being fired by [redacted]

b6
b7C

The Inspector finds that the attempted arrest of [redacted] was a spontaneous event that did not allow for the preparation of a standard written operations order. The Inspector also finds that adequate verbal briefings with all participants were properly conducted. In addition, the supervisor of the Task Force, SSA [redacted] was provided a detailed briefing of the operations plan telephonically and he subsequently approved the operations plan. The operations plan included such details as the potential armed and dangerous nature of the subject and also included detailed drawings and sketches of the location of the arrest. In addition, the entry arrest team leader ensured that every member of the arrest team knew their specific role in the arrest. The team leader also ensured that all individuals in the arrest were wearing appropriate body armor. Lastly, adequate personnel were included in the operations plan to include five law enforcement officers on the entry arrest team as well as an additional four law enforcement officers to cover the perimeter of the apartment building. The fluid nature of this type of investigation coupled with the need to quickly act on the information received precluded the formalized recording of the operations plan.

# FBI
# Shooting Incident Report Summaries

# 2002

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: Inspector [redacted] Office: FBIHQ, INSD b6 b7C
Date:

Case ID #: 297-HQ-A1271292-SUB D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CLEVELAND DIVISION
DECEMBER 23, 2002

Character: ADMINISTRATIVE INQUIRY

Synopsis: DARNELL LESTER, [redacted] referenced in this report, [redacted] on May 28,2002, by FBI Cleveland Division; however, [redacted] FBI New York Division subsequently [redacted] a New York investigation. Although the [redacted] resided in Cleveland, Ohio, neither office was aware of his activity on December 22-23, 2002, in Cleveland, Ohio, until the [redacted] contacted SA [redacted] FBI New York Division, on December 22, 2002. The [redacted] was not in the company of the subjects [redacted] nor were the subjects targets of any FBI investigation. b6 b7C b7D

The occupants of the green 1994 GMC Jimmy truck referenced in this report were positioned inside the vehicle on December 23, 2004, as follows: [redacted] driver; DARNELL LESTER, front seat passenger; and [redacted] rear seat passenger.

This shooting incident occurred on December 23, 2002, at approximately 02:00 a.m. as Special Agents of the Federal Bureau of Investigation (FBI), Cleveland Division (CV), in their capacity as members of the Special Weapons and Tactics (SWAT) Team, attempted to execute a felony car stop of a green 1994 GMC Jimmy truck (hereafter referred to as subject vehicle). The SWAT TEAM members believed the subject vehicle was being driven by individuals who

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

kidnaped [redacted] and who were threatening to harm [redacted] if the ransom was not delivered in a short period of time to a Rally's restaurant at 81st and Euclid Avenue, Cleveland, Ohio. When SWAT Team observed the subject vehicle in the parking lot of Rally's restaurant and attempted to block its exit from four sides, the driver of the subject vehicle began to flee the parking lot by crashing into several of the SWAT vehicles. In an effort to now stop the fleeing subject vehicle, a SWAT vehicle collided with the subject vehicle; at which time, SWAT Team member SA [redacted] exited the vehicle. SA [redacted] noticed the subject vehicle jockeying around attempting to flee and then noticed it lurch directly toward him at an increased speed. SA [redacted] approximately five feet from the oncoming vehicle and moving backwards, fired two shots at the driver of the subject vehicle and observed it continue pass him out onto East 81st street. SA [redacted], a SWAT Team member driving a SWAT vehicle occupied by team members [redacted] and [redacted] observed the subject escaping and anticipated a chase; however, the subject vehicle crashed to a stop between a fence and a telephone pole on East 81st Street. The rear driver's door of the subject vehicle opened; at which time, a passenger stuck his hand out of the door holding a handgun and fired several rounds in the direction of the SWAT vehicle occupied by SAs [redacted] and [redacted] SA [redacted] responded by firing one shot from his MP-5 through the windshield of the SWAT vehicle he occupied, at the subject who fired from the rear seat of the subject vehicle. The subject then moved from the rear driver's side to the rear passenger side of the subject vehicle. Several SWAT team members approached the subject vehicle, while shouting commands to the occupants to put their hands up and surrender. The rear seat passenger raised his hands but was not holding the weapon he fired. He exited the subject vehicle, was restrained, and placed under arrest. The driver of the subject vehicle was then extracted from the vehicle, restrained, and placed under arrest. The driver appeared to have sustained injury to one hand and his face. The driver was asked for the location of DARNELL [redacted]. The driver advised that DARNELL was the front seat passenger. The suspect who was the rear passenger then confirmed the front seat passenger was DARNELL. One of the SWAT team members approached DARNELL, who appeared to have been shot, lifted DARNELL's shirt, and noticed he had been shot in the torso. The SWAT Team member attempted first aid but DARNELL appeared to have died within a few minutes. Emergency Medical System personnel arrived on the scene in approximately 10-15 minutes and confirmed the passenger, DARNELL LESTER had expired.

b6
b7C
b7D

b2
b6
b7C
b7D

DETAILS

On December 22, 2003, between 9:00 pm and 9:20 pm, Special Agent (SA) [redacted] FBI, New York Division, telephone number [redacted] was telephonically contacted by [redacted] DARNELL LESTER from telephone number [redacted] During the calls, LESTER

seemed frightened, and [redacted] believed LESTER had been kidnaped during an [redacted] At one point, LESTER stated "Get the stuff together, the mans are here." LESTER indicated he was being held against his will by five or six armed men in a house in Cleveland, Ohio, (not his house on Cedar). LESTER told [redacted] to call a male at telephone number [redacted] to rectify the situation.

b6
b7C
b7D

At approximately 9:42 pm, SA [redacted] spoke to SA [redacted] CV, Duty Agent in the CV Terrorism Command Post. SA [redacted] began obtaining subscriber information for telephone number [redacted] and initiated liaison with Verison Wireless. SA [redacted] determined that telephone number [redacted] was a pre-pay cellular telephone, with no subscriber listed (reseller).

At approximately 9:58 pm, Supervisory Special Agent (SSA) [redacted] spoke to SA [redacted] SSA [redacted] then called SA [redacted] at telephone number [redacted] SA [redacted] relayed the information from his previous conversation with LESTER. SSA [redacted] advised [redacted] that telephone number [redacted] was the cellular telephone number of FBI Cleveland Field Office SA [redacted] who [redacted] LESTER in the past. After learning this, SA [redacted] believed [redacted] FBI Cleveland to [redacted] SSA [redacted] called SA [redacted] and instructed him to contact CV Technically Trained Agents (TTAs) to get cellular tracking equipment. SSA [redacted] also instructed SA [redacted] to obtain cell tower information to help tracking efforts. SA [redacted] determined the cell phone was "hitting" off a tower at East 105th and Carnegie streets, Cleveland, Ohio. SA [redacted] contacted TTAs [redacted] and [redacted] TTAs [redacted] and [redacted] were en route. SSA [redacted] contacted Assistant Special Agent in Charge (ASAC) JOHN G. KAVANAGH who immediately proceeded to the FBI Cleveland Field Office. ASAC KAVANAGH subsequently notified Special Agent in Charge (SAC) GERALD L. MACK and kept him apprized throughout the investigation.

b6
b7C
b7D

At approximately 10:30 pm, LESTER called [redacted] from cellular telephone number [redacted] LESTER stated "the dudes" (suspected kidnappers) would be at East 83rd and Euclid driving a green 4-door Jimmy in 15 minutes (to collect ransom). SSA [redacted] met SA [redacted] in the FBI Cleveland basement. SAs [redacted] and [redacted] arrived in the basement. SSA [redacted] considered an emergency car stop of the unknown subjects' Jimmy. SA [redacted] received a call from SA [redacted] notifying SA [redacted] that LESTER would not be in the Jimmy. ASAC KAVANAGH was briefed, and SWAT discussed.

b6
b7C
b7D

At approximately 10:48 pm, SA [redacted], at SSA [redacted] request, called SA [redacted] and instructed him to call [redacted] A Command

Post (CP) was then established at FBI Cleveland Emergency Operations Center (EOC).

At approximately 10:52 pm, SA [redacted] called LESTER at cellular telephone number [redacted] SA [redacted] told LESTER we need one and one-half hours to get it (ransom) together. LESTER stated "you'll have to tell him." [redacted] repeated the information to an unknown male who then hung up. Assistant United States Attorney (AUSA) [redacted] was briefed. AUSA [redacted] advised SSA [redacted] that if a house was located, exigent circumstances existed to make a warrant less entry. ASAC KAVANAGH arrived at the EOC and was briefed. SAC MACK was briefed by ASAC KAVANAGH. b6 b7C

At approximately 11:11 pm, SA [redacted] CV Special Weapons and Tactics (SWAT) Team Leader (TL), initiated a call out by pager to the CV SWAT Team members.

At approximately 11:47 pm, TTAs [redacted] and [redacted] departed to initiate tracking the signal from the cellular telephone used by LESTER.

SSA [redacted] and ASAC KAVANAGH briefed TL [redacted] and Assistant Team Leader [redacted] at CP.

At 11:20 pm - 11:30 pm, Lieutenant (LT) [redacted] [redacted] Cleveland Police Department (CPD), Detective [redacted] (CPD Hostage Negotiator) were contacted. LT [redacted] arrived at the FBI Command Post at 12:20 am.

Between approximately 12:15 am and 12:50 am, on Tuesday, December 23, 2003, SA [redacted] met with the 14 SWAT operators who rallied at the FBI Cleveland Field Office headquarters building and briefed them on the situation. He briefed the SWAT operators on the facts received to date and passed around a photograph of [redacted] Based on his experience and information at hand, SA [redacted] advised the SWAT operation could take place at a building location, possibly a residence, or during a felony vehicle stop, once the location of [redacted] was determined. The SWAT operators geared up in their black SWAT uniforms, .45 caliber sidearms, ballistic vests, and some with HK MP 5 10mm long weapons or Colt M4 223 caliber long weapons. The three SWAT operators, who had not yet arrived, were told to meet their colleagues on the street at a predesignated briefing location. b6 b7C b7D

Prior to the SWAT Teams departure from the office, the following group assignments were made by SA [redacted]

Vehicle 1) SWAT Van - SAs [redacted], and [redacted]

Vehicle 2) SWAT Tahoe - SAs [redacted] (Assistant SWAT Team Leader), [redacted] and [redacted]

Vehicle 3) SWAT Tahoe - SAs [redacted]

Vehicle 4) SWAT Suburban - SAs [redacted] and SA [redacted]

b6
b7C
b7D

Vehicle 5) SWAT Tahoe - containing the SWAT operators that did not make the office briefing. SAs [redacted] and [redacted]

The first four SWAT vehicles responded to the east side of Cleveland where the most recent electronic cell phone data from [redacted] was being received. As the SWAT vehicles deployed, updated information was being relayed to them by SSA [redacted] indicating the felony vehicle stop plan was the most likely scenario to occur. The rally/briefing point was a strip shopping mall near East 81st and Euclid Streets, on the east side of Cleveland. At this point all of the SWAT vehicles were together, including #5, and a briefing was given by SAs [redacted] and [redacted] with the updated intelligence received.

At about 1:15 am, the SWAT operators were advised the subject vehicle (green Jimmy) was to meet [redacted] associates, (undercover (UC) FBI Agents from the FBI Cleveland Field Office Drug Squad driving a black Denali (SUV), at the parking lot of the Rally's Restaurant, located at East 81st and Euclid Streets, to exchange drugs/and/or money for [redacted] After a reconnaissance mission of the Rally's parking lot by SAs [redacted] and [redacted] it was determined that subject containment and precision coordination of the five SWAT vehicles were concerns, along with the fact this was to be a felony vehicle stop/box-in situation in the parking lot. The following plan was formulated and briefed to all participants.

1) The SWAT Van, vehicle #1, was deployed to the north side of Euclid Street, behind the strip mall, (SAs [redacted] and [redacted]

b6
b7C
b7D

2) The SWAT Tahoe, vehicle #2, was deployed to near the intersection of Carnegie Street and East 81st Street, (SAs [redacted] and [redacted]

3) The SWAT Tahoe, vehicle #3, was to be deployed east of Rally's off of 82nd Street, however this vehicle eventually moved forward to a location near Carnegie and East 81st near vehicle #2, (SAs [redacted] and [redacted]

4) The SWAT Suburban, vehicle #4, was deployed off of East 82nd and Euclid by the Kentucky Fried Chicken Restaurant, (SAs [redacted] and [redacted]

5) The SWAT Tahoe, vehicle #5, was deployed near Euclid and East 81st Streets, (SAs [redacted] and [redacted]

6) The black Denali SUV driven by the UC FBI Agents was to park in the Rally's parking lot along East 81st Street, prior to the subject vehicle arriving;

7) One SWAT Agent, SA [redacted] was assigned a foot post as the "eye", across from the Rally's parking lot, on the west side of East 81st Street, between Euclid Street on the north and Carnegie Street on the south;

SA [redacted] told the SWAT operators the plan was to box in the subject vehicle and block all of its escape routes in and around the Rally's Restaurant. During the briefing and deployment assignments, SA [redacted] stated that SA [redacted] told the operators that with one SWAT operator on foot and with the potential of others going on foot during the execution of the felony vehicle stop, the use of a vehicle as a weapon poses a great risk to those operators and a vehicle can be considered a weapon if it starts moving towards these operators on foot, putting them in a life and death situation. SA [redacted] stated that weather conditions were rainy and misty during the evening. The lighting was from the restaurant's parking lot lights. The lighting of the back parking lot where the meet was to occur was limited. b6 b7C

TTA [redacted] advised that LESTER's cellular telephone was two to four miles northeast at a 45 degree angle from the cellular tower at East 105th and Carnegie. SWAT deployed to the general vicinity of the cell tower. At 12:30 am, LESTER called SA [redacted] SA [redacted] was able to stall for more time (1 hour) by agreeing with LESTER's assertion that SA [redacted] was in Akron, Ohio. When SA [redacted] asked LESTER how much to bring, LESTER replied "three."

At 1:00 am, now 12/23/2003, SSA [redacted] contacted SA [redacted] and advised SA [redacted] the cellular tracker was not working well and the TTAs needed more time.

At 1:07 am to 1:10 am, LESTER called SA [redacted] from telephone number [redacted] then telephone number [redacted] LESTER told SA [redacted] meet at Rally's, East 81st and Euclid. SA [redacted] stalled for more time. LESTER couldn't talk much. SA [redacted] and SSA [redacted] discussed the fact that based on tenor of the calls, time was running out. SWAT was sent to East 81st and Euclid area. A basic take down plan was formulated by SSA [redacted] SAs [redacted] and [redacted] were to go to Rally's in the Yukon Denali and when they sighted LESTER in the Jimmy, call for SWAT takedown. SAs [redacted] and [redacted] met SWAT to brief. TTA [redacted] obtained subscriber information for telephone number [redacted] It was a Sprint cellular telephone, subscribed to by [redacted], Cleveland, Ohio. SSA [redacted] told SA [redacted] to tell LESTER to be in the car - "make sure we need to see his face." Get vehicle description, and tell him we're in a black Denali. b2 b6 b7C

At 1:42am, LESTER called SA [redacted] from cellular

telephone [redacted] SA [redacted] stated the kidnapers were "all over LESTER" and that LESTER couldn't talk. SA [redacted] could no longer obtain information or stall LESTER'S kidnapers and described the situation as desperate. LESTER told SA [redacted] to meet at Rally's in 15-20 minutes. b2 b6 b7C

As the events unfolded and it was determined that FBI Cleveland Field Office was not able to successfully triangulate LESTER's cell phone, a new meeting/exchange was set for the vicinity of the Rally's on 81st and Euclid streets. It was determined that Cleveland SWAT would box-in the subject vehicle at the meeting site, and once arrests were made, they would attempt to determine the whereabouts of LESTER from those arrested.

At 1:50 am, TTAs [redacted] and [redacted] observed a Jimmy at 90th and Euclid, east bound on Euclid. Cellular tracking equipment hit on LESTER's cell phone in the area just prior to this. SA [redacted] advised that within minutes of their arrival at the cell tower, he had received a telephone call from SSA [redacted] who instructed him and his partner to meet up with the SWAT team in the vicinity of East 81st and Euclid Ave. While en route to the location, their machine hit on the signal of [redacted] cell phone, which told them the subjects were within the immediate area of East 81st and Euclid. They immediately put that information out over the air. As they headed toward the Rally's restaurant, which was the designated meet location, they believed they observed the green Jimmy in the area of 90th and Euclid Ave. b6 b7C b7D

SA [redacted] had placed the SWAT team vehicles, just as the subject vehicle was observed and verified in the area of the meet. SWAT vehicle #4 reported the subject vehicle just passed their location. The SWAT operator on foot reported the subject vehicle is in the parking lot backing into a space against a brick wall. The UC FBI Denali SUV reported the same information. ASAC KAVANAGH allowed SA [redacted] to transition his team from yellow to green and assume control. ASAC KAVANAGH stated this decision was based on the fact that SA [redacted] had "eyes on" the target, and was in the best position geographically to control both his team and the assault.

SA [redacted] gave the order for all SWAT units to execute the felony vehicle stop plan previously discussed by saying "GO, GO, GO" on the radio.

SWAT vehicle #1 moved in from the north through the Rally's "pick-up drive-way" with its blue emergency lights flashing. SA [redacted] in vehicle #2, noticed the subject vehicle was partially backed in, with the rear bumper in the position at which the front bumper would have been had the subject backed in completely. SA [redacted] pulled out and into a "T-bone" position to the subject vehicle, stopping just short of hitting it. The driver looked at SA [redacted] and then started to drive forward. SA [redacted] accelerated and rammed his Tahoe into the rear driver side door. SA

[redacted] exited vehicle #2 and noticed the subject vehicle was facing him. The subject vehicle was jockeying around trying to get out. It lurched forward, picked up speed and was turning and coming towards SA [redacted] SA [redacted] saw a bright flash inside the vehicle. SA [redacted] made eye contact with the driver and fired one shot from his Colt M4 .223 caliber carbine at the driver as the vehicle was coming towards him. SA [redacted] was approximately five feet from the vehicle at that time. After SA [redacted] fired the first shot he was moving backwards and to the side trying to get out of the way of the vehicle. SA [redacted] fired another shot immediately after the first shot.

b6
b7C

SAs [redacted] driver; [redacted] front passenger; and [redacted] rear passenger in vehicle five had the assignment of setting up a block or two away from the scene and act to prevent the escape of the subject vehicle should it break free from the original containment area. After turning on to East 81st Street, SA [redacted] saw the subject vehicle was escaping the parking lot and turning away from SA [redacted] vehicle. SA [redacted] thought a vehicle chase was about to ensue; however, the subject's crashed between a fence and a telephone pole on East 81st Street and stopped. SA [redacted] observed the rear driver's side door of the subject vehicle open and the rear passenger stick his hand out of the open door pointing a handgun in their direction. SA [redacted] saw a muzzle flash from the weapon and heard several rounds fired. SA [redacted] fired one shot from his H&K MP-5 10mm submachine gun, through vehicle five's front windshield, at the rear passenger who fired from the subject vehicle.

b6
b7C

The SAs on-scene were out of their vehicles, giving loud verbal commands to the subjects "FBI, POLICE, HANDS UP, DON'T MOVE", over and over again. The subject in the rear seat exited the GMC Jimmy while being covered by SA [redacted] SA [redacted] handcuffed the rear seat subject. SAs [redacted] and [redacted] took the subject away from the scene, conducted a high-risk search, and began to ask the subject questions regarding the location of [redacted] SA [redacted] assisted by covering the front seat passenger. SA [redacted] observed the driver and front passenger with their hands up. According to SA [redacted] "the driver's hand was a bloody mess." SA [redacted] visually surmised that both front seat passengers had been shot. SA [redacted] and SA [redacted] pulled the front seat driver threw the window of the car, which was the most expedient manner to extract a threat from a vehicle with a damaged door, and proned him out on the street. SA [redacted] heard other Special Agents yell to call the EMS. SA [redacted] recalled the subject on the ground say to him that he had a bullet in his mouth.

b6
b7C
b7D

SA [redacted] approached the driver and asked him, "Where's DARNELL?", [redacted] The driver told [redacted] that DARNELL was in the front passenger seat. SA [redacted] did not believe the passenger was DARNELL because the passenger seemed to be much heavier than DARNELL appeared in a photograph that SA [redacted] saw during one of the two briefings given by SA [redacted]

However, the passenger in the rear seat of the Jimmy confirmed that DARNELL was in fact the occupant in the front passenger seat. SA [redacted] said the subject was talking and at no time did they handcuff him, which was primarily because of the gun shot wound to subject's hand. SA [redacted] approached DARNELL, who appeared to have been shot. SA [redacted] lifted DARNELL's shirt and discovered what appeared to be a bullet wound in DARNELL's torso. SA [redacted] attempted to administer first aid, but DARNELL died within a few minutes. SA [redacted] asked one of the Emergency Medical Technicians (EMT) to determine if DARNELL had died. The EMT confirmed DARNELL LESTER had expired. b6 b7C

ASAC KAVANAGH, SSA [redacted] and Lieutenant [redacted] arrive on the scene (81st Street next to the Rally's parking lot).

ASAC KAVANAGH was then briefed by SWAT Team Leader [redacted] who advised that as the FBI SWAT vehicles approached the subjects' vehicle with their "police lights," the subjects attempted to escape arrest by ramming their vehicle into the arresting SAs' vehicles. The subjects were able to break the containment in the Rally's parking lot and drove their vehicle toward SA [redacted] The rear passenger subject, later identified as [redacted] also attempted to kill the arresting SAs by shooting at the arresting SAs. SA [redacted] and SA [redacted] in adherence with FBI Deadly Force Policy, fired their weapons in self-defense at the subjects who posed an imminent danger of death or serious physical injury to the SAs and others.

ASAC KAVANAGH notified SAC GERALD L. MACK and had the FBI Evidence Response Team (ERT) placed on stand-by. SWAT Coordinator SSRA [redacted] was also notified and requested to report to the FBI Cleveland Field Office. EMT personnel arrived on the scene and verified that LESTER was deceased and died of an apparent gunshot wound to his chest. [redacted] was transported to the hospital while under guard. [redacted] was also taken into custody. SA [redacted] reported from the hospital that he seized two cellular telephones from [redacted] A subsequent check revealed these were the two cellular telephones utilized during "ransom" discussions with SA [redacted] b6 b7C

The crime scene was secured and taped off by responding Cleveland uniformed police officers. The Cleveland Police Department's Homicide Unit led by Commander [redacted] processed the scene and collected all evidence. FBI ERT Supervisor SSA [redacted] and SSA [redacted] arrived on scene and were assigned as liaison to assist the Cleveland Police Department's Homicide Unit.

Also responding to the crime scene that evening were SAC MACK, ASAC GARY KLEIN, Acting CDC [redacted] and Deputy Chief [redacted] Special Operations Division, Cleveland Police Department (CPD).

At approximately 5:30am, FBI personnel returned to the FBI Cleveland Field Office. SAs [redacted] and [redacted] met with Cleveland Detectives at their office to provide a sworn statement.

Involved FBI personnel were secured and pursuant to FBI procedures, advised to report back to the office later that afternoon to provide statements to FBIHQ, Inspection Division personnel who were traveling to the FBI Cleveland Field Office.

SSA [redacted] subsequently prepared an affidavit and arrest warrants with the United States Attorney's Office, charging [redacted] and [redacted] with attempting to kill a Special Agent of the FBI in violation of Title 18, USC, Section 1114 and 924(c)(1)(A). b6 b7C

SA [redacted] Principle Firearms Instructor, SWAT Team Leader, Cleveland Division, provided the Cleveland Division firearms training records for SAs [redacted] and [redacted]

The CV firearms training records for SA [redacted] indicated SA [redacted] is a certified firearms instructor, a SWAT Team member, and is qualified and authorized to carry and provide instruction on the following weapons: Glock model 27, .40 caliber semi-automatic pistol; Glock model 22, .40 caliber semi-automatic pistol; Springfield model 1911, .45 caliber semi-automatic pistol; Remington model 870 shotgun; H&K model MP5, 9mm automatic rifle; H&K model MP5, 10mm automatic rifle; and Colt model M4, .223 semi-automatic carbine rifle. The records also indicated qualification scores on all weapons were current.

The CV firearms training records for SA [redacted] indicated SA [redacted] is a certified firearms instructor, a SWAT Team member, and is qualified and authorized to carry and provide instruction on the following weapons: Glock model 22, .40 caliber semi-automatic pistol; Springfield model 1911, .45 caliber semi-automatic pistol; Remington model 870 shotgun; H&K model MP5, 9mm automatic rifle; H&K model MP5, .10mm automatic rifle; and Colt model M4, .223 caliber semi-automatic carbine rifle. The records also indicated qualification scores on all weapons were current.

The Cleveland Plain Dealer newspaper printed three articles related to the shooting death of DARNELL LESTER. The first article was in the December 24, 2004 edition and entitled, "FBI Informant killed in shootout after call for help." The second article was in the December 25, 2004 edition and entitled, "Suspect in FBI shooting had been in jail." The third article was in the February 25, 2004 edition and entitled, "Trio charged with death of FBI informant during shootout."

The Cuyahoga County Coroner's Office, Cuyahoga County, Ohio, listed in its "Coroner's Verdict" the cause

of DARNELL LESTER's death as "a gunshot wound to the left chest, during legal intervention, and in a homicidal nature." The Coroner's Report listed the bullet recovered from LESTER as a small caliber, long, jacketed bullet. The report listed the course and direction of the bullet recovered from LESTER as left to right, anterior to posterior and horizontally. The bullet was marked by the Coroner's Office with a "41," placed in an envelope and given to the Coroner's Office Property Department.

The CPD Forensic Laboratory performed ballistic test fire comparisons on the following three weapons involved in the shooting on December 23, 2003: Bryco handgun, Jennings Nine model, serial number 1411563, 9mm caliber, and obtained from the rear compartment of the subject vehicle on December 23, 2003; H&K rifle, MP5 model, 10mm caliber, serial number 68-929, and obtained from SA [redacted] on scene December 23, 2003; Springfield handgun, .45 caliber, serial number CRG783, and obtained from SA [redacted] on scene December 23, 2003; Colt rifle, M-4 model, .223 caliber, serial number W326503, and obtained from SA [redacted] on scene December 23, 2003; Glock handgun, .40 caliber, serial number DFV981, and obtained from SA [redacted] on scene December 23, 2003. b6 b7C

CPD crime scene investigators recovered the following spent shell casings on the night of December 23, 2003: three (3) .223 caliber Remington found in the southwest driveway apron behind 8108 Euclid Avenue; one (1) Geco 9mm Luger found in the street adjacent to 2023 East 81st; one (1) Winchester 9mm, and found in the street adjacent to 2023 East 81st; and one (1) 10mm Auto, found on the front-right passenger area of FBI Cleveland 2002 dark blue Chevrolet Tahoe occupied by SA [redacted] on December 23, 2003.

The CPD Forensic Laboratory analysis of the shell casings recovered from the crime scene on December 23, 2004, indicated the following:

(1) The two 9mm casings were fired from the Bryco handgun, Jennings Nine model, serial number 1411563, 9mm caliber, and obtained from the rear compartment of the subject vehicle b6 b7C

(2) The one 10mm casing was fired from the H&K rifle, MP5 model, 10mm caliber, serial number 68-929, and obtained from SA [redacted] on scene December 23, 2003

(3) The three .223 caliber casings and the bullet recovered by the Coroner's Office from the corpse of LESTER, indicates the casings and the bullet were fired from the Colt rifle, model M-4, 223 caliber, serial #W326503, obtained from SA [redacted] on scene December 23, 2003.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 03/21/2002

To: Inspection Attn: Acting AD John P. O'Connor

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

b6
b7C

Case ID #: 297-HQ-A1270951-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/03/2002
BALTIMORE DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/03/2002, involving Special Agents (SAs) [redacted] and [redacted] Both Agents fired their weapons during the execution of an arrest in order to eliminate the threat of two Rottweiler dogs. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this incident.

Administrative: Reference Electronic Communication of SA [redacted], dated 01/22/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 03/21/2002

Details of the Shooting Incident

On 01/03/2002, SA [redacted] a member of the Special Weapons and Tactics (SWAT) Team, was serving bench warrants as part of a joint investigation with the Department of Education. SA [redacted] attended an Operations Plan briefing on 01/02/2002, when information was disseminated that both subjects, as well as others associated with them, were considered to be Armed and Dangerous. The individuals were known to carry weapons and had been charged with numerous robberies with weapons involved. The briefing included information that fifteen people were present in the residence, as well as drugs and several Rottweiler dogs, during a previous search and arrest. b6 b7C

On the morning of the planned arrests, SA [redacted] was assigned as the first member in line to clear the first floor and basement area of the location. Upon the initial knock and announce at the front door of the residence, a large Rottweiler dog, acting in an aggressive manner, peered out the front window of the residence. Upon entry into the residence, SA [redacted] proceeded down a hall on the first floor to a bedroom located at the front of the house. Upon approaching the bedroom, SA [redacted] was immediately confronted with two large Rottweiler dogs, who were inside the bedroom. Both dogs moved in an aggressive and violent manner toward SA [redacted] resulting in him firing two rounds at each dog from his Springfield .45 caliber handgun. Both dogs were struck and momentarily bit at each other. One dog fell to the floor and appeared to be fatally injured while the second dog fell to the floor and appeared to be injured but not incapacitated. As SA [redacted] attempted to complete the clearing of the bedroom, one dog continued biting at the air in his direction. Fearing the dog would attack, SA [redacted] fired a fifth round believing that he fatally injured the animal. Subsequent to SA [redacted] shots; SA [redacted] fired two rounds from his M-4 automatic rifle, killing both dogs.

On 02/12/2002, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Willie T. Hulon, Chief Inspector, Inspection Division, Office of Inspections; [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted], Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; William R. Falls, Section Chief, Operational Support Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 03/21/2002

Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and SSA [redacted] Practical Applications Unit, Training Division. Nonvoting members present were Inspector-in-Place [redacted] Phoenix Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 03/21/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] and SA [redacted] as a result of their involvement in this shooting incident.

♦♦

1 - Mr. Gebhardt, Rm. 7142
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Hulon, Rm. 7837
1 - Mr. Cousins, Rm. 5155
1 - Mr. Doherty, Rm. 4042
1 - Mr. Falls, Rm. 6646
1 - Mr. [redacted] Rm. 3787F
2 - Mr [redacted] Quantico
(1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs [redacted] Rm. 7861

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: PHILADELPHIA
Date: 08/19/2002

Case ID #: 297-HQ-1271895-D
66F-PH-93364

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT,
READING, PA.
PHILADELPHIA DIVISION
JULY 3, 2002

b6
b7C

Character: SHOOTING INQUIRY

Synopsis: This shooting incident involved a Special Agent (SA) of the FBI assigned to the Philadelphia Division, Allentown Resident Agency. The incident occurred during the successful arrest of a drug gang subject by the FBI led Reading Area Violent Crime Task Force (RAVCTF) following a meeting with undercover detectives. The incident occurred on July 3, 2002, at approximately 3:40 p.m., in the parking lot o the Fairgrounds Square Mall, Reading, PA.

- P -

DETAILS:

This shooting incident occurred during the arrest of [redacted] a violent drug gang member for whom the FBI had obtained a Federal Arrest Warrant charging drug and weapons violations.

At the time of the shooting incident, the SAs were working on the FBI led Reading Area Violent Crimes Task Force (RAVCTF) and were assigned to the Allentown Resident Agency (ARA) of the Philadelphia Division. The RAVCTF is coordinated by SAs of the ARA and in addition to the FBI, is staffed by SAs of the Bureau of Alcohol, Tobacco and Firearms, as well as other county and local law enforcement agencies. The primary mission of the RAVCTF is the investigation of violent drug trafficking

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

organizations/gangs in the city of Reading, PA., and the surrounding Burkes County area.

The City of Reading, PA., is located approximately 50 miles northwest of Philadelphia and 35 miles southwest of the ARA.

The SAs involved in this shooting incident were acting as members of the RAVCTF which had been investigating a violent drug trafficking gang based in the Reading, PA., area. This investigation was being conducted as a Safe Streets/Gang case under FBI file [redacted] b7A

Investigation prior to the incident developed information that subject [redacted] shot during the arrest, was believed to be a mid-level distributor for this gang who supervised drug distribution houses and re-supplied them with crack cocaine.

The drug gang being investigated was believed responsible for several drug related shootings and homicides. County and local authorities working with the RAVCTF had executed several search warrants in connection with this investigation where drugs, body armor and weapons had been recovered.

The aspect of the case involving [redacted] began in approximately March, 2002, when a female undercover detective (UCD) from the Burks County District Attorney's Office (BCDAO) had contact with [redacted] and discussions ensued where [redacted] had agreed to supply the UCD with whatever drugs she wanted. The BCDAO informed members of the RAVCTF of this development and that [redacted] was known to be associated with the violent drug gang under investigation.

The UCD in March, 2002, met with [redacted] and during a consensually recorded meeting received from him one-eighth of an ounce of powder cocaine with payment to be made at a later date. b6 b7C

Following the initial transaction, a second meeting between the UCD and [redacted] occurred for the purpose of paying off the drug debt, as well as receiving additional cocaine. This transaction took place in the parking lot of the Fairgrounds Square Mall. [redacted] provided the UCD with one bundle of cocaine consisting of 25 $10 bags and the UCD paid for the cocaine received in March. It was agreed that the UCD would pay [redacted] at a later date for this cocaine. During the cocaine transaction, [redacted] displayed to the UCD a semi-automatic pistol which he was carrying.

On Monday, July 1, 2002, the UCD again met [redacted] in the parking lot of the Fairgrounds Square Mall and paid off the outstanding drug debt and at that time received two bundles of crack cocaine, with each bundle containing 25 $10 bags. Though the UCD did not observe [redacted] weapon at this time, he did mention that he used guns to solve his problems.

The RAVCTF decided to arrest [redacted] on July 3, 2002, during a meeting with the UCD where she would be paying for cocaine previously received and also would be supplied with additional cocaine. b6 b7C

On July 3, 2002, Case Agent SA [redacted] obtained a Federal Complaint and Warrant charging [redacted] with violations of Title 21, Section 841(a)(1) (3 Counts), Distribution of Cocaine and Title 18, Section 924(c)(1)(A), Possession of a Firearm During an Illegal Drug Transaction.

SA [redacted] developed a plan to arrest [redacted] when he meets with the UCD for the purpose of collecting an outstanding drug debt and delivering more cocaine. SA [redacted] developed two arrest scenarios, one of which called for [redacted] arrest when he arrived at an apartment building in Kutztown, PA., and an alternate scenario should [redacted] refuse to come to the apartment. The alternate arrest scenario planned for [redacted] arrest in the parking lot of the Fairgrounds Square Mall, where he on several occasions had met the UCD in the past and conducted drug deals.

SA [redacted] documented his arrest plans on FBI form FD-888, which was presented to Senior Supervisory Resident Agent (SSRA) [redacted] ARA, who in turn approved it and sent it on to Philadelphia Headquarters City where ASAC Rosanne Russo also approved the plan.

At approximately 2:00 p.m. on July 3, 2002, an arrest briefing was conducted by SA [redacted] and Lieutenant (Lt.) [redacted] (BCDA) in the conference room of the Burks County District Attorney's Office. Approximately 15 members of the RAVCTF and other officers who would be assisting in the arrest attended the meeting. SA [redacted] handed out a copy of the FBI arrest plans and he, along with Lt. [redacted] began briefing the officers. Most of those in attendance were familiar with Sylvester Thomas, having previously been involved in surveillances during the earlier undercover drug transactions. SA [redacted] and Lt. [redacted] during the briefing were assigning various law enforcement officers specific tasks which included surveillance, arrest team and perimeter responsibilities. b6 b7C

During this briefing by SA [redacted] which was also attended by SA [redacted] of the ARA, the UCD had been notified by [redacted] that he did not want to meet at the Kutztown, PA., apartment complex, but would meet her in the Fairgrounds Square Mall where they had met several times in the past. During the UCD's phone conversation with [redacted], he indicated that he had to be at the Burks County Prison by 4:00 p.m. for what Task Force members believed to be visiting or putting money on the prison accounts for members of the drug gang who are currently incarcerated. Also during that conversation, [redacted] agreed to supply four additional bundles of crack cocaine to the UCD. b6 b7C

Based on the information supplied by the UCD, SA [redacted] and Lt. [redacted] went on to brief the arrest team on the second scenario which called for the arrest of [redacted] at the time of his meeting with the UCD in the Fairgrounds Square Mall.

Also at this time, SA [redacted] telephonically contacted Muhlenberg Township police officers to request that they stand by in the vicinity of the mall and provide outer perimeter security.

The briefing took approximately a half hour and SA [redacted] stressed at that time both the violent nature of the drug gang and the fact that [redacted] had been observed with a weapon during one of the drug deals and also had made a comment to the UCD concerning him taking care of his problems with a firearm.

As the arrest team departed the District Attorney's Office en route to an isolated parking area of the Fairgrounds Square Mall, SA [redacted] was assigned to be in the arrest van and participate in the arrest acting as front cover for the team which would be in a blocking van and contained not only SA [redacted] but five other officers. In addition to SA [redacted] Officer [redacted] would assist with the front cover while three other officers would make the actual arrest and the last officer would act as the driver. b6 b7C

SA [redacted] was assigned to ride in the Command and Control vehicle with Lt. [redacted] and Officer [redacted] from the Reading Police Department. The Command and Control vehicle was located approximately 60-70 yards away in a slightly elevated area of the parking lot, allowing for visual observation of the entire area. SA [redacted] was keeping the surveillance log while Lt. [redacted] was giving commands over the police radio and Officer [redacted] was the vehicle driver and also operated the video

recording equipment. The operation was conducted on the Reading police radio frequency with an FBI radio channel used only to monitor the transmitter which had been provided to the UCD by SA [redacted] along with a recording device.

At approximately 3:04 p.m., the UCD accompanied by a second female UCD arrived in their vehicle and parked in an open area of the parking lot, Fairgrounds Square Mall, to await the arrival of subject [redacted]

At approximately 3:40 p.m., subject [redacted] drove in to the parking lot area in a Chrysler Sebring, black in color, with an unknown female riding in the passenger seat. [redacted] parked next to the UCD's with his vehicle parked parallel next to the UCD's. Both the UCD's vehicle and [redacted] were pointed in the same direction with [redacted] driver's side next to the UCD's passenger side. The female riding with [redacted] was later identified after the incident as [redacted] b6 b7C

At approximately 3:41 p.m., Corporal [redacted] BCDAO, according to the arrest plan, drove an undercover pickup truck into the parking lot and parked it directly behind [redacted] vehicle with the pickup truck's front bumper just a few feet away from the rear bumper of subject's vehicle. Corporal [redacted] then exited the pickup truck and walked towards the mall's stores.

Once the pickup truck had been parked blocking the rear of subject [redacted] vehicle, Lt. [redacted] gave the command over the police radio for the arrest van to move in and execute the arrest.

SA [redacted], riding in the arrest van, was armed with his FBI issued Colt M16A1, which had been modified by the FBI to only fire in semi-automatic mode. SA [redacted] carried this weapon because previous arrests and search warrants involving members of this drug gang recovered and/or developed information that members had access to ballistic vests. SA [redacted] weapon was loaded with 28 rounds of ammunition. He was also carrying his FBI issued Browning, Model 88 semi-automatic pistol, which he never drew from his holster. He was wearing an FBI issued ballistic vest and a RAVCTF jacket with the words "POLICE" displayed on the back and front and on the left front there was an embroidered over-sized FBI badge. b6 b7C

At approximately 3:42 p.m., the arrest van pulled directly in front of Thomas' vehicle with the arrest team exiting and SA [redacted] exiting the passenger's side front of the van,

bringing his Colt M16A1 up to his shoulder and yelling commands to [redacted] to put his hands up. The UCD's vehicle immediately pulls away as the arrest van pulls in to block [redacted] vehicle.

As the arrest van stopped to block [redacted] vehicle from the front and SA [redacted] and the arrest team are exiting the vehicle, [redacted] vehicle immediately drives in reverse and crashes into the undercover pickup truck, then accelerates forward towards SA [redacted] b6 b7C

As [redacted] drove directly towards SA [redacted] who at this point had no cover, SA [redacted] fearing that he was going to be run over, fired five shots from his rifle. [redacted] vehicle veered off to the left, traveling approximately 25-30 yards and then crashing into a large unoccupied delivery truck. The law enforcement personnel on the scene then set up a crime scene perimeter and SA [redacted] notified Sergeant (Sgt.) [redacted] of the Muhlenberg Township Police Department who was participating as a uniformed officer on perimeter security for this arrest. Sgt. [redacted] then notified Emergency Medical Services (EMS) and requested a Med-evac helicopter be on standby pursuant to SA [redacted] request and then drove down to the site of the shooting.

Upon arriving at the shooting scene, SA [redacted] turned over to Sgt. [redacted] his Colt M16A1 rifle which Sgt. [redacted] secured in his vehicle. Sgt. [redacted] cleared the M16 by removing the clip which contained 22 live rounds and also removed 1 live round from the chamber, for a total of 23 unexpended rounds recovered.

The Med-evac helicopter was subsequently utilized to transport [redacted] from the scene to the Lehigh Valley Hospital where it was later determined that his wounds to a hand and chest were non-life threatening.

SA [redacted] subsequently took possession of the original video tape made by Officer [redacted] as well as the original consensual recording made by UCD [redacted] b6 b7C

The initial crime scene investigation was handled by the Pennsylvania State Police (PSP) who responded immediately to the crime scene with the FBI Evidence Response Team (ERT) playing a support role in that they were not on scene until approximately two hours after the shooting.

A search of [redacted] vehicle following the shooting located cocaine, a bulletproof vest, one live .40 caliber round, but no weapon.

Since the shooting incident, subject [redacted] accompanied by his attorney, has submitted to several proffer sessions with Agents of the FBI and, to date, has admitted to the cocaine transactions with the UCD, as well as the firearms violations. [redacted] has not been questioned concerning his attempt to run over SA [redacted] at the time of his arrest. b6 b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/06/2002

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Perkins Kevin
Hulon Willie T

b6
b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271900-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
06/11/2002
PORTLAND DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/11/2002, involving Special Agent (SA) [redacted] SA [redacted] discharged one round from his Glock Model 23 pistol into the ground to scare an aggressive dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident.

Administrative: Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 06/12/2002.

b6
b7C

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271900-D, 09/06/2002

Details of the Shooting Incident

On 06/11/2002, SAs [redacted] and [redacted] went to a residence located in Oregon City to interview an individual regarding an investigation.

Upon arrival at the location, the Agents noticed two houses, along with other structures, within the confines of the property. SA [redacted] parked his Bureau vehicle in front of one residence and rang the door bell. After waiting for several minutes with no response, SAs [redacted] and [redacted] walked toward the storage area/barn and announced their presence. After receiving no response, the Agents approached a second home where they encountered two dogs showing signs of aggression. One of the dogs charged at SA [redacted] and sensing imminent danger, as detailed in his FD 302, he pulled his weapon and discharged one round into the ground to scare both dogs. As the dogs backed off, the owner exited the house and restrained the aggressive dog. b6 b7C

There were no personal injuries or property damage incurred as a result of SA [redacted] discharging his weapon.

On 07/30/2002, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; Willie T. Hulon, Chief Inspector, Office of Inspections, Inspection Division; Ralph Stanley Harris, Section Chief, Personnel Resources Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and SSA [redacted] Program Manager, Practical Applications Unit, Training Division. The two nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and

recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

The only observation made by SIRG members pertained to the fact that SA [redacted] fired a warning shot at the animal, which is not an accepted practice. This observation will be brought to the attention of the Special Agent in Charge.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271900-D, 09/06/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Ms. [redacted] USDOJ
1 - Mr. Hulon, Rm. 7837
1 - Mr. [redacted], Rm. 5155
1 - Mr. Doherty, Rm. 4042
1 - Mr. Harris, Rm. 6650
1 - Mr. [redacted] Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted], Rm. 7861

♦♦

b6
b7C

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 02/14/2003

**To:** Inspection **Attn:** Assistant Director
Lynne A. Hunt

**From:** Inspection
**Contact:** [redacted] Extension 1837

b6
b7C

**Approved By:** Hunt Lynne A
Clemens Michael

**Drafted By:** [redacted] rr

**Case ID #:** 297-HQ-A1271895-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
06/06/2002
PHILADELPHIA DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 06/06/2002, involving Special Agent [redacted] During the execution of a federal search warrant, SA [redacted] fired three rounds from his Glock .40 caliber handgun as he was attacked by two dogs upon entry into a subject's residence. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident.

**Administrative:** Reference Electronic Communication of Supervisory Special Agent [redacted] dated 11/27/2002.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 02/14/2003

**Details of the Shooting Incident**

On 06/06/2002, SA [redacted] was assisting in the execution of a search warrant of a subject described as a lieutenant in a heroin distribution organization located in Philadelphia, Pennsylvania. b6 b7C

At 6:30 p.m., SA [redacted] along with five Agents and two Philadelphia Police Officers surrounded the residence, knocked and announced their presence and the existence of a search warrant. As law enforcement personnel approached the front door of the residence, the sound of large dogs barking emanated from inside. Agents knocked several times on the front door and observed a male, later identified as [redacted] look out of an upstairs window. [redacted] was advised to come downstairs and open the front door. After waiting for several minutes with no response, a decision was made to forcibly enter the residence.

SA [redacted] using a one-man battering ram, forced open the front door of the residence and stepped aside. SA [redacted] carrying a ballistic shield and with weapon drawn, was the first Agent to enter the residence when he was immediately attacked by two large dogs. SA [redacted] fearing for his safety as well as that of the entry team, fired three rounds from his handgun wounding one of the dogs resulting in both dogs retreating. The occupant of the residence came down to the first floor and placed the dogs into a fenced backyard.

The Pennsylvania Chapter of the Society of Prevention of Cruelty to Animals (SPCA) was contacted to deal with the wounded dog. Upon the arrival of the SPCA, the subject requested that his brother be allowed to take the dog to a veterinarian for treatment. There were no other physical injuries incurred as a result of this shooting incident.

On 01/22/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; Michael S. Clemens, Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing

Section, Administrative Services Division; [redacted] Acting Section Chief, CD-2, Counterintelligence Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The two non-voting members present were SSA [redacted] Assistant Inspector, Office of Inspections, Inspection Division, and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271895-D, 02/14/2003

LEAD(s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
1 - Ms. [redacted] Rm. 7326
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. [redacted] Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

b6
b7C

(10/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/09/2002

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Perkins Kevin L
Hulon Willie T

b6
b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271970-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
05/23/2002
WASHINGTON FIELD OFFICE

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/23/2002, involving Special Agents (SAs) [redacted] and [redacted] SAs [redacted] and [redacted] fired multiple rounds and SA [redacted] fired one round at a pitbull dog who had bitten an Agent. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this incident.

Administrative: Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 06/08/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 09/09/2002

Details of the Shooting Incident

At approximately 6:30 a.m., on 05/23/2002, Agents of the Washington Field Office, in concert with officers of the Metropolitan Police Department (MPD), were preparing to conduct an authorized search of a residence in Washington, D.C.

Upon their arrival at the residence at approximately 7:15 a.m., an MPD Detective pounded on the front door several times and shouted, "Police, search warrant, police, search warrant, open the door." The entry team heard a female voice saying "I'm coming, I'm coming." Within a few seconds, the female opened the door of the residence.

SA [redacted] was the first to enter, followed by SA [redacted] who yelled out "dog, dog, dog..." The dog ran under SA [redacted] legs, bit his ankle and would not release his hold. According to SA [redacted] he started to drag the dog around in order to make the dog release his hold when SA [redacted] began shooting the dog. As SA [redacted] and SA [redacted] proceeded to the upstairs portion of the residence, SAs [redacted] and [redacted] realizing that the animal was a danger, fired additional rounds which resulted in the dog's death at the scene. b6 b7C

SA [redacted] was transported to the hospital where he received medical treatment as a result of the dog bite.

On 07/30/2002, the SIRG met to discuss the above-captioned shooting incident. Former Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; Willie T. Hulon, Chief Inspector, Office of Inspections, Inspection Division; Ralph Stanley Harris, Section Chief, Personnel Resources Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Washington Field Office; and SSA [redacted] Program Manager, Practical Applications Unit, Training Division. The two nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 09/09/2002

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271970-D, 09/09/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

1 - Mr. Gebhardt, Rm. 7142
1 - Mr. Wainstein, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Ms. [redacted] USDOJ
1 - Mr. Hulon, Rm. 7837
1 - Mr. [redacted] Rm. 5155
1 - Mr. Doherty, Rm. 4042
1 - Mr. Harris, Rm. 6650
1 - Mr. [redacted] Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

♦♦

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: b6 b7C
Date: 03/08/2002

Case ID #: 279-HQ-A1270951 Sub D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BALTIMORE DIVISION
MARCH 1, 2002

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred on 03/01/2002, at approximately 6:10 p.m., in Anne Arundel County, Maryland, while Federal Agents and Anne Arundel County Police Department (AACPD) Officers attempted to arrest an individual they believed to be an armed and dangerous bank robbery subject named [redacted] is described on his Maryland drivers license as a white male, 5'8", 180 lbs, DOB; [redacted] FBI number [redacted] The individual who was shot was not the subject and was identified as [redacted] is described on his Maryland drivers license as a white male, 5'11, 160 lbs, DOB; [redacted]

DETAILS:

On Wednesday, 02/20/2002, at approximately 9:42 a.m., a lone, unidentified, white male entered the Allfirst Bank, located at 8493 Ft. Smallwood Road, Pasadena, Maryland 21122. This bank is insured under the provisions of the Federal Deposit Insurance Corporation (FDIC). This individual walked up to a bank teller and yelled words to the effect "Get down on the floor." The bank teller and all others in the bank complied and got down. The bank teller complied with the bank robber's demands and began to furnish him money from her teller drawer. As the bank teller gave the money to the bank robber, the bank robber pointed a silver or nickel and black pistol in the teller's face. The bank robber then proceeded to the next teller and shouted words to the effect " Give me your

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

money. You've got ten seconds or I'll blow your fuckin' brains out." This teller complied with the robber's demands and described seeing a silver semiautomatic pistol pointed at her. The bank robber grabbed $26,324.00 in U.S. currency and immediately exited the front door of the bank. Witnesses described the bank robber as a white male; 5' 7" to 5' 10"; medium to large build; wearing a blue or black ski mask covering his face, except for cuts for his eyes; a dark green sweatshirt; black gloves; carrying a silver/nickel and black handgun. Witnesses saw the bank robber jump into the passenger seat of a dark green, Ford Ranger pickup truck with lettering "Bonded and insured [redacted] on the side. The pickup was later recovered by the AACPD. b6 b7C

SA [redacted] of the Annapolis Resident Agency (ARA), of the Baltimore Division was assigned as the case agent for this bank robbery. On 02/20/2002 SA [redacted] interviewed [redacted] the owner of the dark green Ford Ranger pickup, and determined that [redacted] had loaned the pickup truck to his neighbor, [redacted] on the evening of 02/19/2002. [redacted] on the morning of 02/20/2002 could not find his pickup truck and contacted [redacted] to find out where he had parked the truck. [redacted] showed [redacted] where he had parked the vehicle and they both realized that it was missing. SA [redacted] interviewed [redacted] on 02/20/2002, and [redacted] denied any involvement in the Allfirst Bank robbery.

On 02/26/2002, SA [redacted] was contacted by Detective [redacted] AACPD, and advised that an individual who requested anonymity had called him and told him that [redacted] had recently robbed a bank in the Pasadena, Maryland area. The caller also advised that [redacted] was a crack and heroin addict and had recently gotten out of jail. The caller also stated that a [redacted] LAST NAME UNKNOWN (LNU) was also involved.

SA [redacted] obtained a picture of [redacted] and the bank surveillance photographs and showed them to four different individuals. All four believed the subject in the bank surveillance photographs to be [redacted] advised that [redacted] resided in the basement of [redacted] residence. [redacted] advised SA [redacted] that [redacted] had not worked 02/20/2002 and he was not home the evening of 02/19/2002. [redacted] b6 b7C b7D

On 03/01/2002, at approximately 12:07 a.m., [redacted] contacted SA [redacted] and advised him that [redacted] had [redacted] (LNU). [redacted] and [redacted] went to a bar across from the residence to talk and [redacted] told [redacted] that he had committed a felony. [redacted] asked [redacted] whether or not he had robbed a bank? [redacted] responded [redacted] Whereupon [redacted] told [redacted] he had to turn himself in. [redacted] said [redacted] told [redacted] house. [redacted] became very emotional and tearful. [redacted] allowed [redacted] to come into [redacted] While in the house [redacted] received a telephone call from [redacted] who told [redacted] that the FBI was looking for him. [redacted] advised SA [redacted] that as [redacted] and [redacted] (LNU) were leaving the residence, [redacted] (LNU) drove up and seemed paranoid, asking what [redacted] had told [redacted] told [redacted] to leave and never return. [redacted] advised SA [redacted] he heard [redacted] ask [redacted] (LNU) if he had the money. [redacted] (LNU) replied "Yes."

b6
b7C
b7D

On 03/01/2002, shortly after [redacted] departed from [redacted] residence, [redacted] proceed to look through the common area of her home. [redacted] SA [redacted] and Officer [redacted] from the Baltimore City Police Department each received a call from [redacted] at approximately 1:45 a.m. about the pistols and responded to [redacted] residence. At approximately 2:07 a.m. Officer [redacted] turned the air pistols over to SA [redacted] SA [redacted] received consent to search the common area of the basement. He recovered [redacted] green NIKE sweatshirt and grey sweatpants (clothing worn by the bank robber depicted in bank surveillance videotape).

On 03/01/2002, at sometime between 8:15 a.m. to 9:00 a.m., [redacted] (LNU) contacted SA [redacted] and [redacted] recognized the caller's voice as [redacted] who SA [redacted] had previously arrested for bank robbery a few years earlier. [redacted] admitted knowing [redacted] but he did not know what kind of trouble [redacted] was in. [redacted] denied any involvement in any crimes with [redacted] declined to say anything else and stated he would contact SA [redacted] later, possibly with an attorney.

b6
b7C

Following the conversation SA [redacted] contacted AUSA [redacted] He advised him of the evidence he had recovered and his conversations with [redacted] and [redacted] AUSA [redacted] granted verbal authority to arrest [redacted] and told SA [redacted] that he was assigning the case to AUSA [redacted] SA [redacted] contacted AUSA [redacted] provided a verbal overview of the events, drafted and faxed a copy of an affidavit for the arrest of [redacted] charging him with robbery of the Allfirst Bank, Pasadena, Maryland, on 02/20/2002. AUSA [redacted] advised SA [redacted] they would have an arrest warrant for [redacted] signed later that afternoon. b6 b7C

On 03/01/2002, at approximately 1:45 p.m., [redacted] contacted SA [redacted] and advised him that [redacted] had telephonically contacted [redacted] and requested a meeting with [redacted] asked [redacted] to bring [redacted] s personnel belongings, including items located in the washing machine, to the meeting because he "heard the FBI was looking for him" and he was going to flee. [redacted] and [redacted] agreed that [redacted] would call again at 4:00 p.m., and meet after, possibly in the Glen Burnie, Maryland area.

[redacted] described [redacted] to SA [redacted] as sounding hysterical, crying and heaving, and an emotional mess. [redacted] told SA [redacted] he had spoken to [redacted] mother and they both agreed that [redacted] may be suicidal. [redacted] had told them he would not go back to prison. From 02/28/2002 through 03/01/2002, [redacted] had several conversations with [redacted] as well as [redacted] mother, [redacted] As a result of those conversations, [redacted] felt that [redacted] was very depressed and heavily using drugs. [redacted] also felt [redacted] was depressed because 03/01 was the anniversary of [redacted] s father's death. From [redacted] discussions with [redacted] learned that [redacted] felt strongly that this arrest situation with [redacted] would end in some type of murder/suicide situation. [redacted] told [redacted] that [redacted] did not want to return to jail and that he was desperate. b6 b7C

SA [redacted] telephonically contacted AUSA [redacted] and related the conversation he had earlier with [redacted] AUSA [redacted] agreed on the exigent circumstances and authorized the arrest of [redacted] at the planned meeting with [redacted] later that day. The actual arrest warrant had not yet been signed.

SA [redacted] then spoke with Acting Supervisory Special Resident Agent (A/SSRA) [redacted] regarding the exigency of the situation and the need to execute an arrest. SA [redacted]

noted that AUSA [redacted] had concurred with this decision. SA [redacted] told A/SSRA [redacted] that based upon review of an NCIC printout and source information, [redacted] was believed to be Armed and Dangerous (A&D), a crack head and heroin addict, and there was strong evidence that he might flee the area.

b6
b7C

A/SSRA [redacted] agreed to go ahead with the arrest. On 03/01/2002 at approximately 2:15 p.m., A/SSRA [redacted] attempted to contact Assistant Special Agent in Charge (ASAC) PETER BRUST, however, BRUST was not in the office. A/SSRA [redacted] telephonically contacted Acting/Assistant Special Agent in Charge (A/ASAC) [redacted] and verbally advised him of the situation. On 03/01/2002, SSA [redacted] was the Acting ASAC of the Calverton Resident Agency. SSA [redacted] was the A/ASAC from 02/18/2002 to 03/01/2002 because ASAC BRUST was out of the Baltimore Division.

A/SSRA [redacted] and SA [redacted] called A/ASAC [redacted] from the ARA, on a speaker phone.. A/SSRA [redacted] advised A/ASAC [redacted] that SA [redacted] was working on a bank robbery investigation and a suspect had been developed. A/SSRA [redacted] requested several agents from the Calverton RA to assist with the arrest. SA [redacted] advised A/ASAC [redacted] that he received oral authorization from the USA's Office to make a probable cause arrest and that he had completed the affidavit. SA [redacted] advised A/ASAC [redacted] that he had conducted a consent search at the suspect's residence and two air pistols had been recovered from the house. SA [redacted] believed that one of the air pistols recovered was the same pistol used in the bank robbery.

During this conversation, A/ASAC [redacted] asked A/SSRA [redacted] if an Operational Plan (OPS) had been written. A/SSRA [redacted] told A/ASAC [redacted] that there was no written plan. A/ASAC [redacted] instructed A/SSRA [redacted] to fax him an OPS plan, as well as the affidavit. A/ASAC [redacted] told A/SSRA [redacted] that he would send five SAs from the Calverton RA to attend the briefing at the ARA. A/ASAC [redacted] specifically instructed A/SSRA [redacted] to ensure that all the SAs participating in the arrest get a complete briefing. A/SSRA [redacted] advised A/ASAC [redacted] an OPS plan would be prepared and faxed to him.

b6
b7C

A short time later, A/ASAC [redacted] received another call from A/SSRA [redacted] and SA [redacted] SA [redacted] provided more details to A/ASAC [redacted] SA [redacted] advised that [redacted] would be talking to [redacted] around 4:00 p.m., and there was a good possibility that [redacted] could lead the FBI to [redacted] A/ASAC [redacted] advised A/SSRA [redacted] that he had not received the faxed copy of the OPS plan. A/ASAC [redacted] told A/SSRA [redacted] that he had verbal approval for the operation, but that he needed

him to fax the OPS plan prior to going out.

SSA [redacted] contacted SAs [redacted] and instructed them to attend an arrest briefing at the ARA at 3:00 p.m.

SA [redacted] prepared a hand written information sheet for distribution to the SAs participating in the surveillance/arrest. The sheet included a photograph of [redacted] a brief physical description, and a description of vehicles used by him. SA [redacted] also prepared a handwritten OPS plan, and attached the arrest affidavit, and an NCIC report he received on 02/26/2002. These items, and a copy of the affidavit were given to A/SSRA [redacted] b6 b7C

The arrest was planned to be a static event when [redacted] met [redacted] at the Days Inn parking lot. In order to protect the relationship between the FBI and [redacted] both [redacted] SA [redacted] then left the building. Outside the RA, SA [redacted] conducted a radio check with the RA while in his Bureau car. The radio operator advised he was being heard "5 by 5" on both the FBI radio and hand-held radio. The radio check was conducted in the private mode.

On 03/01/2002, at approximately 3:00 p.m. an arrest briefing was conducted at the ARA. The briefing was lead by A/SSRA [redacted] and SA [redacted] Also present at the briefing were: SAs [redacted] and ARA secretary [redacted] The case agent, SA [redacted] did not attend the briefing. SA [redacted] provided information during the briefing via his Nextel telephone, while he was taking care of logistical matters and talking to the cooperating witness [redacted]

Prior to the briefing, SA [redacted] reviewed the OPS plan and suggested to A/SSRA [redacted] that he attach a photograph of [redacted] which he agreed to do. The OPS plan was passed around the table but each SA did not receive a copy. SA [redacted] briefed that the anticipated location where [redacted] and [redacted] were to meet was the Days Inn, located across from the Motor Vehicle Administration building, Route 2, Glen Burnie, Maryland. (This was approximately 30 to 40 minutes driving time from the ARA. The SAs stated they felt they were pressed for time to complete the briefing and other preparations in order to be at the motel by 4:00 p.m.) b6 b7C b7D

As a long time member of the SWAT team, SA [redacted] was experienced in giving tactical briefings. He did not use the handwritten Ops plan to make the briefing. SA [redacted] began the briefing by thanking the SAs for their assistance and provided the background on the investigation. SA [redacted] provided the following information: Based upon the bank surveillance photograph and witness descriptions provided by SA [redacted] the bank robber suspect was a white male, 5'8", wearing a ski mask, age estimated between mid-20's and early 30's, using a handgun and a stolen pickup truck. [redacted] had been in recent communication with the suspect, [redacted] and appeared to be in a position to help locate him. [redacted] would be driving a 1991, green, Ford Ranger pickup truck. b6 b7C

At the time of the briefing, SA [redacted] did not have [redacted] physical or clothing description, but obtained it after the briefing and relayed it to the arresting team by FBI radio. SA [redacted] "Xerox" copies of a 1998 arrest photo of the [redacted] which were passed out to every SA. The picture in the copies measured approximately 4" x 5" or 5" x 7" and was suitable for identification purposes. [redacted] was also characterized as possibly suicidal. The suicidal characterization was based on [redacted] (mother) and [redacted] description of [redacted] during several conversations he had with him on 03/01/2002. [redacted] criminal history was also passed around. The criminal history showed that [redacted] had been arrested for assault and attempted murder. SA [redacted] told the group that [redacted] had stated to [redacted] and [redacted] (mother) that he would not go back to jail. (The latter statement had been conveyed to SA [redacted] by SA [redacted] earlier in the day.)

SA [redacted] continued the briefing by telling the arrest team that [redacted] wanted to meet [redacted] at approximately 4:00 p.m. and SA [redacted] was setting up the meeting. The meeting was expected to take place in Glen Burnie, Maryland. Staging for the operation would take place at the Days Inn, across from the Motor Vehicle Administration building, Route 2. The FBI communications frequency would be repeater channel F-3, which covers the southern portion of the ARA territory. The alternate communications medium was to be Nextel cellular telephones. No alternate FBI radio frequency was designated. The situation on the street could be expected to be dynamic and fluid and it was uncertain whether [redacted] would in fact meet with [redacted] SA [redacted] advised the SAs that SA [redacted] had retrieved from [redacted] residence a sweat shirt and pellet guns, which were subsequently determined through a review of the bank robbery tapes, to be similar to the clothing and weapon used b6 b7C

by the bank robber. SA [redacted] described the behavior of the bank robber in the bank, which included waving a gun and using profanity, and told the team that he should be considered armed and dangerous (based upon use of the handgun during the commission of the bank robbery).

The possibility of a stationary vehicle arrest was addressed during the briefing. The plan was: In the event a positive identification was made of [redacted] the team would come in, block his vehicle, and effect the arrest. Specific duties of arrest team members were not made due to the uncertainty of the situation. No specific positive identification signal, on the part of [redacted] or an SA, was established. No person, including [redacted], was designated with the responsibility of positively identifying [redacted] Protocol regarding positive identification of [redacted] was not addressed. Although SA [redacted] did not brief this detail, he expected SA [redacted] would make the positive identification of [redacted] and call it out to the arrest team. b6 b7C

SA [redacted] told the group he needed logical surveillance points covered including north and south of the meet location on both sides of the divided highway. SA [redacted] advised that AACPD detectives would be at this location providing assistance in the operation. Someone asked the description of [redacted] vehicle. SA [redacted] responded that it was unknown. Another person asked whether he was still armed. SA [redacted] responded that he did not know but that he should be considered armed and dangerous due to the nature of the crime charged.

Although there was no formal designation, SA [redacted] assumed the role of team leader. The Principal Relief Supervisor, SA [redacted], was present in his role as A/SSRA, since the ARA supervisor was on leave.

SA [redacted] took additional copies of the "Xerox" pictures of [redacted] called AACPD Detective [redacted] and advised him they were en route to the operational meeting location where they would rendezvous with him. SA [redacted] volunteered to position the arrest team personnel at the meeting location. b6 b7C

For communication, the SAs and police involved used Nextel cellular telephone, an AACPD handheld radio (trunked system that only SA [redacted] possessed), and a FBI radio set on simplex frequency channel D-4. SA [redacted] directed the arrest team to keep radio communications to a minimum. During the

entire operation, significant communication problems on the FBI radio were encountered. These problems were characterized as transmissions apparently not being received and team members not always receiving acknowledgment of their transmissions. According to the SAs statements it was unusual for so many transmissions not to be acknowledged.

The Calverton RA SAs paired into the following vehicles; SA [redacted] in his vehicle; SA [redacted] and SA [redacted] in SA [redacted] vehicle; SA [redacted] and SA [redacted] in SA [redacted] vehicle until they changed to SA [redacted] vehicle when he left to handle a personal matter. The ARA SAs used their assigned RA vehicles; SA [redacted] which had an AACPD radio, SA [redacted] and SA [redacted] in their own vehicles, and later SA [redacted] joined SA [redacted] to help him communicate, and A/SSRA [redacted]. Two AACPD Detectives, [redacted] and [redacted] were together in an unmarked AACPD vehicle, a blue Ford Mustang. There were no marked police vehicles participating in the operation. b6 b7C

Some time after 3:00 p.m., A/ASAC [redacted] called the Baltimore Field Office looking for SAC LYNNE A. HUNT. A/ASAC [redacted] spoke with the SAC Secretary, [redacted] Ms. [redacted] advised that SAC HUNT was attending a police graduation ceremony in Westminster. A/ASAC [redacted] asked Ms. [redacted] if SAC HUNT needed to approve single arrest OPS plans. Ms. [redacted] indicated that SAC HUNT did not require single arrest plans be approved by her.

A/SSRA [redacted] advised that the arrest team departed the ARA at approximately 3:40 p.m. A/SSRA [redacted] stayed behind to pencil in additional information onto the OPS plan, have it typed, and then faxed to A/ASAC [redacted] in the Calverton RA for his review and approval. The OPS plan utilized during the arrest briefing was faxed to A/ASAC [redacted] at 3:40 p.m. A/SSRA [redacted] noted that he kept the original OPS plan and made modifications to it regarding radio call signs and additional information concerning changes in personnel, rendevous points and vehicles. He further noted the modified OPS plan was never provided to A/ASAC [redacted] however, A/ASAC [redacted] later saw a copy of the OPS plan with [redacted] hand written notes on it. A/SSRA [redacted] maintained the modified OPS plan in order to forward the original to the case file. b6 b7C

At 3:46 p.m., A/ASAC [redacted] received a fax from the ARA that contained an arrest OPS plan and an affidavit for a complaint. A/ASAC [redacted] reviewed the OPS plan and saw that the plan did not have any SAs assigned to specific duties. He could not remember if he instructed A/SSRA [redacted] to make specific assignments.

En route to the meeting location, SA [redacted] realized that repeater frequency channel F-3 would not work and started calling the SAs to switch to the main ARA repeater, channel F-1. It was determined that channel F-1 would not work either and resorted to simplex channel D-4, once everyone arrived at the meeting location. One of the SA's radio dropped its privacy code and everyone switched to the clear mode. Everyone had a Nextel cellular telephone with the exception of the AACPD detectives, who had another type of cellular telephone. A Nextel group was not established for the arrest team, however SA [redacted] had direct connect capability of all SAs on the arrest team. A communications check was effectively made of all personnel at the meeting location, including the AACPD detectives. SA [redacted] used a handheld AACPD radio in his vehicle to communicate with the AACPD detectives. b6 b7C

The group was having a difficult time communicating with SA [redacted] on channel D-4 since he was in the Curtis Bay area approximately 10 miles away. At the time, SA [redacted] was covering [redacted] in anticipation of the meeting with [redacted] There was a hill between SA [redacted] and the arrest team, so SA [redacted] and SA [redacted] traveled separately towards SA [redacted] location in order to better be able to communicate with him. SA [redacted] actually traveled to SA [redacted] location.

SA [redacted] learned from SA [redacted] and relayed to the team, that the meeting would likely take place in the vicinity of the Sun Valley Shopping Center, Highway 648 and Mountain Road. No specific time was provided for the meeting. SA [redacted] was alone in his vehicle, alongside of AACPD Detectives [redacted] and [redacted] who were in an unmarked AACPD vehicle. SA [redacted] directed SAs [redacted] and [redacted] to go to the Sun Valley Shopping Center to get familiarized with the area. Detectives [redacted] and SA [redacted] also relocated to the shopping center. There were ongoing communication updates between SAs [redacted] A/SSRA [redacted] and the rest of the team.

Sometime around 4:00 p.m., [redacted] contacted SA [redacted] on his Nextel and advised that [redacted] had called and would send his girlfriend to pick-up the duffel bag filled with his clothes. b6 b7C

Following this conversation, [redacted] contacted SA [redacted] on the Nextel phone to ask what was going on. [redacted] was an associate of [redacted] who SA [redacted] had arrested for bank robbery a few years earlier. [redacted] was also suspected of being involved in the Allfirst bank robbery with [redacted]. SA [redacted] believed [redacted] was in contact with

[redacted] so he told him "nothing" and that he was going home. SA [redacted] then called [redacted] and instructed him to call [redacted] back in order to convince him to come in person for his clothes, money, and to say good-bye.

Shortly after this conversation [redacted] called again and advised [redacted] would meet him. [redacted] said he would be driven in a car by a girlfriend. [redacted] advised the person could be [redacted] (LNU), who was with [redacted] the night before. [redacted] (LNU) was described by [redacted] as having short, red hair. [redacted] did not divulge the make and model of the car he would be driving in. b6 b7C

SA [redacted] then contacted SA [redacted] via Nextel Direct-Connect and advised of the intended location for the meeting. SA [redacted] transmitted the meeting location information over the FBI radio. For those of the team who did not acknowledge, he contacted them via Nextel Direct-Connect. He advised them that [redacted] was being driven in a car by a possible redheaded, white female. [redacted] advised that [redacted] could be wearing a white baseball cap, as was his custom. The make and model of the vehicle [redacted] would be in was unknown. SA [redacted] was relaying information he received from SA [redacted] while SA [redacted] spoke to [redacted] on his Nextel phone.

At approximately 5:15 - 5:30 p.m., SA [redacted] reported that [redacted] had started driving from the Curtis Bay area, where [redacted] lived, to meet his "boss" and was planning to then meet with [redacted] at the 7-11 store. SA [redacted] who was riding with SA [redacted] provided a further description of the pickup [redacted] was in, and a description of the clothes worn by [redacted] which SA [redacted] relayed to the rest of the team. (During this general time frame, SA [redacted] received the following basic description of [redacted] which he relayed to the team by FBI radio: White male, mid-20's, 5'8" - 5'9". SA [redacted] was talking to the AACPD detectives, who were parked next to him, and they heard the description.) SA [redacted] reported that he was surveilling [redacted] pickup and that [redacted] was going to meet [redacted] at the 7-11 store on Route 648, at the intersection of Marley Neck Boulevard, in the vicinity of Glen Burnie. b6 b7C

SA [redacted] SA [redacted] and SA [redacted] followed [redacted] to the First Union Bank located on South Route 2 and Ordnance Road, where he met his boss, and picked-up his pay. [redacted] left the bank and drove to the 7-11 store where he and [redacted] had agreed to meet. The other SAs proceeded to the area of the 7-11 store.

At approximately 5:45 P.M., [redacted] arrived in the area of the 7-11 store. As [redacted] was pulling up to the intersection of Route 648 and Marley Neck Road, and preparing to make a left turn onto Marley Neck Road, [redacted] observed [redacted] in a red Honda, Civic being driven by [redacted] sister, [redacted] was sure that [redacted] had seen him as well. [redacted] proceeded into the 7-11 store parking lot. [redacted] tried to notify SA [redacted] by phone, but [redacted] cell phone went dead. [redacted] vehicle did not return to the 7-11 store. b6 b7C

At approximately 5:45 p.m. SA [redacted] observed [redacted] drive into the 7-11 store parking lot in the Ford Ranger pickup truck. SA [redacted] further observed [redacted] exit his vehicle and enter the 7-11 store. About 5:50 p.m., SA [redacted] and SA [redacted] observed a late model, red vehicle (later identified as a Pontiac Grand Am) drive into the 7-11 store parking lot. SA [redacted] called out over the radio that a red vehicle had just pulled up to the 7-11 store and parked next to [redacted] truck. SA [redacted] observed a white male wearing a white baseball cap exit the passenger side front seat of the vehicle and enter the 7-11 store. The white male who had exited the red vehicle, stayed in the 7-11 store for two to three minutes and appeared to meet briefly with [redacted] before exiting the 7-11 store and re-entering the red vehicle. SA [redacted] came to the conclusion that the subject had possibly interacted with [redacted], as he could clearly observe that they stood in close proximity to each other within the 7-11 store and appeared to have contact.

[redacted] had gone inside of the 7-11 store in order to use the phone. [redacted] asked the clerk if he could use the phone. The clerk told him to use the pay phone, however, the pay phone was being used by someone. [redacted] told the clerk he needed to call 911 and the clerk allowed him to use the phone.

SAs [redacted] and [redacted] indicated that they could see the red vehicle. From their vantage point across the street, it appeared to SAs [redacted] and [redacted] as though the white male passenger fit the physical description of [redacted] SA [redacted] advised they made this assessment because the passenger appeared to be a white male, approximately the same height, weight and age as [redacted], and was wearing a baseball cap, as was [redacted]'s habit according to the briefing. SA [redacted] and SA [redacted] could not see the driver of the vehicle, as their line of sight was obstructed by [redacted] truck. They advised SA [redacted] of the presence of the vehicle and its occupants, and requested he make an attempt to observe the driver. As SAs [redacted] and [redacted] began to move in the direction of the 7-11 store, they heard on the FBI radio that the subject was in a "red car." b6 b7C

They observed a red car and its occupants exiting the west entrance/exit of the 7-11 store parking lot. This vehicle was driven by a red-haired, white female. The passenger was a white male wearing a white baseball cap. SA [redacted] didn't know who called out over the radio, but heard instructions to "Follow the red car . . . don't loose it."

[redacted] called 911 and spoke with a dispatcher. [redacted] told the 911 dispatcher he was working with the FBI and he was helping them catch [redacted] told the dispatcher to notify the FBI and tell them that [redacted] was a passenger in a red Honda in the vicinity of the 7-11 store located at Ro 648 and Marley Neck Road. [redacted] hung-up with the dispatcher, picked-up a soda, and waited inside the store. A minute or two later [redacted] observed several unmarked police vehicles with their emergency lights flashing and sirens activated. The vehicles were traveling north on Marley Neck Road. [redacted] was sure this was related to the arrest of [redacted]

b6 b7C

AACPD Detective [redacted] reported that he and Detective [redacted] received a call on channel E on their AACPD radio, from the county dispatcher, that a [redacted] or [redacted] had called 911 and advised he was working with the FBI, and a subject they were looking for was driving around a 7-11 store in a small red car. Detective [redacted] immediately telephonically called the dispatcher to obtain more information. The dispatcher informed him that she had received a 911 call from a male who said that he was working for the FBI and "the bad guy...the one you're looking for, just drove by the 7-11 in a red Honda driven by his sister." While [redacted] was on the telephone with the dispatcher, SA [redacted] contacted them over the AACPD radio and told them the subject was in a red car traveling north on 648.

Due to radio transmission difficulties, A/SSRA [redacted] called SA [redacted] on his Nextel and told him to communicate in the clear on channel D-4.

SA [redacted] subsequently advised that the driver was a red-headed white female. Although SA [redacted] is certain SA [redacted] provided the team with the description of the red headed female, SA [redacted] did not know whether the information was conveyed over the Nextel or the FBI radio.

b6 b7C

SAs [redacted] and [redacted] stated in their Sign Sworn Statements that they firmly believed that [redacted] was in the red vehicle to which SA [redacted] was referring. SA [redacted] believed he heard SA [redacted] broadcast over the FBI radio to the team, "That's the car." SA [redacted] did not report any positive

contact with [redacted] nor did he receive any positive confirmation that [redacted] had been at the 7-11 store. However, there was no question in SA [redacted] mind that [redacted] was probably in the red car which had been parked adjacent to [redacted] pickup truck at the 7-11 store; that this vehicle was now moving on Highway 648 northbound; and that it needed to be followed. This conclusion was based on the following: [redacted] had reported that [redacted] would be at the 7-11 store, in a vehicle, with a female with red hair; a vehicle was observed driven by a female parked next to [redacted] pickup truck at the 7-11 tore; and the white male got into the passenger side of this vehicle. He did not remember anyone saying that the white male had a ball cap on. b6 b7C

SA [redacted] broadcasted that the red vehicle was exiting the 7-11 store parking lot and was turning right on Marley Neck Boulevard. SAs [redacted] and [redacted] alled SA [redacted] via the Nextel and told him to follow the red vehicle. SA [redacted] said he advised them they did not know who was in the car. SA [redacted] heard SA [redacted] on the radio say that he did not know if the passenger was the subject, meaning [redacted] but to just follow the car. Inasmuch as [redacted] remained missing from his parked car, SA [redacted] remained circling the area around the 7-11 store location, waiting for [redacted] to return to his vehicle.

SAs [redacted] and [redacted] were temporarily prevented from following the red vehicle. They were parked in a lot on the opposite side of the street and were unable to safely enter the roadway and negotiate a right turn onto Marley Neck Boulevard. Upon entering the roadway and making the turn onto Marley Neck Boulevard, SAs [redacted] and [redacted] joined the lead FBI vehicle, which was ahead of them, following the red vehicle. SA [redacted] was the driver of [redacted] s vehicle and SA [redacted] was his only passenger, positioned in the front passenger seat. The lead FBI vehicle, SA [redacted] vehicle, contained, SAs [redacted] and [redacted] SA [redacted] was not in the car as he had left earlier to attend to a personal commitment. SA [redacted] was the driver of SA [redacted] vehicle, and SA [redacted] was in the front passenger seat. b6 b7C

SA [redacted] broadcasted that the red vehicle was traveling north on Marley Neck Boulevard. SA [redacted] continued broadcasting various reference points including calling out a marked police patrol car which had made a traffic stop on Marley Neck Boulevard. SA [redacted] came up on SA [redacted] vehicle, which was behind SA [redacted] vehicle. Neither vehicle were broadcasting any radio traffic. SA [redacted] had his emergency lights activated.

A/SSRA [redacted] advised that once the red vehicle began moving, he attempted to catch up to the other vehicles, as he was further away than the others. Once A/SSRA [redacted] arrived at the intersection of Route 648 and Marley Neck Boulevard, he saw SA [redacted] vehicle, a Crown Victoria, in front of his with his lights and sirens on. A/SSRA [redacted] assessed from the radio traffic that the occupants of the subject vehicle were not pulling over.

b6
b7C

SA [redacted] broadcasted on the FBI radio that they were approaching a red light at the intersection of Marley Neck Boulevard and Ft. Smallwood Road. SA [redacted] then broadcasted on the FBI radio, "They are at the red light. Do you want us to initiate a vehicle stop?" SA [redacted] paused, waiting for SA [redacted] to respond. (SA [redacted] could not remember SA [redacted] making any radio transmissions after the departure from the 7-11 store.) When SA [redacted] did not respond, SA [redacted] answered, "Yes, go ahead if you think you can."

A/SSRA [redacted] advised that he heard the request for instructions on whether or not a traffic stop should be made on the red vehicle. A/SSRA [redacted] advised he could hear traffic over the radio relating to how the stop was going to be made, however, he was too far away to have any visual contact with any of the agents pursuing the subject vehicle.

The red vehicle was stopped at the red light, with its brake lights on. SA [redacted] pulled up behind the red vehicle, placed the red and blue visor emergency light into the down position, and turned on the emergency lights. When he turned on the emergency lights and reached for the siren, the driver of the red vehicle appeared to respond by releasing the car brakes, as indicated by the brake lights turning off, and turning right on the red traffic light. SA [redacted] told SA [redacted] to turn on the emergency lights and hit the siren. The FBI vehicle was equipped with Wig Wag headlights and a visor strobe which were activated by SA [redacted] SA [redacted] gave the siren several short blasts. At this time the red vehicle turned right on red and accelerated rapidly.

b6
b7C

Immediately after a stop of the vehicle was authorized, SA [redacted] driver of the second FBI vehicle, noted the lead FBI vehicle, driven by SA [redacted] had its emergency tail strobes on to effect the traffic stop. At approximately the same time, SA [redacted] turned on his emergency lighting system which consisted of a visor light containing red and blue alternating strobes located on the passenger side visor, Wig-Wag headlight beams which alternated right and left, and tail lights that strobe. As the

second FBI vehicle, SA [redacted] did not turn on his siren, nor could he tell from behind whether or not the lead FBI vehicle, driven by SA [redacted] had its siren operating.

After the emergency lighting systems on both SA [redacted] and SA [redacted] vehicles were engaged, the red vehicle made a right turn against the light onto Maryland Route 173 and began to accelerate. SA [redacted] believed at that time, the red vehicle's driver was intending to run. SA [redacted] then broadcasted, "He's hooking." SA [redacted] interpreted this comment to mean that [redacted] was on foot and running from his vehicle. SA [redacted] slowed down and started looking into the woods adjacent to the highway. b6 b7C

SA [redacted] turned right and through the red light at the corner, while trying to pull up along the driver's side of the red vehicle. The red vehicle was accelerating out of the right turn, so SA [redacted] did the same. Based on communications between SA [redacted] vehicle and the lead FBI vehicle, driven by SA [redacted] via the FBI car radio, all SAs in pursuit of the red vehicle believed the red vehicle was attempting to evade the stop.

SA [redacted] the driver of the lead FBI vehicle, positioned his vehicle along the left side of the red vehicle. SA [redacted] positioned his FBI vehicle behind and slightly to the left of the red vehicle. SA [redacted] then attempted to force the red vehicle off to the side of the road in order to effect the felony traffic stop. At this time it was still light outside, turning to dusk. SA [redacted] the passenger in the lead FBI vehicle driven by SA [redacted] made eye contact with the female driver and motioned her to pull over. SA [redacted] was motioning and yelling for the driver of the red car to pull over. SA [redacted] was yelling "Police. Pull over." over and over again through his closed window. He was not wearing any visible insignias the driver could have seen while he was in the car. The female driver of the red vehicle, then pulled off the road on to the shoulder. SA [redacted] told SA [redacted] to stop in front of the red vehicle. SAs [redacted] and [redacted] vehicle stopped just ahead of the red vehicle on the driver's side. The red vehicle was successfully forced to the side of the road and brought to a stop without making any physical contact with it. The location of the stop was Fort Smallwood Road, near its intersection with Marley Neck Blvd. b6 b7C

Immediately after the stop was made, SA [redacted] exited from the front passenger side of the lead FBI vehicle and moved to the front of the red vehicle with his MP-5 rifle pointed at the occupants of the red vehicle. SA [redacted] placed his car in

park, shut off the engine, opened the door, grabbed his MP-5 rifle, and ran behind his car and over to the red vehicle's driver's side door. SA [redacted] attempted to open the driver's door and found it locked. He pounded with his fist on the driver's window, and called out, "FBI . . . Open the door." SA [redacted] heard several SAs on the passenger's side yelling, "Show me your hands." He did not know who was yelling because he did not look up and away from the female driver. SA [redacted] was looking at and concentrating on the female driver, trying to verbally direct her to open the door and come out of the car, when he heard a "pop" sound. He did not know exactly how many seconds transpired between his leaving his car and the "pop" sound. The female screamed and opened her door. As she exited the vehicle, SA [redacted] pushed her in the middle of her back, with the palm of his hand, down on the ground. He instructed her to put her hands above her head.

b6
b7C

SA [redacted] jumped out of the passenger side of the lead FBI vehicle driven by SA [redacted] moving rapidly around the front of the red vehicle and going to the passenger side of the suspect vehicle. He could not recall if the occupants were wearing their seat belts. SA [redacted] was wearing his soft body armor, and was not wearing a raid jacket. He had his FBI badge affixed on the right side of his belt and believed the badge was visible. He was armed with his MP-5 rifle and was focused first on the female driver. SA [redacted] then directed his attention to the male passenger, because he was the most serious threat. SA [redacted] was shouting, "Police! Police! Show me your hands!" from the time he got out of the car to the time he moved around to the passenger side. SA [redacted] never saw either person in the red vehicle raise their hands. SA [redacted] got to the passenger side door and tried opening it utilizing his left hand, but the door was locked. At the time he was attempting to open the door, SA [redacted] was next to him, yelling "show me your hands". SA [redacted] arrived at the passenger door a few seconds after SA [redacted] SA [redacted] took a step to the right and made eye contact with the driver, through the passenger side window. The reason he turned his attention to the driver was because, he did not want the passenger to make any sudden moves. SA [redacted] also knew that SA [redacted] was in position to cover the passenger. SA [redacted] felt the driver was in a better position to unlock the doors. SA [redacted] yelled for her to "unlock the door." SA [redacted] saw the driver's left hand move towards the door. As SA [redacted] was yelling again to the driver to "unlock the door", the passenger window exploded. SA [redacted] saw the passenger move over to the left and his face was covered with glass and blood. The passenger was screaming.

b6
b7C

SA [redacted] looked at SA [redacted] and asked him if he knocked out the window. SA [redacted] did not respond. A short time later it occurred to SA [redacted] that SA [redacted] had shot out the window. From the time SA [redacted] exited his vehicle, to the time SA [redacted] discharged his shoulder weapon, only about five seconds had elapsed. SA [redacted] initially thought the passenger was hit by glass and that he was not shot.

Immediately following the shooting, SA [redacted] opened the passenger door and pulled out the passenger putting him face down on the ground and placing him in handcuffs. SA [redacted] stated he never observed any threat that would have caused him personally, to shoot his weapon. SA [redacted] did not see the passenger make any movements prior to being shot, but at the time the window exploded he was watching the driver. SA [redacted] looked into the passenger side of the car looking for a possible weapon. The only thing he saw was some rolled up clothing on the floor. No other search of the car was made by him. b6 b7C

SA [redacted] was driving the FBI vehicle immediately behind the red vehicle. SA [redacted] was in the passenger seat next to SA [redacted]. Once SA [redacted] stopped his vehicle behind the red vehicle, SA [redacted] observed SA [redacted] exit from the passenger side of SA [redacted] vehicle with his M-4 rifle. SA [redacted] ensured his vehicle was safely stopped by placing the transmission in "Park" and engaging the emergency brake. SA [redacted] began to exit the vehicle through the driver's side door with his M-4 rifle. As SA [redacted] turned momentarily to his left to get out of the car, he heard SA [redacted] identify himself as the "FBI" and SA [redacted] identifying himself as the "Police". Both SAs were yelling at the red vehicle's occupants to "show their hands." SA [redacted] could clearly distinguish between the SA's voices, as SA [redacted] is from North Carolina, and SA [redacted] is from Boston.

While SA [redacted] turned momentarily to his left to exit his vehicle, he heard what he perceived to be the sound of a rifle shot. SA [redacted] estimated the time between his stopping the vehicle and hearing the gunshot was between three and five seconds. SA [redacted] suspected the shot was fired by one of the SAs because he knew they were carrying shoulder weapons. Both SAs [redacted] and [redacted] had their shoulder weapons in positions covering the occupants of the red vehicle. SA [redacted] noted blood in the red vehicle, and observed the white male individual inside moving around and screaming. According to SA [redacted] he had an excellent, unobstructed view of everything in front of him, as his car was parked to the rear of both vehicles. The sun was beginning to set, however, there remained more than adequate natural lighting to see clearly. As SA [redacted] came out of his b6 b7C

vehicle he rounded his driver's door and stood at a slight angle to the left rear of the subject vehicle looking over the front of his vehicle's hood.

After realizing that the subject was injured, SA [redacted] moved to the front of his car, between it and the red vehicle, and instructed SA [redacted] to call 911 to request the dispatch of a medic unit to the scene.

SA [redacted] returned to his FBI vehicle, proceeded to make his M-4 rifle safe, and stowed it in the foot well of the front passenger seat of his FBI vehicle. SA [redacted] retrieved one of his medical bags, and as SA [redacted] turned around to face the red vehicle, noticed SA [redacted] handcuffing the white male who had been in the passenger seat of the red vehicle, and laying him on the ground on his back and left side. b6 b7C

SA [redacted] is a Nationally Registered Emergency Medical Technician - Paramedic (NREMT-P), which is the highest level of certification for pre-hospital health care providers.

SA [redacted] dialed 911 and advised the operator of the emergency situation, and of the fact that they needed EMS. SA [redacted] was providing medical treatment to the male passenger as SA [redacted] spoke to the 911 operator. She asked what was the nature of the injuries. He was unable to answer because he did not know what had happened to the passenger. SA [redacted] did not know if the passenger had been injured by the car glass shattering. He thought the SAs may have broken the window and pulled him out of the car. She agreed to send an ambulance.

While SA [redacted] was on the phone with the 911 operator, Detective [redacted] AACPD, handcuffed the female driver from the red vehicle, while she was laying on the ground. SA [redacted] stated he had no question in his mind that the male laying on the ground was the subject, [redacted] SA [redacted] continued to attend to the female who was crying hysterically. She remained handcuffed and standing near the trunk of the red car. He tried verbally to calm her down. Detective [redacted] took control of the female and removed her from the scene while she remained handcuffed. SA [redacted] returned to his FBI vehicle and unloaded his MP-5 rifle and secured it in the car. It was at that time that SA [redacted] learned from someone, possibly SA [redacted] that the male passenger in the red vehicle was not [redacted] b6 b7C

SA [redacted] approached the injured subject to assess his injuries and render care. SA [redacted] asked SA [redacted] what had happened, in an attempt to determine what type of injury the

individual had sustained. SA [redacted] response to SA [redacted] was "I shot him in the head." SA [redacted] did not ask any additional questions at that time, as SA [redacted] was concentrating on providing the victim with the best possible medical care. b6 b7C

Upon assessing the victim, SA [redacted] discovered he had a gun shot wound to the right side of his face in the area of his cheek. SA [redacted] determined the victim was capable of breathing on his own, and was coherent and talking. During the course of providing care to the victim, SA [redacted] asked him his name. The victim advised his name was [redacted] SA [redacted] was later advised by one of the SAs on the scene that the victim was indeed not identical to bank robbery subject, [redacted] SA [redacted] did not recall which SA provided this information, as his focus was the treatment of the victim. Upon confirmation of the aforementioned fact, SA [redacted] instructed that the victim be uncuffed.

At approximately 6:08 - 6:10 p.m., SA [redacted] arrived at the intersection of Marley Neck Boulevard and Ft. Smallwood Road, and saw SAs [redacted] and [redacted] vehicles stationary on the side of the road. Both FBI vehicles had their emergency lights on. SA [redacted] did not recall whether their sirens were on. The passenger side window of the red vehicle was broken. SA [redacted] did not recall seeing anything else which caught his attention in the interior of the vehicle or whether the radio was on in this vehicle. SA [redacted] saw a female "proned out" (hands and arms extended) on the ground adjacent to the driver's door with SA [redacted] controlling her (He was standing approximately three feet from her right side looking over her). She was silent and appeared frightened. SA [redacted] saw a male laying on his back in the grassy area adjacent to the car and SA [redacted] who had his back towards him, attending and talking to him. The male had blood on his face and when SA [redacted] asked him his name, he responded, "(something) [redacted]" He complained of not being able to breathe through his nose. SA [redacted] told him that it was because he had blood in his nose and advised him to breathe through his mouth. SA [redacted] was unaware that a shot had been fired. b6 b7C

SA [redacted] saw SA [redacted] securing his M-4 rifle (rendering it safe) and placing it in SA [redacted] FBI vehicle. Within moments, Detectives [redacted] and [redacted] SAs [redacted] and [redacted] arrived on the scene. SA [redacted] walked back to his vehicle and one of the detectives asked him whether he wanted them to "start" an ambulance. SA [redacted] and SA [redacted] both told him "yes." Detective [redacted] called the AACPD and requested an ambulance.

Sometime after 6:10 p.m., A/SSRA [redacted] located the red vehicle approximately 100 yards from the intersection of Marley Neck Boulevard and Fort Smallwood Road. He observed the right front passenger window of the subject vehicle was broken and SA [redacted] over the white male subject believed to be [redacted] laying on the ground. A/SSRA [redacted] also observed AACPD Detective [redacted] at the scene.

A/SSRA [redacted] advised that a few minutes after his arrival at the scene, [redacted] pulled up to the scene also. [redacted] saw SA [redacted] at the scene and asked if everything was okay. [redacted] asked SA [redacted] if they had arrested [redacted] SA [redacted] asked [redacted] to come and look at the man who was lying on the ground next to the red vehicle. [redacted] looked at the red vehicle and knew it was not the red HONDA that he had seen [redacted] in earlier. SA [redacted] asked [redacted] if the man on ground was [redacted] informed SA [redacted] that the man was not [redacted] SA [redacted] asked [redacted] if he knew where [redacted] could be located at this time. [redacted] told SA [redacted] to check at [redacted] aunt's home.

b6
b7C

A/SSRA [redacted] advised that he was not aware of the nature or extent of the individual's injuries, therefore, he began to ask questions of the SAs on the scene. He initially went to SA [redacted] who advised A/SSRA [redacted] that he was calling A/ASAC LAYTON to advise him what had happened. He then went over to SA [redacted] and asked him what happened. A/SSRA [redacted] advised that SA [redacted] replied "I shot him." A/SSRA [redacted] asked SA [redacted] once more, What happened?, whereupon SA [redacted] advised that he ordered the subject to get out of the vehicle and he was not compliant. He also noted that the subject was reaching down into the seat and "I shot him." A/SSRA [redacted] then asked SA [redacted] if he was alright, whereupon SA [redacted] did not respond, and was clearly dejected.

A/SSRA [redacted] advised that after he spoke to SA [redacted] he immediately made notification of the shooting to SA [redacted] the Baltimore Division Media Representative.

b6
b7C

Shortly thereafter, uniformed officers from AACPD arrived on the scene. The scene was secured with police tape and someone called the main Baltimore FBI office. There was no contact during the operation with the FBI dispatcher and A/SSRA [redacted] was unaware whether anyone was keeping a log.

Sometimo between 6:10 and 6:15 p.m., EMS arrived at the scene, however they were not advanced life support providers. SA [redacted] inquired whether a medic unit had been dispatched, and was

advised that one was en route to the scene. SA [redacted] care of the victim continued for an additional two to three minutes, after which an Anne Arundel County Paramedic Unit arrived. SA [redacted] advised them of the patient's injuries and condition, and continued to provide care in association with the Anne Arundel County paramedics until the patient was ultimately transferred to the care of a Maryland State Police Helicopter Medivac Unit which transported him to the Maryland Shock Trauma Center.

After the patient was evacuated, SA [redacted] asked SA [redacted] about what had transpired. He advised that the subject had not complied with SA [redacted] and his verbal commands to show his hands, and had instead reached toward his waist on several occasions. SA [redacted] said this action put him in fear for his life as well as that of SA [redacted]. According to SA [redacted] SA [redacted] stated he could see that SA [redacted] was directly in the subject's line of fire, as he, SA [redacted] was positioned in front of SA [redacted]. Therefore, SA [redacted] stated he shot the subject in an attempt to eliminate the threat. b6 b7C

SAs [redacted] and [redacted] went into SA [redacted] car. They went to the car because it was cold and a female detective from AACPD started to ask them questions about what had happened. They each told her who they were and where they were from. SA [redacted] told the detective they did not want to be rude, but wanted to wait until their leadership came on the scene. She said she understood and walked away.

A/ASAC [redacted] was the first member of FBI management to arrive at the shooting incident. A/ASAC [redacted] observed three of the Calverton Agents sitting in a car and he checked on their well-being and informed them not to make any statements or discuss this matter with anyone at this time.

A/ASAC [redacted] asked that SA [redacted] brief him as to what happened. SA [redacted] briefed as follows; SA [redacted] told A/ASAC [redacted] that they had been waiting for a suspect to arrive at a 7-11 store to meet with [redacted]. A man and women matching the description that [redacted] had provided came to the 7-11 store. Based upon the information that [redacted] had provided, SA [redacted] believed that he had located the suspect in a red car as the car was leaving the 7-11 store. SA [redacted] started following the car and eventually got instructions to stop the car. They stopped the car and they were attempting to effect the arrest of the subjects and he heard a shot fired. The passenger was hit by a bullet that SA [redacted] had fired. They got the subject out of the car and SA [redacted] was there to give first aid and they called 911. b6 b7C

A/ASAC [redacted] spoke briefly with SA [redacted] SA [redacted] acknowledged that he fired his weapon and that he shot the subject. A/ASAC [redacted] instructed SA [redacted] not to speak about the shooting.

SAC HUNT arrived at the scene and was briefed by A/ASAC [redacted] A/ASAC [redacted] suggested to SAC HUNT that they allow the AACPD to process the shooting scene and take the vehicle. SAC HUNT met with CAPTAIN [redacted] AACPD, who was in charge of the scene to introduce herself. She then went over to the SAs involved and checked on them to make sure they were okay. b6 b7C

SAC HUNT after determining all the facts available at that time, and walking the crime scene, contacted DAD THOMAS LOCKE, Inspection Division. She again met with CAPTAIN [redacted] and they agreed how the crime scene would be processed. It was agreed that AACPD would take possession of SA [redacted] weapon.

SAC HUNT then discussed with her media representative a statement that the FBI would make to the press. A large number of press had now showed up at the scene.

SAC HUNT then contacted Chief THOMAS SHANNON, AACPD, to touch base with him and to ensure he was comfortable with the plan that had been developed.

SAC HUNT again met with the SAs involved and reemphasized the EAP program and to personally assess each SA's condition. She advised the SAs they would be interviewed in the morning and released them from the scene.

AACPD processed the scene and Baltimore ERT Team Leader, SA [redacted] coordinated with their crime scene team. AACPD maintained possession of all evidence found at the crime scene, including SA [redacted] weapon.

[redacted] the driver of the red vehicle, provided AACPD Detective [redacted] a written statement immediately after the shooting incident. In [redacted] statement to AACPD Detective [redacted] she stated that she and her boyfriend, [redacted] b6 b7C [redacted] were coming from the Marley Station Mall, when they stopped at the 7-11 store at the end of Marley Neck Boulevard for a slurpee and a mountain dew. She was the driver and [redacted] was the passenger. [redacted] went into the 7-11 store and she stayed in her car. They left the 7-11 store and drove down Marley Neck Boulevard to Fort Smallwood Road. At Fort Smallwood Road she turned right. She stated she did not see any cars behind her and did not hear any police sirens or see any police lights.

After turning onto Fort Smallwood Road she saw two men in a cream colored car beside her car. The men were motioning her to pull over. They had guns in their hands so she pulled over. She then saw the men get out of their car and one came over to her window yelling "put your hands up". The other man ran in front of her car and went to the passenger side and pointed his gun at the window towards [redacted] face. She could not remember if she saw anything on the men that identified them as the police or FBI.

She put the car in park and then heard a gunshot and the window shattered. She looked over at [redacted] and saw him holding his face screaming. Prior to hearing the gunshot she heard the men yelling "put your hands up", and she thinks one said "get out of the car". [redacted] had his seat belt on. She then opened the door and two men were yelling for her to get on the ground and pulled her out of the car to the ground. b6 b7C

On 03/02/2002 SAC Lynne Hunt advised IIP [redacted] that SA [redacted] the SA who shot and wounded [redacted], on 03/01/2002, was represented by counsel, and upon the advise of his counsel, would not be giving a voluntary statement at this time.

- P -

# 2002

Savage-1806

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/13/2003

To: Inspection Attn: Assistant Director
Lynne A. Hunt

CIRG SAC Stephen R. Wiley

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271921-D

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/26/2002
SAN JUAN DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/26/2002, involving Special Agents (SAs) [redacted] and [redacted] During a Special Weapons and Tactic (SWAT) Team, Close Quarter Battle (CQB) training exercise, SAs [redacted] and [redacted] were firing shots when a bullet ricocheted and seriously injured SA [redacted] SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this incident. However, SIRG members had numerous observations and issued numerous recommendations for corrective actions to prevent reoccurrence of this type of incident.

Administrative: [redacted] Reference report of Inspector-in-Place dated 08/28/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

On 07/26/2002, Agents of the San Juan Division were conducting a SWAT Team, CQB training exercise within a Shoot House range at Camp Santiago, Salinas, Puerto Rico.

During the course of training for a two-man entry exercise, SAs [redacted] and [redacted] entered the room after the introduction of a flash-bang device and discharged H&K MP-5 weapons at a stationary target trap. The discharge of the weapons resulted in the ricochet of several rounds off of a desk top, which also appeared to have missed the target trap and ricocheted off the concrete wall immediately behind the target trap. One of the rounds ricocheted upwards toward the catwalk where SA [redacted] was observing and struck him in the right eye. b5 b7C

Sometime between 8:30 a.m. and 9:00 a.m., members of the SWAT Team arrived at the Camp Santiago Shoot House. The team received detailed "talk through" and "walk through" training related to two and four man room entries and clearing techniques. The training was led by SWAT Team Leader (TL) SA [redacted], who provided new operators copies of the SWAT Training Manual pertaining to CQB training. During the "walk through" training the importance of shot placement, weapon discipline, safety and shot accuracy were emphasized to minimize the potential for ricochet dangers. During the training, TL [redacted] advised operators to fully load their MP-5 weapons consisting of 25 rounds of 10mm, Full metal Jacket, "ball" type, ammunition.

After the "walk through" training exercises, a detailed safety briefing was conducted by SA [redacted] the designated Safety Officer. The safety briefing concentrated on identifying the designated ambulance in the event of an injury, EMT personnel, location of the Aid Bag, and air and ground MedEvac plans were coordinated and confirmed. b6 b7C

After the safety briefing conducted by SA [redacted] Assistant SWAT TL SA [redacted] a Certified Firearms Instructor, provided a second briefing regarding the use of live ammunition in the Shoot House and again cautioned participants about potential ricochet danger. All members were instructed to utilize their SWAT gear consisting of a helmet and vest as well as hearing and eye protection.

A final instruction and demonstration regarding the use and safe deployment of a flash-bang device was provided by TL [redacted]. Operators were instructed to leave the Shoot House to allow TL [redacted] to prepare the training room. SA [redacted] designed, participated in, and supervised the arrangement of the room to be used during the exercise which included target/trap placement and the placement of an empty metal file cabinet and an executive style wood desk.

At approximately 11:45 a.m., SA [redacted] selected SAs [redacted] and [redacted] as the first team to perform a two-man entry exercise using live ammunition. Both Agents wore complete SWAT gear and were armed with H&K MP-5 weapons, loaded with 10mm Full Metal Jacket, "ball" type, ammunition and fully loaded sidearms. b6 b7C

After being advised that observers, safety officers, and evaluators were ready, SA [redacted] informed SAs [redacted] and [redacted] that the live fire exercise was ready to begin. He provided each with a practice flash bang device and instructed them to prepare for room entry. Both Agents were asked if they had any questions and both responded in a negative manner. TL [redacted] informed the Agents that on the count down, as previously rehearsed, they were to execute a two-man single room live dynamic entry using the practice flash bang provided.

After the countdown was completed without incident, SAs [redacted] and [redacted] executed the two-man entry. Just prior to the commencing of the live fire drill, SA [redacted] walked south on the catwalk toward the target corner to get a better view of the participants as they delivered the flash bang device. Immediately after the flash bang device was delivered, SA [redacted] turned his head away from the room in order to protect his face and body from the detonation. After the detonation, SA [redacted] turned back around to evaluate the participants.

SAs [redacted] and [redacted] entered the room and began discharging their H&K MP-5 weapons. According to SA [redacted], he recalled looking into the room at the shooters as they were firing and heard two or three shots before being struck in the eye by an object. The force of the impact spun SA [redacted] around forcing him to land in a prone position on his stomach. He realized he had been hit in the right eye, noted the missing right eye piece to his sunglasses and could feel blood running down his face. After a few seconds, SA [redacted] turned SA [redacted] on his back and began to administer first aid and was quickly transported to the first aid station at Camp Santiago. SA [redacted] was carried down to the b6 b7C

evacuation vehicle for transport to the base helicopter pad and evacuated to the Centro Medico Trauma Center.

On 12/03/2002, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The only nonvoting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members held a lengthy discussion regarding this incident and unanimously concurred that the injury to SA [redacted] was the result of a myriad of unsafe actions and inattention to rules and regulations by individuals participating in the exercise. These actions include, but are not limited to, no contact by the FBI with the National Guard regarding the use of the shoot house; no red flag hoisted indicating that the shoot house was in use; observers were located in the line of fire; furniture was placed in the room in direct violation of Standard Operating Procedures

(SOPs) established by the military, as well as the neglect of SA [redacted] to utilize appropriate helmet and goggles during the exercise. These issues resulted in the issuance of numerous recommendations by SIRG members.

Arrangements for use of the shoot house were made prior to the day of the incident through Major [redacted] and Sergeant [redacted] of Company C, 3rd Battalion, 7th Special Forces Group. The Puerto Rico Army National Guard has responsibility for the ranges at Camp Santiago and utilize SOPs prepared by the Special Forces Group. According to an individual of the Puerto Rico National Guard, use of the shooting house required contact with the National Guard Range Control. Once approval is granted for use of a facility, users are required to get a safety briefing at Range Control who subsequently provide a flag to be displayed at the range being utilized. Additionally, the entity utilizing the range would be required to have a person present at Range Control with radio communication capability to facilitate communication between Range Control and the users at the range. b6 b7C

Although TL [redacted] consulted with the Special Forces Group regarding the use of the shooting house, proper coordination with the National Guard was not accomplished. Therefore, no red flag was hoisted indicating that the shoot house was in use.

TL [redacted] designed, participated and supervised the arrangement of the room to be used during the exercise. The arrangement included target/trap placement and the placement of an empty metal file cabinet and an executive style wood desk. The placement of the desk obscured at least half the target from the view of the shooters. b6 b7C

It should be noted that a review of the SOPs for using the shoot house regarding CQB Safety specifically address required safety equipment as well as the instruction that no furniture will be positioned where it may mask an assaulter. Additionally, SA [redacted] admitted that prior to 07/26/2002, he had never seen a copy of the SOPs for the shoot house nor had he requested information regarding a risk assessment on the shooting house. According to SA [redacted] it never occurred to him to do his own risk assessment. He also advised that the Special Forces Group never advised him to avoid using furniture to obstruct targets and that the

prohibition against placing furniture in front of targets would have been important information and would have influenced his decisions regarding the use of the house.

This discussion led to the issuance of three recommendations for the Critical Incident Response Group (CIRG). Members opined that the CIRG should review established protocols for shoot houses and reiterate to all offices proper procedures for using shoot houses; conduct an onsite review of the San Juan SWAT Program and report lessons learned to all offices to prevent this type of occurrence in the future; and that the role and responsibility of the SWAT Coordinator and SWAT Advisor be clarified and documented.

The next area of discussion pertained to TL [redacted] SIRG members discussed the possibility of a candor issue as well as SA [redacted] disobeying a direct order made by Assistant Special Agent in Charge Jose E. Figueroa.

According to SA [redacted] the Friday before the shooting incident, he and SA [redacted] met with [redacted] and [redacted] Initially SA [redacted] advised that he asked Major [redacted] if the FBI could use the range the following Friday. He then advised that he couldn't recall whether he asked about using the range. Later in the conversation, SA [redacted] advised that he did recall asking the Major if they could use the range but could not remember Major [redacted] response, if anything. When advised by the interviewing Agents that Major [redacted] said he informed SA [redacted] that he could use the range but not for live fire, SA [redacted] denied that was the case. When asked what was said regarding the use of the shooting house and live fire, SA [redacted] could not recall. SIRG members recommended that further inquiry of this incident be conducted by the Office of Professional Responsibility (OPR) to confirm that this incident occurred as described by SA [redacted]

b6
b7C

Another issue related to SA [redacted] disobeying an order of ASAC Figueroa. According to ASAC Figueroa, on the afternoon of the incident, while at the hospital with SA [redacted] he told the SWAT members present, including SA [redacted] not to discuss the shooting until they had provided statements to the Bureau pursuant to shooting inquiry policy.

According to SA [redacted] on the Tuesday after the incident, he and SA [redacted] met with Major [redacted] and Colonel Cruz at Camp Santiago to discuss the incident.

According to SA [redacted] on the Monday after the shooting, SA [redacted] asked him to accompany him to a meeting at Camp Santiago because the Camp Safety Officer wanted to know what happened. SA [redacted] explained to SA [redacted] that FBI management wanted to protect the relationship with the military.

ASAC Figueroa advised that SA [redacted] did not ask him for authority to talk to Army National Guard or Special Forces personnel about the shooting. When confronted with the information provided by ASAC Figueroa, SA [redacted] stated that he told ASAC Figueroa the Army wanted to talk to him about the shooting and that the ASAC had given him authority to meet with them.

At the conclusion of the interview with SA [redacted] on 08/20/2002, he was directed to refrain from discussing any of the matters with anyone involved until the inquiry was concluded. Upon questioning, SA [redacted] admitted he had already talked to SA [redacted] about how to respond to questions regarding a meeting previously held with [redacted] He acknowledged he was purportedly taking a break from the interview to use the restroom. SA [redacted] further admitted that he asked to take the break in order to contact SA [redacted] who had just been interviewed by Inspectors and wanted to advise SA [redacted] that there was an issue with [redacted]

b6
b7C

Additionally, a review of SA [redacted] FD-302 dated 08/20/2002, identified several areas in which there existed a perceived lack of candor on his part. These issues dealt with him not being told that he should not place furniture in front of a target, an issue with the safety of using the shooting house, and, although not intentional, a deceptive response when advised by [redacted] that they could use the house as long as he had a copy of the SOP and a medical evacuation plan. All of these issues in totality resulted in the recommendation that further inquiry of this incident be conducted by the OPR regarding possible lack of candor on SA [redacted] part as well as his neglect in complying with ASAC Figueroa's instruction regarding further discussion of the incident.

The next area of discussion by SIRG members pertained to the performance of Supervisory Special Agent (SSA) [redacted] in his role as the SWAT Advisor for the San Juan Division. SSA [redacted] was appointed as the SWAT Advisor on 04/22/2002 by then SAC Marlene Hunter.

b6
b7C

On the day of the incident, SSA [redacted] observed the SWAT training conducted at the shooting house. After the safety briefing, the order to "gear up" was given. Both SSA [redacted] and

SA [redacted] were positioned on the cat walks above the target room in order to observe the exercise. Neither was wearing appropriate head gear and this was brought to the attention of SA [redacted] who elected not to wear his helmet. These actions resulted in the belief by SIRG members that as the SWAT Advisor, SSA [redacted] did not use good judgement regarding his safety and well as that of SA [redacted]

According to SSA [redacted] no duties or responsibilities of the SWAT Advisor had been articulated or documented. SSRA [redacted] advised that he had discussed his role on several occasions with former SAC Hunter to clarify what was expected of him and felt that the expectations were vague and non-specific. SSA [redacted] advised that since his assignment as SWAT Advisor he was advised by TL [redacted] when and what type of training is scheduled. It was SSA [redacted] belief that his role with the SWAT Team was not to be a supervisory role with attendant responsibilities based upon his review of the MIOG and his communication with the SAC. This discussion resulted in the recommendation that the SAC of CIRG clarify and document the role and responsibilities of the SWAT Coordinator and SWAT Advisor positions and advise all offices.

b6
b7C

The last issue discussed regarding the incident evolved around SA [redacted] decision not to utilize a Kevlar helmet or appropriate eye protection as required by the SOPs regarding CQB activities.

According to SA [redacted] he was wearing Bolle sunglasses at the time of the accident. He stated that he had purchased high quality, double pane, goggles but did not elect to wear them at the session. Additionally, SA [redacted] decided to not wear his helmet because he feared errant rounds traveling up from the shooting area could be trapped in his helmet and cause additional damage to his head. As stated previously, an Agent specifically addressed the issue of SA [redacted] not wearing his kevlar helmet with him. Again, SA [redacted] responded that in the event of a bullet strike he preferred if the bullet exited clean without striking the inside of the helmet and possibly ricocheting back into his head. This discussion led to the recommendation that the SAC of the San Juan Division remind all Special Agents to utilize available protective gear when appropriate. This matter will be brought to the attention of the SAC.

b6
b7C

LEAD(s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

Set Lead 2:

CRITICAL INCIDENT RESPONSE GROUP

AT QUANTICO, VA

That the SAC, CIRG, review established protocol regarding the use of shoot houses and reiterate this protocol to all field offices.

Set Lead 3:

CRITICAL INCIDENT RESPONSE GROUP

AT QUANTICO, VA

That SAC, CIRG, conduct an onsite review of the San Juan Division SWAT Program.

Set Lead 4:

CRITICAL INCIDENT RESPONSE GROUP

AT QUANTICO, VA

That SAC, CIRG, clarify and document the role and responsibilities of the SWAT Coordinator and SWAT Advisor positions and advise all offices.

To: Inspection From: Inspection
Re: 297-HQ-A1271921-D, 02/13/2003

Set Lead 5:

OFFICE OF PROFESSIONAL RESPONSIBILITY

AT WASHINGTON, DC

That AD, OPR, conduct further inquiry of this incident regarding possible lack of candor on SA [redacted] part as well as his neglect in complying with ASAC Figueroa's instruction regarding further discussion of the incident.

b6
b7C

1 - Mr [redacted] Rm. 7142
2 - Mr [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mrs. Hunt, Rm. 7825
1 - Mr. [redacted] Rm. 7129
(Attention: Adjudication Unit)
1 - Mr. [redacted] Rm. 7837
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Elder, Rm. 5155
1 - Mr [redacted] Rm. 6650
1 - Mr [redacted], Rm. 3787F
1 - Mr [redacted] Quantico
1 - Mr [redacted], Quantico
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 12/04/2003

**To:** Inspection
Training

**Attn:** AD Steven C. McCraw
SAC Andrew R. Bland, III

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** McCraw Steven [redacted]

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1270951-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
03/01/2002
BALTIMORE DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 03/01/2002, involving Special Agent (SA) [redacted] While Federal and local law enforcement officers were attempting to arrest an individual believed to be an armed and dangerous bank robbery subject, SA [redacted] fired one round from his Bureau-issued M-4, 5.56 millimeter rifle injuring an individual believed to be the bank robbery subject. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 03/08/2002.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 12/04/2003

**Details of the Shooting Incident**

On Wednesday, 02/20/2002, at approximately 9:42 a.m., a lone, unidentified white male entered the Allfirst Bank in Pasadena, Maryland, approached a bank teller and yelled words to the effect, "Get down on the floor". All bank employees complied with the robber's commands. As the bank robber displayed a pistol to one bank teller's face, she complied with his command to give money. The bank robber, continuing to display the pistol, moved to another teller and shouted words to the effect, "Give me your money. You've got ten seconds or I'll blow your fuckin' brains out". The second teller also complied with the robber's demand for money. After obtaining money from both tellers, the armed robber exited the front door of the bank. Witnesses observed the robber get into the passenger seat of a dark green, Ford Ranger, truck with lettering, "Bonded and insured [redacted]" on the side. The truck was subsequently recovered by officers of the Anne Arundel County Police Department (AACPD).

SA [redacted] of the Annapolis Resident Agency (ARA) was assigned as the case Agent for the bank robbery. On 02/20/2002, SA [redacted] interviewed the owner of the truck used by the bank robber, and was advised that he loaned the truck to his neighbor on the evening of 02/19/2002. It was subsequently determined that someone had removed the truck from its parking place.

On 02/26/2002, SA [redacted] was contacted by a Detective of the AACPD who advised that he received information that [redacted] had recently robbed a bank in Pasadena. The Detective also advised that [redacted] was a crack and heroin addict who had recently been released from jail. Information was also received that an individual known as [redacted] (last name unknown) was involved in the bank robbery. b6 b7C

Based on the information received by SA [redacted] he obtained a photograph of [redacted] as well as the bank surveillance photographs. SA [redacted] showed the photographs to four individuals and all of them believed that the subject in the bank surveillance photographs was indeed [redacted] SA [redacted] also received information regarding [redacted] current residence, the fact that he had not worked on 02/20/2002, and he was not home on the evening of 02/19/2002. Additionally, SA [redacted] was advised that a [redacted] b6 b7C b7D

On 03/01/2002, at approximately 12:07 a.m., SA [redacted] was advised that [redacted] had returned to his room with a girlfriend. Information was also received that [redacted] admitted to an acquaintance that he had committed a felony. When asked if he had robbed a bank, [redacted] stated, "No, [redacted] did. I drove the getaway car". [redacted] subsequently received a phone call and was advised the FBI was looking for him.

Between 8:15 a.m. and 9:00 a.m., SA [redacted] received a phone call from [redacted] the individual previously identified as being the bank robber. SA [redacted] recognized the caller's voice as belonging to an individual known as [redacted] who he previously arrested for bank robbery. During his conversation with SA [redacted] admitted knowing [redacted] but denied any involvement in any crimes with him. [redacted] advised SA [redacted] that he was not going to say anything else and stated that he would contact SA [redacted] later, possibly with an attorney. b6 b7C

SA [redacted] contacted an Assistant United States Attorney (AUSA) and described the events that had taken place. The AUSA advised an arrest warrant for [redacted] would be signed later that afternoon.

Later that day, SA [redacted] received additional information from an acquaintance of [redacted] (hereafter referred to as source). [redacted] He also advised [redacted] had heard that the FBI was looking for him and he was going to flee. The source also stated [redacted] was sounding hysterical, crying and heaving, and was an emotional mess. It was also believed that [redacted] might be suicidal because he had previously stated that he would not go back to prison.

SA [redacted] placed another telephone call to the AUSA handling the case, conveying the earlier conversation he had with the source. The AUSA agreed on the exigent circumstances and authorized the arrest of [redacted] at the planned meeting later that day.

SA [redacted] contacted Acting Supervisory Special Resident Agent (A/SSRA) [redacted] regarding the exigency of the situation and the need to execute an arrest. He also advised of his conversation with the AUSA and the fact that based upon review of an NCIC printout and source information, [redacted] was believed to be Armed and Dangerous, a crack head and heroin addict, and there was strong evidence that he might flee the area. b6 b7C b7D

A/SSRA [redacted] agreed to go ahead with the arrest and contacted Acting Assistant Special Agent in Charge (A/ASAC) [redacted] advising him of the situation and requested additional Agents to assist with the arrest. A/ASAC [redacted] requested that an Operations Plan be facsimiled to him as well as his completed affidavit. A/ASAC [redacted] advised A/SSRA [redacted] that he would send five additional Agents to assist and to attend the briefing at the ARA. A/SSRA [redacted] received specific instructions to ensure that all Agents participating in the operation received a complete briefing. A/SSRA [redacted] also advised A/ASAC [redacted] that an Operations Plan would be prepared and forwarded to him via facsimile. b6 b7C

A short time later, A/ASAC [redacted] received another telephone call from A/SSRA [redacted] and SA [redacted] who provided additional details regarding the operation. SA [redacted] advised that the source would be talking to [redacted] around 4:00 p.m., and that there was a good possibility that he would lead the Agents to [redacted]. A/ASAC [redacted] advised A/SSRA [redacted] that he had verbal approval for the operation, however, he needed a copy of the Operations Plan facsimiled to him prior to the Agents going out.

Five Agents were notified and instructed to attend the 3:00 p.m., arrest briefing in the ARA. SA [redacted] prepared a handwritten information sheet for distribution to the Agents participating in the surveillance/arrest. The sheet included a photograph of [redacted] a brief physical description, and a description of vehicles used by him. SA [redacted] also prepared a handwritten Operations Plan attaching the arrest affidavit as well as an NCIC report regarding [redacted] These documents were also provided to A/SSRA [redacted]

The arrest was planned to be a static event when the [redacted] the plan called for both individuals to be arrested. SA [redacted] left the building and conducted a radio check with the ARA while in his Bureau vehicle. b6 b7C b7D

During the arrest briefing, participants were advised [redacted] in Glen Burnie, Maryland. Also discussed at the briefing was the possibility of a stationary vehicle arrest. The plan noted that in the event a positive identification of [redacted] was made, the team would block his vehicle and effect the arrest. Specific duties of arrest team members, including the identification of a specific signal once a positive identification

was made of [redacted] were not made due to the uncertainty of the situation. No specific individual was designated the responsibility of positively identifying the suspect and no formal designation of a team leader was made. Arrest team members were advised that AACPD Detectives would be assisting in the operation.

Arrest team members were subsequently notified that the meeting would likely take place in the vicinity of the Sun Valley Shopping Center. At approximately 4:00 p.m., the source contacted SA [redacted] and advised that [redacted] Immediately following his conversation with the source, SA [redacted] received a phone call from [redacted] asking what was going on. [redacted] advised him that nothing was going on and he was going home. SA [redacted]

b6
b7C
b7D

The source again called SA [redacted] and advised that [redacted] Information was provided that the driver of the vehicle could be [redacted] who was with [redacted] the night before. [redacted] was described as having short, red hair. Additionally, information was provided that [redacted] usually wore a white baseball cap.

SA [redacted] contacted SA [redacted] via Nextel and advised of the intended location for the meeting with [redacted] SA [redacted] then transmitted the meeting location information over the FBI radio. SA [redacted] advised participants that [redacted] was being driven in a car by a possible redheaded, white female.

b6
b7C
b7D

Between 5:15 and 5:30 p.m., SA [redacted] reported that the [redacted] in the vicinity of Glen Burnie.

[redacted] As he pulled up to the [redacted] he observed [redacted] in a red Honda Civic being driven by the subject's sister. [redacted] SA [redacted] by phone, however his cell phone went dead. [redacted] vehicle did not return to the convenience store.

SA [redacted] observed the [redacted] At approximately 5:50 p.m., SAs [redacted] and [redacted] observed a late model, red vehicle (subsequently identified as a Pontiac Grand Am) drive into the 7-11 store parking lot. SA [redacted] radioed that a red vehicle had just [redacted] SA [redacted] observed a white male wearing a white baseball cap exit the passenger side front seat of the vehicle and enter the store. The subject stayed in the store for two to three minutes and appeared to meet [redacted] before exiting the store and re-entering the red vehicle. SA [redacted] concluded that the subject had possibly [redacted] due to his observing them in close proximity to each other within the store and appearing to have had contact. b6 b7C b7D

SAs [redacted] and [redacted] indicated they could see the red vehicle and from their vantage point across the street, it appeared as though the white male passenger fit the physical description of [redacted] According to SA [redacted] this assumption was made because the passenger appeared to be a white male, approximately the same height, weight, and age as [redacted] and was wearing a baseball cap, as was his habit. The Agents could not see the driver of the vehicle, however, advised SA [redacted] of the presence of the vehicle and its occupants and requested that he make an attempt to observe the driver. As SAs [redacted] and [redacted] began to move in the direction of the 7-11, they heard over the radio that the subject was in a "red car". They observed a red car and its occupants exiting the west entrance/exit of the store parking lot. The vehicle was driven by a red-haired, white female. The passenger was a white male wearing a white baseball cap. SA [redacted] heard someone call out over the radio, "Follow the red car...don't loose it".

[redacted] notify the FBI and tell them [redacted] was a passenger in a red Honda located in the vicinity of the 7-11 store at Route 648 and Marley Neck Road. Two AACPD Detectives received a call on the radio that [redacted] and a subject they were looking for was driving around a 7-11 store in a small red car. One of the detectives immediately phoned the dispatcher to obtain additional information about the caller. The dispatcher advised that she had received a 911 call [redacted] and "the bad guy...the one you're looking for, just drove by the 7-11 in a red b6 b7C b7D

Honda driven by his sister." While the detective was on the phone with the dispatcher, SA [redacted] contacted the detectives over the radio and told them the subject was in a red car traveling north on 648.

SA [redacted] did not report any positive contact with the source nor did he receive positive confirmation that [redacted] had been at the 7-11 store. However, SA [redacted] was convinced that [redacted] was probably in the red car which had been parked adjacent to the source's truck at the 7-11 store, that the vehicle was moving on Highway 648 northbound, and that it needed to be followed.

b6
b7C

SA [redacted] advised the red vehicle was exiting the 7-11 store parking lot and was turning right on Marley Neck Boulevard. SAs [redacted] and [redacted] advised SA [redacted] via Nextel to follow the red vehicle. According to SA [redacted] he also advised they did not know who was in the car.

SAs [redacted] and [redacted] were temporarily prevented from following the red vehicle due to traffic, however, a short time later joined the lead FBI vehicle who was following the red car. SA [redacted] radioed that the subject vehicle was approaching a red light and moments later advised that the vehicle was at the red light. He also asked if a vehicle stop should be initiated. SA [redacted] responded, "Yes, go ahead if you think you can".

The subject vehicle was stopped at the red light with its brake lights on. SA [redacted] pulled up behind the vehicle, placed the red and blue visor emergency light into the down position, and activated the emergency lights. As the emergency lights were activated and SA [redacted] reached for his siren, it appeared the driver of the vehicle was responding by releasing the car brakes and turning right on the red traffic light. SA [redacted] advised SA [redacted] to activate the Wig Wag headlights, the visor strobe and the siren. As SA [redacted] gave the siren several short blasts, the red vehicle turned right on red and rapidly accelerated. Believing the subject vehicle was attempting to evade the stop, SA [redacted] positioned his vehicle along the left side of the vehicle while SA [redacted] positioned his vehicle behind and slightly to the left of the subject vehicle. SA [redacted] attempted to force the red vehicle to the side of the road in order to effect the traffic stop. SA [redacted] made eye contact with the female driver of the subject vehicle and motioned for her to pull over. He yelled, "Police. Pull over", several times through his closed window. The female pulled onto the shoulder of the road. SA [redacted] exited from the front passenger side of the lead FBI vehicle and

b6
b7C

moved to the front of the red vehicle with his MP-5 rifle pointed at the occupants of the subject vehicle. SA [redacted] retrieved his MP-5 rifle and ran to the driver's side door of the subject vehicle and attempted to open the locked driver's door. He pounded on the driver's window and called out, "FBI... Open the door". He also heard several Agents on the passenger's side yelling, "Show me your hands". SA [redacted] was concentrating on the driver, attempting to verbally direct her to open the door and exit the vehicle, when he heard a "pop" sound. The female screamed and opened her door. As she exited the vehicle, SA [redacted] using the palm of his hand, pushed her in the middle of the back down on the ground and instructed her to put her hands above her head. b6 b7C

SA [redacted] exited his vehicle and proceeded around the front of the subject vehicle to the passenger side. SA [redacted] was shouting, "Police! Police! Show me your hands!" from the time he exited his vehicle until he reached the passenger side of the vehicle. According to SA [redacted] he never saw either person in the red vehicle raise their hands. He attempted to open the passenger side door, however, it was locked. As his attempt to open the door failed, SA [redacted] heard SA [redacted] yelling, "show me your hands".

Prior to SA [redacted] making contact with the female driver, SA [redacted] stepped to the right and made eye contact with her through the passenger side window. SA [redacted] was aware that SA [redacted] was in position to cover the passenger and believed the driver was in a better position to unlock the vehicle doors. SA [redacted] yelled for her to "unlock the door". As he saw the driver's left hand move towards the door, SA [redacted] again yelled to the driver to unlock the door. As he was yelling for the driver to unlock the door, the passenger window exploded. SA [redacted] saw the passenger move over to the left and his face was covered with glass and blood.

Immediately following the shooting, SA [redacted] opened the passenger door, pulled out the passenger, put him face down on the ground, and placed him in handcuffs. SA [redacted] a Nationally Registered Emergency Medical Technician - Paramedic, provided medical treatment to the male passenger while awaiting the arrival of an ambulance. During the course of providing care to the victim, SA [redacted] asked him his name. The victim advised his name was [redacted] SA [redacted] was advised by one of the Agents on the scene that the victim was not identical to bank robbery subject [redacted] Upon confirmation of this information, SA [redacted] instructed that the victim be uncuffed. b6 b7C

After the patient was evacuated, SA [redacted] asked SA [redacted] what had transpired. According to SA [redacted] the subject did not comply with his and SA [redacted] verbal commands to show his hands and had reached toward his waist on several occasions. SA [redacted] advised that these actions put him in fear for his life as well as that of SA [redacted] therefore he shot the subject in an attempt to eliminate the threat.

b6
b7C

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, on 06/11/2003, regarding SA [redacted] actions in this shooting incident. On 07/02/2002, a grand jury decided not to indict SA [redacted] regarding his actions during this shooting incident.

On 10/15/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Steven C. McCraw, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge [redacted] Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Assistant Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief (UC), Physical Surveillance Unit, Counterintelligence Division; [redacted] UC, National Firearms Program, Training Division (TD); [redacted] UC, Investigative Law Unit, Office of the General Counsel (OGC); [redacted] UC, Firearms Training Unit, Training Division; [redacted] Program Manager, Operational Skills Unit, TD; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, OGC; and SSA [redacted] Washington Field Office. The three non-voting members present were SSA [redacted] Operational Skills Unit, TD; [redacted] and [redacted] Management/Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 12/04/2003

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The first area of discussion by the SIRG pertained to the use of deadly force by SA [redacted] Members discussed the fact that the incident involved a high risk vehicle stop and that the totality of circumstances surrounding the incident resulted in the use of deadly force by SA [redacted] With the exception of one attendee who stated that after reviewing the information provided, he could not visualize the presence of "imminent danger" to law enforcement officers, members concurred that the use of deadly force was justified. The final decision by the majority of the SIRG members was that SA [redacted] was justified in his use of deadly force and that no administrative action should be taken against him as a result of his involvement in this shooting incident. b6 b7C

The next area of discussion centered around the operations plan, management oversight and training or safety issues. Members unanimously opined that the operations plan as well as management oversight provided was adequate in this incident. However, members held a lengthy discussion regarding felony car stops.

Areas of discussion included the actual execution of a felony car stop as being a "high risk" action. The following should be considered when conducting a high risk car stop: 1) Attempt to make a compliant stop with contingencies in place if the compliant stop fails and 2) Agents should maximize the use of cover at the initiation of the stop and should only leave cover in the most extreme circumstances. SIRG members noted that Agents participating in the car stop did not utilize cover electing instead to run towards the subject vehicle. Participants recognized that Agents must assess each situation and determine the proper tactical response, bearing in mind that safety is paramount. The attendee representing the Operational Skills Unit of the Training Division advised SIRG members that tactical training is required for Agents (MIOG Part 2, Section 12, 10.8-10.12);

however, felony car stops are not specifically required as part of the training. This discussion resulted in a recommendation that the Training Division mandate that felony car stops are a portion of required tactical training.

Members also noted that differing instructions were simultaneously being voiced by Agents on the scene. Members opined that training dictates that one individual should be the speaker and issue commands. The Training Division representative advised that this is a part of the current tactical training.

The SIRG opined that through training and the re-enforcement of established tactical principles, the needless risk of exposure to injury may be reduced.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 12/04/2003

**LEAD (s):**

**Set Lead 1:**

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

**Set Lead 2:**

TRAINING DIVISION

AT QUANTICO, VIRGINIA

That SAC, Training Division, mandate and implement a requirement that high risk vehicle stops must be included in required tactical training consistent with the Manual of Investigative Operations and Guidelines.

1 - Mr. [redacted] Rm. 7142
1 - Ms. [redacted] Rm. 7427
1 - Mr. Bland, Quantico
1 - Mr. McCraw, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] DIG
1 - Mr. [redacted] Rm. 5155
1 - Mr [redacted] Rm. 1B045 b6 b7C
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Rm. 7326
1 - Mr [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 12/05/2002

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271507-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
09/12/2002
EL PASO DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/12/2002, involving Special Agent (SA) [redacted] SA [redacted] discharged one round from his Bureau issued Glock Model 23, 40 caliber pistol at an individual who was about to throw a large rock at him and who was part of a large group of individuals that assaulted and severely wounded two other El Paso Division Agents. SIRG members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 11/08/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

On 09/12/2002, members of the FBI Special Weapons and Tactics (SWAT) Team, United States Customs Service, Union Pacific Railroad Police Department and the United States Border Patrol were involved in an operation to attempt to apprehend train robbers and train wreckers. As part of the operation, officials from the Republic of Mexico Customs and the Juarez Municipal Police agreed to provide assistance to law enforcement officials by apprehending any Mexican Nationals fleeing from U.S. law enforcement officials as they attempted to illegally re-enter Mexico.

Officers and Agents were positioned throughout the area, including positions on the train cars approximately 500 yards apart. At approximately 8:24 p.m., an eastbound train on the Union Pacific Railroad tracks began stopping and seven unidentified individuals were seen running from the south side in single file and illegally crossing into the U.S. through a hole in the fence separating the U.S. from Mexico. Additional individuals were also observed heading toward the fence and after crossing into the U.S., the individuals approached the stopped train. Several individuals boarded the train, while others walked down the length of the train to other cars.

As the train stopped, an individual boarded the top part of a train car containing three Agents. As the subject walked across the top portion of the train car, he was pulled into the well by SA [redacted] and apprehended. As additional individuals attempted to board the train and Agents attempted to effect arrests, the individuals as well as two of the Agents disembarked from the train.

As SA [redacted] disembarked from the train, she observed and pursued a male toward the hole in the fence. She grabbed the subject as he approached the fence, however he escaped her hold. SA [redacted] apprehended the subject again on the south side of the fence and as she handcuffed the subject they slid down the north side of the arroyo. SA [redacted] advised that a large group of people had gathered at the top of the south side of the arroyo and were throwing large rocks, sticks and bricks at her in an attempt to free the subject in her custody. SA [redacted] was struck by numerous rocks and sticks and as she was attempting to move the subject up the north side of the arroyo, she was struck in the head by a brick causing significant head trauma. As SA [redacted] attempted to reach SA [redacted] and provide assistance in the arrest, he was struck in the head by a large rock or brick. As both Agents moved the subject toward the fence, SA [redacted] was struck in the back of the head with a club. b6 b7C

As SA [redacted] straddled a subject he had arrested and was maintaining a crouching position in order to prevent the subject's escape and to minimize his profile behind a bush, he

observed the silhouette of an individual and gestured for the individual to come to his location. The individual stopped then fled through the opening in the fence. Shortly thereafter, while in the same position, SA [redacted] observed the silhouette of another individual approach the hole in the fence from the South side and recognized the individual as SA [redacted] who was bleeding from the face area.

Simultaneously, as SA [redacted] struggled with her subject, she was repeatedly struck with a baseball bat and severely beaten. As two of the subjects escaped, SA [redacted] crawled to the top of the arroyo and through the fence. As SA [redacted] rose to his knees to communicate with SA [redacted] the subject in SA [redacted] custody escaped and ran towards the fence opening. As SA [redacted] regained control of the subject he was struck in the back by a large rock. SA [redacted] observed approximately one dozen individuals approaching the fence opening who were yelling and throwing rocks and sand. Fearing for his life and that of his two incapacitated team members, SA [redacted] drew his pistol and aimed in at the group outside the fence opening. Observing a male subject preparing to throw a rock at him, SA [redacted] aimed his pistol at the man and fired one round. As the shot was fired, the group immediately fled the fence opening in an attempt to return to Mexico. Mexican officials arrested several of the subjects as the injured Agents were evacuated from the scene for medical assistance.

b6
b7C

Interviews of individuals on the scene failed to indicate any injuries or property damage resulting from the shot fired by SA [redacted]

On 12/03/2002, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The only nonvoting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG Chairperson emphasized to SIRG members that the focus of the discussion would strictly pertain to the shot fired by SA [redacted] and no other issues related to the planning or actions of individuals during the incident. It was explained to the group that an investigation had been conducted by the Criminal Investigative Division, FBIHQ, regarding all other aspects of the incident and no further review was appropriate. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271507-D, 12/05/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Ms. [redacted], USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Rm. 7837
1 - Mr. Elder, Rm. 5155
1 - Mr. [redacted] Rm. 6650
1 - Mr. [redacted], Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

♦♦



Savage-1833

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/12/2003

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1037

Approved By: Hunt Lynne A [redacted]

Drafted By: [redacted] rr

Case ID #: 297-HQ-A1271285-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/03/2002
CHICAGO DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/03/2002, involving Special Agent (SA) [redacted] SA [redacted] shot and killed a subject who entered his home and was non-compliant when instructed to surrender. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: [redacted] Reference report of Inspector-in-Place dated 12/20/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 06/12/2003

Details of the Shooting Incident

On 12/03/2002, at approximately 11:50 p.m., SA [redacted] and his spouse were asleep in an upstairs bedroom of their residence when they were awakened by the barking of their dog and loud banging noises originating from the first floor.

SA [redacted] retrieved his Bureau-issued Glock Model 22, .40 caliber pistol and a flashlight and proceeded to a landing of the staircase. As he observed an intruder, later identified as John Flahive, in the downstairs living room, SA [redacted] focused his flashlight on the intruder and yelled out, "FBI, get your hands up". Flahive turned to face SA [redacted] holding a knapsack in one hand while his other hand remained out of sight. b6 b7C

SA [redacted] repeated his command to the subject several times to raise his hands, but Flahive remained non-compliant. SA [redacted] shined his flashlight on his handgun to show the subject that he was armed; however, Flahive ignored SA [redacted] and took a step towards the staircase where SA [redacted] was standing. SA [redacted] quickly repeated twice, "Get your hands up". When the subject refused to comply, SA [redacted] fired one shot striking Flahive in the torso, causing him to fall on his stomach. Flahive moved his left hand toward his stomach prompting SA [redacted] to yell, "Get your hands where I can see them". The suspect complied with SA [redacted] command.

Police and Emergency Medical Service were called and Flahive was transported to a Berwyn, Illinois, hospital where four surgeries were performed prior to his death on 12/06/2002.

On 12/18/2002, the Berwyn Police Department issued a report outlining a declination of prosecution by the State's Attorney. On 04/21/2003, a declination of prosecution was issued by the United States Department of Justice, Civil Rights Division.

On 05/08/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; b6 b7C

Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted], Acting Section Chief, Operational Support Section, Criminal Investigative Division [redacted] Unit Chief, Operational Skills Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms Training Unit, Training Division. The only non-voting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in compliance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 06/12/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr [redacted] Rm. 7837
1 - Mr [redacted] USDOJ
1 - Ms [redacted] SDOJ
1 - Mr [redacted] OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. Manning, Rm. 1B045
1 - Mr [redacted] Rm. 5155
1 - Mr [redacted], Quantico
1 - Mr [redacted] Quantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Rm. 7861

♦♦

(Rev. 08-28-2000)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/17/2004

To: Inspection Attn: AD Steven C. McCraw

From: Inspection
Contact: [redacted] Extension 1837

Approved By: McCraw Steven [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271466-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/30/2002
DENVER DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/30/2002, involving Special Agent (SA) [redacted] SA [redacted] fired five rounds from his personally owned, Bureau approved, Glock Model 27, 40 caliber pistol, injuring an individual believed to be involved in a kidnaping. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Inspector-in-Place [redacted] dated 12/05/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

At approximately 11:00 p.m., on 11/30/2002, SA [redacted] assigned to the Colorado Springs Resident Agency, was en route to his residence in his personally owned vehicle. Deciding to purchase gas for his vehicle, SA [redacted] turned into an entry drive adjacent to a gas station. As he was making the turn, SA [redacted] observed a male and female arguing and physically struggling with each other behind a parked vehicle. As he approached their location, SA [redacted] lowered the window of his vehicle in an attempt to determine the nature of the problem. The woman yelled to SA [redacted] "Help me, help me!" SA [redacted] stopped and exited his vehicle and approached the individuals. As he approached, the male grabbed the female and forced her to the driver's side of a parked vehicle, out of SA [redacted] sight. SA [redacted] continued to approach the individuals and drew his pistol, chambered a round and held the pistol close to his side. The male subject grabbed the female around the neck and held her between himself and SA [redacted] SA [redacted] stated he was an FBI Agent and told both individuals to calm down and tell him what was going on. The male subject demanded proof of SA [redacted] identity and when SA [redacted] displayed his FBI credentials, the subject seemed to become further agitated.

b6
b7C

SA [redacted] removed his cellular telephone from his waistband and called 911. He advised the dispatcher that he was an FBI Agent and needed backup at his location. The male suspect advanced on SA [redacted] while still holding the female as a shield and stated, "Shoot me, shoot me". The subject also stated that SA [redacted] would not be able to shoot him because he was holding the woman as a shield. Both individuals advanced closer to SA [redacted] forcing him to back away while holding his pistol closer to his body and extending his left arm to keep the two individuals away from him.

At that time, according to witnesses on the scene, the male pulled the woman toward the parked vehicle. SA [redacted] stated that the female said, "Help me. Don't let him take me". The male subject put the woman into the vehicle through the driver's side back door and SA [redacted] advised that the female continued pleading for help. Believing that the woman was being kidnaped or the victim of a carjacking, SA [redacted] attempted to stop the male subject from getting into the vehicle by engaging in a physical altercation. The subject eventually entered the driver's seat of the vehicle with SA [redacted] continuing to struggle with him in an attempt to prevent him from inserting the keys in the ignition of the vehicle. The subject began driving forward and SA [redacted] backed away to avoid being struck by the vehicle. Deciding that he was unable to give chase in his personal vehicle, SA [redacted] decided to shoot the subject in an attempt to stop him from fleeing with the victim. Seeing the shape of the driver's head through the tinted

b6
b7C

rear window of the vehicle, SA [redacted] aimed and fired five rounds at the driver's position. The vehicle stopped and the male subject exited the driver's door and fell to the ground. In response to a call from the 911 dispatcher, SA [redacted] advised that shots were fired, one person was shot, and requested an ambulance at his location. SA [redacted] administered first aid to the suspect until assistance arrived.

The subject was transported to a local hospital where he recovered from a wound to the neck. b6 b7C

The Civil Rights Division, United States Department of Justice, issued a declination of prosecution on 10/22/2003, regarding SA [redacted] actions in this shooting incident. On 12/19/2002, a grand jury unanimously decided not to indict SA [redacted] finding that the shooting was justified.

On 05/12/2004, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Michael S. Clemens, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; My Harrison, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Unit Chief (UC), CD-6B, Counterintelligence Division; UC [redacted] Firearms Training Unit, Training Division (TD); SSA [redacted] Investigative Law Unit, Office of the General Counsel (OGC); SSA [redacted] National Firearms Program, TD; SSA [redacted] Operational Skills Unit, TD; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The two non-voting members present were [redacted] and [redacted] Management Program Analysts, Inspection Management Unit, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 05/17/2004

After a lengthy discussion, SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. A recommendation was made that no administrative action be taken against him as a result of his involvement in this shooting incident.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271466-D, 05/17/2004

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Ms. [redacted] Rm. 7427
1 - Mr. Clemens, Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] USDOJ
(Attention: Mr. [redacted]
1 - Ms. Harrison, Rm. 6050
1 - Mr. Manning, Rm. 1B045
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 5135
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mrs. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

♦♦

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 07/21/2003

To: Inspection Attn: AD Lynne A. Hunt
Training Acting AD Andrew R. Bland, III

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1270919-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/23/2002
ATLANTA DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/23/2002, involving Special Agents (SAs) [redacted] and [redacted] Both Agents discharged their weapons while attempting to arrest a fugitive resulting in an injury to a passenger in the subject's vehicle. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

Administrative: Reference report of Inspector-in-Place [redacted], dated 11/12/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1270919-D, 07/21/2003

Details of the Shooting Incident

On 09/25/2002, during the attempted arrest of [redacted] in the Kalamazoo, Michigan, area on burglary and theft charges, [redacted] attempted to "run over" two law enforcement detectives with his vehicle. As a result of [redacted] escape from arrest that day, and his attempt to injure the law enforcement officers, he was charged with two felonies, Assault With Intent to Commit Murder and Malicious Destruction of Property. A warrant was issued in Michigan charging [redacted] with Unlawful Flight to Avoid Prosecution. b6 b7C

Investigation conducted by the Detroit Division revealed a telephone number of a residence in Atlanta, Georgia, where [redacted] was possibly residing. Further investigation by the Atlanta Division determined that the possible address provided for [redacted] was the Riverwood Club Apartments and a surveillance of the immediate area conducted by SAs [redacted] and [redacted] identified two vehicles with Michigan license plates. Parked next to the two vehicles was a 2000 Chevrolet Tahoe displaying an Indiana license plate.

SAs [redacted] and [redacted] contacted the manager of the apartment building and showed him a photograph of [redacted] however, he could not identify him as being a resident of the complex. At the request of SA [redacted] the manager provided the Agents with an access code to operate an electronic gate to allow them access into the apartment complex the next morning.

In the late afternoon of 10/22/2002, SA [redacted] returned to the Atlanta Division to coordinate a surveillance for the next morning at the apartment complex location. At his request, five Agents were assigned to assist SA [redacted] and himself with the surveillance. The Agents discussed the details of the investigation and agreed to meet the next morning at 6:00 a.m., to assimilate a briefing plan. b6 b7C

On 10/23/2002, at approximately 5:15 a.m., SA [redacted] checked the code for the electronic gate to the apartment complex to ensure its operation and proceeded to the briefing site. All Agents involved in the surveillance viewed photographs of the subject, the arrest warrant and the affidavit for [redacted] arrest. Two scenarios were discussed during the briefing, one calling for the arrest of [redacted] inside an apartment and the second calling for him to be taken down as his vehicle stopped at the electronic gate. At the conclusion of the briefing, the seven Agents proceeded to the apartment complex and assumed their assigned duties.

After approximately three hours of surveillance and an unsuccessful attempt to contact the apartment [redacted] was believed to occupy, SA [redacted] requested that the Agents depart the area while he "checked a few more leads." Based on information provided by a cooperating source, SAs [redacted] and [redacted] traveled to another location. The source advised that the sister of [redacted] the occupant of the apartment being surveilled, resided at that location. Upon their arrival at the residence, a photograph of [redacted] was shown and verification was obtained that the photograph was that of an individual seen in the company of [redacted] Once the identification was verified, the Agents resumed their original positions.

b6
b7C

At approximately 10:55 a.m., an individual matching the description of [redacted] was observed on the ground floor area outside of the apartment talking on a cell phone. The source who contacted SA [redacted] was requested to go to the area and determine if, in fact, [redacted] was staying in the apartment. The plan called for the source to remove his baseball cap if the man talking on the cell phone closely resembled the [redacted]

The source entered the area and quickly removed his baseball cap, providing the signal that a person meeting [redacted] description was at his location. Shortly thereafter, the subject came out of the area and walked to the Chevrolet Tahoe and entered the operator's side. [redacted] exited the area behind [redacted] and entered the passenger seat of the vehicle. The vehicle proceeded toward the electronic exit gate. As the gate slowly opened, a Bureau vehicle parked across South Bolton Road activated its visor and "wig-wag" lights and pulled up to the front of the Tahoe in a blocking fashion. SAs [redacted] and [redacted] immediately pulled their vehicle to the back of the Tahoe, blocking its ability to back up and/or change directions. The third Bureau vehicle operated by SAs [redacted] and [redacted] positioned their vehicle to the right rear of the subject's vehicle. Agents on the arrest team, displaying FBI raid jackets and other insignia identifying themselves as FBI, issued commands for the occupants of the vehicle to exit with their hands up. When the occupants did not comply, attempts were made to shatter the passenger window with the butt of an M-4. As the Agents were attempting to shatter the vehicle window, the vehicle started moving forward, striking the Bureau vehicle positioned as the blocking vehicle. Several of the Agents observed SA [redacted] fall backward as if he had been shot or hit by the car or was attempting to get out of the way. SA [redacted] s feet were underneath the running boards of the subject's vehicle, requiring him to quickly move out of the way or be injured. SAs [redacted] and [redacted] positioned on the left side of the vehicle, discharged their weapons in an attempt to stop the

b6
b7C

driver from endangering SA [redacted] as well as other Agents on the scene. As the Bureau vehicle was rammed by the subject's vehicle, it was pushed approximately 35 feet backwards, allowing the suspect to flee the scene.

The Agents gave chase but were unable to apprehend [redacted] However, a short time later [redacted] the passenger in the vehicle, was located at a service station approximately one-half mile from the scene of the incident with a gunshot wound to his left shoulder. Medical personnel were requested and [redacted] was transported to the trauma unit at Grady Hospital where he was treated for the gunshot wound and released the same day. b6 b7C

On 03/31/2003, a declination of prosecution was issued by the United States Department of Justice, Civil Rights Division, regarding this shooting incident.

On 05/08/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; Jay C. Manning, Section Chief, CD-6, Counterintelligence Division; [redacted] Acting Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Operational Skills Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Investigative Law Unit, Office of the General Counsel; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms Training Unit, Training Division. The only non-voting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis,

observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by the Agents discharging their weapons was justified and in compliance with the deadly force policy. However, several observations were made by SIRG members regarding the arrest plans and conduct of the vehicle stop during this incident.

The first observation made by members was the fact that although the oral operations plan was adequate, the situation called for optimum planning including a written operations plan. The SIRG concluded that Agents involved in the incident had adequate time to complete a written operations plan with approval obtained by Atlanta Division management.

The second observation pertained to actions taken by the Agents conducting the car stop and attempted arrest of the subject. Members noted that the Agents were aware that a large Sports Utility Vehicle (SUV) was possibly being utilized by the subject. Prior planning for this arrest included utilizing blocking vehicles to "fence in" the subject vehicle. Members opined that when time, planning and vehicle availability permit, blocking vehicles should be larger and heavier than subject vehicles.

Members also noted that the Agents approached the vehicle which had heavily tinted windows, unnecessarily putting themselves in harms way. SIRG members believed it more prudent to call the individuals out of the car rather than rushing towards the vehicle. The consensus of the SIRG was that training dictates for law enforcement personnel to get and stay behind cover unless exigent circumstances occur, thereby, maintaining their safety. Additionally, one attendee noted fourteen shots were fired into the vehicle while Agents had the vehicle surrounded. Although no law enforcement personnel were injured during the incident, emphasis was placed on the fact that the Agents should have approached the subject vehicle from one side without the existence of exigent circumstances.

The last observation made by the group was the fact that, although not adversely affecting the outcome of this incident, multiple Agents were giving commands to the subject.

To: Inspection From: Inspection
Re: 297-HQ-A1270919-D, 07/21/2003

These observations will be brought to the attention of the SAC to ensure the future safety of all Atlanta Agents. Additionally, a recommendation was made that the Training Division re-emphasize proper methods for conducting car stops and defensive tactical training procedures to all SACs.

To: Inspection From: Inspection
Re: 297-HQ-A1270919-D, 07/21/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

Set Lead 2:

TRAINING

AT QUANTICO, VA

That Acting AD, Training Division, re-emphasize proper car stop methods as well as defensive tactical training procedures to all SACs.

1 - Mr. [redacted] m. 7142
1 - Mr. [redacted] Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. Bland, Quantico
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted], USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. Manning, Rm. 1B045
1 - Mr. [redacted] Rm. 5155
1 - Mr. [redacted] Quantico
1 - Mr [redacted] uantico
1 - Mr. [redacted] Rm. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

b6
b7C

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 12/05/2002

To: Inspection Attn: Assistant Director
Lynne A. Hunt

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A
Clemens Michael

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271971-D

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/02/2002
CRITICAL INCIDENT RESPONSE GROUP (CIRG)

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/02/2002, involving Supervisory Special Agent (SSA) [redacted] SSA [redacted] discharged his Bureau-issued Glock Model 22, 40 caliber pistol at a fox that attacked him as he attempted to enter his Bureau vehicle. SIRG members recommended that no action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference Electronic Communication of SSA [redacted] dated 08/14/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 12/05/2002

Details of the Shooting Incident

On 08/02/2002, SSA [redacted] was entering his Bureau vehicle in his driveway when he noticed a fox attacking his left ankle. SSA [redacted] kicked the fox several times, however, it repeatedly attacked him and eventually hid under his car. After putting his dog inside his residence, SSA [redacted] observed the fox biting, growling and pulling at a fence. As the fox again charged at SSA [redacted], he shot the animal in the right flank. As the animal charged at SSA [redacted] a third time, he fired two shots into its chest, killing the fox. b6 b7C

Animal Control retrieved the fox and determined that it was rabid.

On 12/03/2002, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Acting Section Chief, Applicant Processing Section, Administrative Services Division; Charles D. Elder, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The only nonvoting member present was [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 12/05/2002

SIRG members unanimously agreed that the use of deadly force by SSA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C



Savage-1852

To: Inspection From: Inspection
Re: 297-HQ-A1271971-D, 12/05/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Ms [redacted] SDOJ
1 - Mr [redacted] USDOJ
1 - Mr [redacted] Rm. 7837
1 - Mr. Elder, Rm. 5155
1 - Mr [redacted] Rm. 6650
1 - Mr. [redacted] Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr [redacted] Quantico
1 - Mr. [redacted], WFO
1 - Mrs. [redacted], Rm. 7861

♦♦

b6
b7C

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/24/2003

To: Inspection Attn: Assistant Director
Lynne A. Hunt

Training Attn: A/AD [redacted]

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Hunt Lynne A [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271285-D

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/09/2002
CHICAGO DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 10/09/2002, involving Special Agents (SAs) [redacted] and [redacted] Both Agents, as well as Chicago Police Department (CPD) Officer [redacted] returned fire after a subject fired shots through a door prior to his arrest. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

Administrative: [redacted] Reference report of Inspector-in-Place dated 10/25/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 02/24/2003

**Details of the Shooting Incident**

On 05/07/2002, a Federal arrest warrant was issued for [redacted] who was wanted for Conspiracy to Distribute a Controlled Substance. On 10/08/2002, members of the Joint Task Force on Gangs (JTFG), including Chicago Division SAs and Officers from the CPD were conducting surveillance activities in an attempt to locate and apprehend [redacted]. A vehicle that officers believed [redacted] was utilizing was located and stopped. During the course of the vehicle stop, [redacted] assist JTFG members in locating and apprehending him.

The individual was driven to a location on East 79th Street in Chicago, where he identified a third floor apartment as being the location where [redacted] was residing. An arrest plan was formulated and all JTFG members participating in the arrest were provided a detailed verbal briefing given by arrest Team Leader SA [redacted]. Information was disseminated regarding [redacted] background, a description of the clothing worn by him earlier that day, as well as information concerning the location of the arrest. SA [redacted] advised all participants that [redacted] should be considered armed and dangerous and then telephonically briefed his supervisor on the situation and obtained his concurrence regarding details of the arrest plan. b6 b7C b7D

On 10/09/2002, at approximately 12:30 a.m., a phone call was placed to [redacted] residence where it was learned that he was in an apartment on the third floor of the building and preparing to go to bed. This information was relayed to arrest entry team members positioned inside the apartment building. Arrest team members, all wearing body armor and law enforcement markings, were led by SA [redacted] down a long hallway toward [redacted] apartment. Prior to knocking on the apartment door, team members were all placed behind SA [redacted] to the right of the door. Participants began loudly knocking on the door and shouted their identities as law enforcement personnel. Receiving no response, and in accordance with the plan, Task Force Officer [redacted] began striking the door with a sledgehammer. As Officer [redacted] continued striking the door, numerous shots were fired from inside the apartment and through the door. SAs [redacted] and [redacted] as well as Officer [redacted] immediately returned fire. b6 b7C

Task Force Officer [redacted] yelled that an officer, later identified as Officer [redacted] was hit and down. Arrest team members continued to yell "Police" and [redacted] replied to the effect, "I want to give up". Law enforcement

personnel instructed States to open the door and come out. [redacted] attempted to open the door; however, the door was jammed. A sledgehammer was used to un-jam the door and States opened the door and was immediately arrested without further incident.

Officer [redacted] determined to have a shattered index finger, was transported to the hospital for treatment. Investigation determined that SA [redacted] fired three shots from his H&K MP-5, SA [redacted] fired four shots from his Springfield Armory .45 caliber semiautomatic pistol, and Officer [redacted] fired five shots from his nine millimeter pistol.

During interview with [redacted], he advised that he began to shoot into the hallway in response to what he thought was a home invasion. [redacted] advised that he did not know law enforcement authorities were outside his door. However, witnesses provided statements that they heard arrest team members announce their presence prior to shots being fired from [redacted] apartment. b6 b7C

On 01/22/2003, the SIRG met to discuss the above-captioned shooting incident. Assistant Director Lynne A. Hunt, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Domestic Security Section, Criminal Division, USDOJ; Assistant Special Agent in Charge Glenn Powell, Investigations Division, Office of Inspector General, USDOJ; [redacted] Chief Inspector, Office of Inspections, Inspection Division; Robert K. Cromwell, Section Chief, Applicant Processing Section, Administrative Services Division; [redacted] Acting Section Chief, CD-2, Counterintelligence Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; SSA [redacted] Washington Field Office; and SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division. The two non-voting members present were SSA [redacted] Assistant Inspector, Office of Inspections, Inspection Division, and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 02/24/2003

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] as well as that of Officer [redacted] was justified and in compliance with the deadly force policy. b6 b7C

Members noted that this was a fast evolving incident that did not allow for the preparation of a standard written operations order. However, a representative from the Training Division advised that a planning guide booklet is available for Agents which contains framework for immediate planning that can be utilized in this type of incident. Additionally, members noted that although not an issue in this incident, there was no documented evidence that inquiries were made regarding the presence of innocent third parties inside or near the residence of the fugitive. SIRG members recommended that this question be included in all arrest plans to reduce the chances of injury to innocent third parties and that all offices be reminded to address this issue in arrest planning. Additionally, members recommended that the Training Division reiterate policy to all field division Firearms Instructors regarding shooting into residences and vehicles, absent visible subjects, and ensure regularly scheduled firearms training includes discussion of this issue. Chief Division Counsels and field Firearms Instructors should coordinate any such training to ensure that the training amplifies and supports FBI deadly force policy. These observations will be discussed with the Special Agent in Charge of the Chicago Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 02/24/2003

LEAD (s):

Set Lead 1:

INSPECTION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

Set Lead 2:

TRAINING

AT QUANTICO, VA

That AD, Training Division, reiterate policy to all field division Firearms Instructors regarding shooting into residences and vehicles, absent visible subjects, and ensure regularly scheduled firearms training include discussion of this issue.

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7427
1 - Mrs. Hunt, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] USDOJ
1 - Ms. [redacted] USDOJ
1 - Mr. Powell, OIG
1 - Mr. Cromwell, Rm. 6012
1 - Mr. [redacted] Rm. 4042
1 - Ms. [redacted] m. 7326
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Rm. 7861

b6
b7C

♦♦



Savage-1858

# FBI
# Shooting Incident Report Summaries

# 2001

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 11/15/2001

**To:** Inspection **Attn:** AD David R. Knowlton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271905-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/09/2001
SACRAMENTO DIVISION

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/09/2001, involving Special Agent (SA) [redacted] Believing that a subject identified in a string of armed robberies was aiming a gun in his direction during an attempted escape, SA [redacted] fired one shot from a Bureau-issued MP-5 submachine gun hitting the passenger side window of the subject's vehicle. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 08/22/2001.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271905-D, 11/15/2001

**Details of the Shooting Incident**

On 08/09/2001, members of the FBI-led Stockton Violent Crime Task Force (SVCTF) were working in concert with the Stockton Police Department to locate and arrest gang member [redacted] was identified in a string of armed robberies, including one that occurred on Wednesday, 08/08/2001.

Acting on information developed, the Stockton Police Department was conducting surveillance of room 211 of a Motel 6 located in Stockton. Members of the SVCTF relieved Stockton Police Officers of surveillance of the subject at approximately 8:30 a.m., on 08/09/2001. b6 b7C

At approximately 10:40 a.m., the subject quickly left his second story room and rapidly entered his stolen Toyota Corolla. [redacted] entered the vehicle before law enforcement personnel had the opportunity to effect his arrest. As [redacted] was attempting to leave the motel parking area, SA [redacted] and a Stockton Police Department Task Force Officer blocked his escape. The subject sped around the motel with an officer following in an unmarked police vehicle with lights and siren activated. With the driver side of his Bureau vehicle facing the direction of [redacted] SA [redacted] parked his car at a corner of the motel to prevent the subject's attempted escape. SA [redacted] wearing body armor and an FBI raid jacket, exited the vehicle and stood by the passenger door with an MP-5 deployed. The subject approached SA [redacted] blocking position as if he was going to hit the vehicle. SA [redacted] observed the subject lean towards the passenger side of his car at which time he observed a dark object in the subject's hand. As the subject drove past his position, SA [redacted] believed that the subject was pointing a gun in his direction and was steadying the gun against the vehicle dashboard. Fearing for his safety, SA [redacted] fired one shot from his MP-5, breaking the front passenger window. [redacted] continued driving through a large chain link fence, down a curb into a field for approximately 100 yards before becoming stuck in soft dirt. Law enforcement personnel conducted a felony-style approach to the subject vehicle at which time [redacted] surrendered. b6 b7C

Investigation revealed that the round fired by SA [redacted] went through the passenger window, between the steering wheel and dashboard and lodged in the driver's door. At the time of the subject's arrest, a .22 caliber six-shot revolver containing three live rounds was located on the passenger seat of his vehicle.

No personal injuries were incurred as a result of the shot fired by SA [redacted]

To: Inspection From: Inspection
Re: 297-HQ-A1271905-D, 11/15/2001

On 11/13/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Willie T. Hulon, Chief Inspector, Inspection Division, Office of Inspections; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted] Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted], Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271905-D, 11/15/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pickard, Rm. 7142
2 - Mr. Garcia, Rm. 7116
(1 - Mr. Cousins)
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. Hulon, Rm. 7837
1 - Mr. Bartnik, Rm. 6646
1 - Mr. [redacted] Rm. 4042
(Attn: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC Robert O. Laughlin Office: Newark
Date: 07/26/2001

Case ID #: 66F-NK-105245

Title: "Shooting Inquiry"
Report of Shooting Incident, Newark Division
07/13/2001, Administrative Matter

Character: ADMINISTRATIVE INQUIRY

Synopsis: This inquiry was initiated subsequent to a shooting incident which occurred in East Orange, New Jersey during the afternoon of Friday, July 13, 2001. SA [redacted] (EOD: 07/05/98), accompanied by United States Customs Service (USCS) SA [redacted] who is assigned to a Newark Division Task Force, were investigating a potential stolen car ring based upon information provided to the Newark Division by the New Jersey State Police. Using a pretext of delivering license plates to the operator of a leased Mercedes-Benz E430, SAs [redacted] and [redacted] had arranged to meet the operator in the parking lot of a Rite Aid Pharmacy located at 543 Central Avenue, East Orange, New Jersey. The purpose of the meeting was to attempt to interview the vehicle's operator regarding the facts and circumstances of the vehicle lease. The NJSP had determined that the Drivers' Licenses used to effect the lease of the vehicles were fictitious and the Newark Division was investigating a Nigerian group engaged in similar activities which resulted in vehicles being fraudulently leased and eventually shipped out of the United States. There was no intention to effect either an arrest or seizure at this meeting. Two other vehicles, leased from the same Ohio dealership were recovered without incident on Thursday, 07/12/01 and during the morning of Friday, 07/13/01. Arriving first, SAs [redacted] and [redacted] waited for the vehicle operator at the Rite Aid parking lot, a location selected by the driver, later identified as [redacted], who arrived accompanied by a

b6
b7C

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

passenger. Subsequent to arriving, the passenger, who has since been identified as [redacted] exited the Mercedes-Benz. [redacted] remained in his vehicle with the driver's side front door open. As SAs [redacted] and [redacted] approached, [redacted] began to flee the scene and [redacted] placed the car in reverse, striking SA [redacted] with the door. Placing the car in forward, [redacted] struck SA [redacted] who landed on the hood of the car. While holding on, and continuing to identify himself, SA [redacted] drew his weapon, firing multiple shots into the vehicle's front windshield. As a result, [redacted] was struck in the arm and the Mercedes-Benz crashed into a parked car. [redacted] was apprehended, following a struggle, by SAs [redacted] and [redacted] with the assistance of two off-duty East Orange police officers. b6 b7C

During the investigation period, interviews were conducted with SA [redacted] Police Officers [redacted], and [redacted] as well as Rite Aid Pharmacy manager [redacted] all of whom are witnesses to the events leading to this inquiry. As a decision is pending whether or not to present this matter to the Essex County, New Jersey Grand Jury, SA [redacted] has declined an interview at this time on the advice of counsel.

Details:

1. SSA [redacted] provided a signed sworn statement on 07/23/01. SSA [redacted] stated that he had been contacted by the NJSP regarding the fraudulent lease of four luxury vehicles from an Ohio automobile dealership. In order to assist the NJSP and determine whether or not the lessees of these vehicles were connected to a Nigerian group being investigated by the Newark Division for similar activities, SSA [redacted] assigned SA [redacted] and USCS SA [redacted] to follow up on the information provided by the NJSP. Between Thursday, 07/12/01 and the morning hours of Friday, 07/13/01, SA [redacted] and [redacted] had located and recovered two of the vehicles. During the afternoon of Friday, 07/13/01 SA [redacted] and [redacted] arranged to meet with the operator of a third vehicle using the pretext of delivering the permanent license plates the vehicle operator was seeking to acquire. SAs [redacted] and [redacted] were attempting to conduct an interview only; no arrest or seizure was planned. Subsequent to arriving at the pre-arranged meeting place, SA [redacted] became involved in a shooting incident after the vehicle operator struck SA [redacted] and SA [redacted] with the vehicle. b6 b7C

2. SA [redacted] United States Customs Service, was interviewed and advised that he and SA [redacted] were assigned an investigation regarding the fraudulent lease of some motor vehicles. One of the lessees, who was cooperating, assisted in

the recovery of two vehicles. SAs [redacted] and [redacted] subsequently learned that the dealership where the vehicles were obtained had been receiving calls about permanent license plates for one of the vehicles. SAs [redacted] and [redacted] arrange a meeting with this individual on the pretext of delivering the license plates. It was their intention to interview the operator about the facts and circumstances of the lease. No arrest or seizure was planned or anticipated. Arriving at a pre-determined meeting site, SAs [redacted] and [redacted] approached the driver of a Mercedes-Benz E430. They asked if they might speak to him, at which time the driver placed the car in reverse, backing up at high rate of speed. SA [redacted] was struck by the open front driver's side door. As SAs [redacted] and [redacted] continued to identify themselves, the driver placed the car in drive, eventually striking SA [redacted] who landed on the hood of the vehicle. SA [redacted] then drew his weapon, firing from the hood until the Mercedes-Benz crashed into two parked cars, resulting in SA [redacted] being thrown from the vehicle's hood. SA [redacted] and SA [redacted] then attempted to subdue the driver, who was attempting to flee. This was eventually accomplished with the assistance of two off duty police officer. The passenger in the Mercedes-Benz fled the scene prior to the shooting incident.

b6
b7C

3. Police Officer [redacted], East Orange Police Department, was interviewed and advised that on the afternoon of 07/13/01 he was off duty in front of a supermarket located at the corner of Cambridge Street and Central Avenue in East Orange. [redacted] heard between four and five gunshots coming from the vicinity of the Rite Aid Pharmacy. He immediately took notice of a black male running from the area. He then saw a silver Mercedes-Benz crash into two parked cars in the Rite Aid parking lot. [redacted] then saw a white male, wearing a police badge get up from the ground between the cars and another law enforcement officer wrestling with the Mercedes Benz driver. Leaving his position to offer assistance, [redacted] noted that the person wrestling with the driver was identifying himself as a law enforcement officer. [redacted] joined in the effort and with the aid of another off duty police officer, the suspect was restrained.

4. Police officer [redacted] East Orange Police Department was interviewed and advised that he had been talking with off duty Police Officer [redacted] Following the conversation, [redacted] was walking towards his residence on Cambridge Street in East Orange, approximately one block from the Rite Aid Pharmacy. He heard four or five shots and headed back towards Central Avenue, where he thought the shots originated. [redacted] saw a black male on the ground near a vehicle crash scene in the parking lot of a Rite Aid Pharmacy. [redacted] observed two white males attempting to handcuff the suspect. The

b6
b7C

suspect continued resisting and it appeared to [redacted] that additional handcuffs would be needed given the suspect's size.

5. [redacted] the operator of the Mercedes-Benz involved in the shooting incident was interviewed and advised that he had spoken with [redacted] Wagner Lincoln-Mercury during the morning of 07/13/01 about license plates for a Mercedes-Benz E430 he had just leased. During the afternoon of 07/13/01, during the course of a three way conversation, [redacted] arranged to meet with [redacted] representatives (SAs [redacted] and [redacted] in the parking lot of the Rite Aid Pharmacy on Central Avenue in East Orange, NJ. [redacted] accompanied by another male, parked in the lot, next to the vehicle SAs [redacted] and [redacted] were in. [redacted] passenger, whom he identifies only by the first name [redacted] ran when SAs [redacted] and [redacted] asked him [redacted] to step out of the car. [redacted] put the car in reverse in an effort to flee. [redacted] then places the car in forward, continuing his attempt to flee the scene. [redacted] states that both men (SAs [redacted] and [redacted] are talking to him, but he can't hear them as his windows are up. Hearing gunshots, [redacted] ducks, losing control of his car, which crashes. [redacted] states he falls as he attempts to run. When "the agents" [redacted] words) ask him to get on the ground he complies and is handcuffed, but only on one hand, until an ambulance arrives.

b6
b7C

6. [redacted] manager of the Rite Aid Pharmacy, 543 Central Avenue, East Orange, NJ, was interviewed and advised that she had been standing in front of the store, conversing with a customer. [redacted] was facing that portion of the parking lot which faced a supermarket across the street. [redacted] stated that she saw two officers instruct the driver of a Mercedes-Benz to stop. The driver was non-compliant and an officer in a blue shirt grabbed the door handle. The driver placed the car in reverse, resulting in the officer in the blue shirt being dragged. Both officers called for the driver to stop but the driver moved forward, striking the second officer, who landed on the car's hood. The Mercedes-Benz continued moving forward, with the second officer on the car's hood. As the vehicle moved, [redacted] heard four or five gunshots. The Mercedes Benz then struck several parked cars, with [redacted] thinking the officer on the hood had been crushed between the cars. The driver then exited the Mercedes-Benz, refusing the officers' directions to get on the ground. The officers put the driver on the ground, attempting to place him in handcuffs. The suspect continued to struggle, with two East Orange police officers arriving to assist.

b6
b7C

Newark Division File Review:

b6
b7C

SA [redacted], EOD: 07/05/98 is a U.S. Army Veteran, GS-11, who has been assigned to the Newark Division since completing New Agents' Training during October, 1998. SA [redacted] received a Meets Expectations rating on his most recent performance appraisal and was the recipient of a cash incentive award during September, 2000. SA [redacted] has not been the subject of administrative action since his EOD.

- P -

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: INSPECTION DIVISION

Report of: [redacted] Office: HOUSTON
Date: 07/26/2001

Case ID #: 297-HQ-A1271511-D

Title: SHOOTING INCIDENT
HOUSTON DIVISION

Character: SHOOTING INCIDENT

Synopsis: This communication provides the Inspection Division with the results of Houston Division investigation concerning captioned matter.

- Lead Covered-

DETAILS: 1. This investigation was predicated on a 7/10/2001 telephone call of Deputy Assistant Director Thomas B. Locke, Inspection Division and ASAC Brian R. Loader, Houston Division and information reported in a Houston FD-418 dated 7/16/2001 to the Training Division. The FD-418 reported that during a Houston Division SOG surveillance on 7/5/01, a team member became a victim of an attempted car jacking by several individuals, one of which was carrying a pistol. The surveillance was in support of an ongoing drug investigation. Shortly thereafter, members of the SOG team became involved in pursuit of the car jacking suspects. SA [redacted] as a member of this SOG team, confronted four individuals believed to be the suspects and commanded them to stop. Two of these suspects stopped and turned toward SA [redacted] in an aggressive and threatening manner. SA [redacted] fired one round. No one was hit. The suspects were not related to the ongoing drug investigation. b6 b7C

2. Appropriate Houston supervisory personnel interviewed SA [redacted] on 7/24/2001 and obtained his Signed Sworn Statement (SSS). His SSS was

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

largely consistent with information developed independently during this inquiry. SA [redacted] advised that on 7/5/2001, SOG Team 1, which he was a member, was conducting a drug surveillance in Houston, Texas. At approximately 1:30 p.m., SA [redacted] advised via the Bureau radio several cars had approached his stationary surveillance position, parked behind his vehicle and walked toward his car. One of these individuals was observed carrying a pistol. SA [redacted] immediately departed the scene, believing he was the victim of an attempted carjacking. The drug surveillance ceased and the SOG team began a light pursuit of these vehicles and suspects. With SOG Aviation support and HPD marked units, the suspects were located near an apartment complex. SA [redacted] advised via Bureau radio the suspects had been driving in a dangerous fashion and were seen running from the scene holding their sides as if to cradle a weapon, so as to keep it from falling from their waistbands. The surveillance continued to a school yard area where SA [redacted] observed four black males running across the school grounds. After his pursuit in his vehicle ceased, he exited his vehicle, drawing his weapon and shouted a command "Police, Stop." Two of the four individuals stopped and turned in a bladed stance and in a manner in which SA [redacted] considered threatening. Believing the individuals to be armed, and fearing for his safety, SA [redacted] fired one round from his Glock pistol, Model 22. These two individuals turned and ran. SA [redacted] did not continue on a foot pursuit. SA [redacted] provided a copy of a statement he provided to the Houston Police Department on 7/5/01.

b6
b7C

3. In an interview on 7/19/2001, SA [redacted] stated on 7/5/2001, he was assigned as a team leader of an SOG component responsible for conducting a surveillance on subjects of a pending drug investigation. During the surveillance, SA [redacted] a SOG team member, advised via Bureau radio, several black males approached his vehicle from the rear, one of whom was carrying a hand gun by his side. SA [redacted] immediately put his vehicle in gear and departed the area. SA [redacted] instructed SA [redacted] to call 911 and inform the Houston Police Department of the attempted car jacking. The drug surveillance terminated and with SOG aircraft assistance, a light pursuit of these vehicles and suspects was initiated. Shortly thereafter, six black males were observed in a school parking lot where their movements had been continuously followed by SOG aircraft. As several units approached, SA's [redacted] and SA [redacted] pursued four of these suspects to a Houston public school ground. SA [redacted] continued his pursuit across a grassy field of approximately a hundred yards. Shortly thereafter, SA [redacted] heard a single gunshot. The SOG aircraft repeated a broadcast message over the Bureau radio,

b6
b7C

"shots fired." SA [redacted] was unaware of who had fired the shot.

4. In an interview on 7/24/2001, SA [redacted] stated on 7/5/2001, he was part of a surveillance team conducting a drug surveillance in the northeast area of Houston, Texas. The other members of the surveillance team included SA [redacted] SA [redacted] and SA [redacted] At approximately 1:30 p.m., he was parked at the intersection of Wippercht and Caplin. While parked, SA [redacted] observed three vehicles stop behind him. Approximately six black males exited the vehicles and approached SA [redacted] car from the rear. He observed one of these individuals carrying a pistol. At that point, SA [redacted] immediately placed his vehicle in gear and sped away. After calling 911 and reporting the attempted car jacking, SA [redacted] remained in the vicinity awaiting the arrival of the Houston Police Officers. SA [redacted] later observed three of these vehicles at an apartment complex. All three of the vehicles were confirmed stolen. Two pistols were recovered from two of the vehicles. Several minutes later, HPD officers reported arresting a black male in the vicinity of a shooting. SA [redacted] was not a party to nor witness of this shooting incident.

b6
b7C

5. Houston Police Department incident report dated 7/5/01 was obtained and is consistent with the statement provided by SA's [redacted] and [redacted] One suspect was arrested on a pending burglary/theft warrant and three stolen vehicles were recovered.

6. Review of SA [redacted] Houston Division Personnel File revealed his EOD 05/05/1975 (Support) and EOD 08/11/1985 (Agent). His FBI employment began as a Photographer assigned to the New York Division. After his successful completion of New Agent Training, SA [redacted] was assigned to the Houston Division. Effective 07/07/1996, he was assigned to the Special Operations Group where he currently serves as the principal relief supervisor. [redacted] On 5/29/01, he was reinstated as a Firearms Instructor and was certified by the Firearms Training Unit during July, 2001. SA [redacted] received a "Superior" rating on his 1999 Performance Appraisal Report (PAR), an "Exceptional" rating on

b6
b7C

his 2000 PAR, and "Meets Expectation" on his 2001 PAR.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/18/2002

To: Inspection Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271285-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/11/2001
CHICAGO DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/11/2001, involving Special Agent (SA) [redacted] SA [redacted] fired one shot from his Special Weapons and Tactics (SWAT)-issued 45 caliber semi-automatic pistol, severely injuring a charging dog during the execution of an arrest warrant. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident.

Administrative: Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 12/18/2001.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 02/18/2002

Details of the Shooting Incident

On 12/11/2001, the Chicago Division was contacted by the Grand Rapids, Michigan, Resident Agency (GRRA), indicating that an individual who was wanted for attempted murder by the Grand Rapids, Michigan, Police Department had fled the State of Michigan. An Agent of the GRRA advised that source information indicated the subject, identified as [redacted] was currently residing at [redacted] in Harvey, Illinois. b6 b7C

Based on the information received, members of the Violent Crime/Fugitive Task Force (VC/FTF) surveilled the location. A telephone call was made to the residence verifying that [redacted] was inside the residence. Members of the VC/FTF surrounded the house and SA [redacted] and SA [redacted] were instructed by SSA [redacted] to proceed to the back door of the residence. As the Agents approached the area, they were "attacked" by a large dog of a German Shepherd-Great Dane mix. Fearing for their safety, SA [redacted] fired one shot causing the dog to collapse.

The subject was arrested without incident and the Harvey, Illinois, Police Department, was summoned to the scene where an Animal Control Officer terminated the dog's life.

On 02/12/2002, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Willie T. Hulon, Chief Inspector, Inspection Division, Office of Inspections; [redacted], Deputy Chief, Civil Rights Division, USDOJ; [redacted], Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; William R. Falls, Section Chief, Operational Support Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Washington Field Office; and SSA [redacted], Practical Applications Unit, Training Division. Nonvoting members present were Inspector-in-Place [redacted] Phoenix Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 02/18/2002

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

The only observation made by members of the SIRG pertained to the report submitted by the Chicago Division. It was noted that the SSA who wrote the report also approved the report without further review by a member of the Chicago Division Executive Management. Members opined that official reports should not contain gratuitous comments such as those made regarding the dog's death. This matter will be brought to the attention of the Special Agent in Charge.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 02/18/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Garcia, Rm. 7142
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. Lammert, Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted] USDOJ
1 - Mr. Hulon, Rm. 7837
1 - Mr. Cousins, Rm. 5155
1 - Mr. Doherty, Rm. 4042
1 - Mr. Falls, Rm. 6646
1 - Mr. [redacted] Rm. 3787F
2 - Mr. [redacted], Quantico
(1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted], Rm. 7861

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 02/06/2002

To: Inspection Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard b6 b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1270961-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/14/2001
BUFFALO DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/14/2001, involving Special Agent (SA) [redacted] SA [redacted] and a Buffalo Police officer, shot and killed a pitbull dog who lunged at them while attempting to effect the arrest of a Federal fugitive. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident. b6 b7C

Administrative: Reference Electronic Communication of Supervisory Special Agent (SSA) [redacted] dated 11/15/2001.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

## Details of the Shooting Incident

On 11/14/2001, SA [redacted] along with ten uniformed Buffalo Police Department officers were effecting the arrest of a Federal fugitive identified as [redacted]

Upon approaching the residence of the subject, SA [redacted] and Officer [redacted] proceeded to the front door. [redacted] appeared in a front window and was asked by law enforcement personnel to unlock the outside storm door and the inside door of his residence. Instead of opening the doors as requested, [redacted] entered an alcove behind the locked doors through an interior apartment door. Law enforcement officers observed a large pitbull dog with the subject. [redacted] was ordered to put the dog inside the apartment and open the outer doors to surrender to SA [redacted] and Officer [redacted] As [redacted] opened the doors, the barking pitbull dog lunged from inside the doorway towards the law enforcement officers. SA [redacted] and Officer [redacted] fired shots from their weapons killing the dog. b6 b7C

The subject was arrested and taken into custody by Buffalo Police officers and the Buffalo Police Dog Control Unit arrived and removed the dog.

On 01/08/2002, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted], Program Manager, Practical Applications Unit, Training Division; and SSA [redacted] Washington Field Office. The only nonvoting member present was SSA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational

standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1270961-D, 02/06/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Garcia, Rm. 7142
1 - Mr. Cousins, Rm. 5155
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. Hulon, Rm. 7837
1 - Mr. [redacted], Rm. 4042
(Attn: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs [redacted] Rm. 7861

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

b6
b7C

Report of: IIP [redacted] III Office: Phoenix
Date: 12/21/2001

Case ID #: 297-HQ-A1271741 SUB D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
LOS ANGELES DIVISION
11/15/2001

Character: ADMINISTRATIVE INQUIRY/CIVIL RIGHTS,

Synopsis: Captioned matter relates to a shooting incident which was substantively predicated upon locating and attempting to detain a subject who was believed to be responsible for the armed, take-over style robbery of the Union Bank branch located at 1900 North Grand Avenue, Santa Ana, California, on 11/15/2001.

DETAILS:

At approximately 10:56 AM on 11/15/2001, a lone Hispanic male, later identified as [redacted], aka [redacted], entered the outer lobby of the Union Bank, which is situated just inside the main entrance of the "Food 4 Less" supermarket located at 1900 North Grand Avenue, Santa Ana, California, and proceeded to jump over the teller counter. After landing on the other side of the counter, [redacted] brandished a black semiautomatic handgun, pointed it at the bank tellers and other bank employees and yelled, "Put the money in the bag and nobody will be hurt! I'm sorry, but nobody will be hurt!". After acquiring currency totaling $50,779.00 from two tellers, who placed the funds in a brown paper bag, [redacted] jumped back over the counter and exited the supermarket. Witnesses subsequently observed the bank robber depart the store, proceed north on foot, enter a blue Toyota Corolla vehicle possessing California license plate number [redacted] and drive away from the immediate area. This information, as well as a description of the bank robber,

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

was conveyed to SAPD patrol officers who responded to the scene of the bank robbery.

At approximately 11:05 AM, Investigator [redacted] OCSD, who is assigned full time to the SARA's Bank Robbery Apprehension Team (BRAT) as a task force member, was working in the SARA when he was notified of the robbery of the Union Bank by the SARA's switchboard operator. Investigator [redacted] responded to the site of the bank robbery and was immediately briefed by the SAPD officers who were already at the scene. After being apprised of the circumstances of the bank robbery, Investigator [redacted] commenced with his preliminary investigation of the incident, which included obtaining witness statements, taking custody of the surveillance camera film, determining if bait bills were provided to the bank robber, and canvassing the adjacent neighborhood for lead information. During Investigator [redacted] interview of one of the victimized bank tellers, she advised that the bank robber had been armed with a weapon and as a result, she had been in fear for her life. b6 b7C

In the midst of conducting this investigation, Investigator [redacted] was informed that the bank robber had been observed entering a vehicle in the supermarket parking lot and that the license plate number had been recorded. After obtaining this information, Investigator [redacted] contacted his agency and requested three additional investigators to assist him with the rapidly evolving investigation. At this juncture, Investigator [redacted] was contacted on his Nextel phone by a BRAT colleague, SA [redacted] who was covering a lead relating to the FBI's PENTTBOM investigation in conjunction with his fellow squadmate, SA [redacted] After Investigator [redacted] provided a brief summary of the ongoing bank robbery investigation and requested their assistance, both SAs agreed to rendezvous with him in the vicinity the supermarket. While awaiting the arrival of SAs [redacted] and [redacted] Investigator [redacted] met with the three other OCSD investigators who had responded to the supermarket to render assistance. He directed these individuals to travel to [redacted] Santa Ana, California, the address which corresponded to the registered owner of the bank robbery getaway vehicle, and to monitor the ingress into or egress out of the residence by anyone.

SA [redacted] and SA [redacted] subsequently arrived at the agreed upon meeting location and were briefed by Investigator [redacted] regarding the details of the bank robbery, to include a subject description; his modus operandi; the fact that he had been armed and had brandished the weapon; and the description/license plate number of the getaway vehicle. After

obtaining this information, both SAs then proceeded to assist Investigator [redacted] with continuation of the investigation. In the meantime, the OCSD investigators at the Adrin Way address contacted Investigator [redacted] and advised that a male and female had departed the residence on foot and had been detained by a SAPD patrol officer, [redacted] at a location adjacent to the intersection of McFadden Avenue and South Sullivan Street in Santa Ana. Investigator [redacted] departed the area of the supermarket at approximately 12:50 PM, leaving the FBI SAs to finish up with a canvass and search of the surrounding neighborhood, and traveled to the location where the two individuals had been stopped.

After his arrival at the site and subsequent query of both detainees, Investigator [redacted] ascertained that the registered owners of the blue getaway vehicle, [redacted] and his wife, [redacted] did not live at the Adrin Way address; instead, according to the female detainee, who is [redacted] sister, they resided at an apartment complex located on South Lyon Street in Santa Ana. Although [redacted] could not recall the specific address, she and her male companion agreed to accompany Investigator [redacted] and the other law enforcement personnel to the area of the apartment complex in order to pinpoint its exact location. At this juncture, SAs [redacted] and [redacted] arrived at the interview location, were updated by Investigator [redacted] with respect to the new developments, and were advised of the plan to travel to the South Lyon Street area in an effort to locate and question [redacted] regarding his knowledge of the bank robbery. b6 b7C

The FBI SAs, who were traveling together in a dark blue Ford Crown Victoria Bureau vehicle, departed the area enroute to the apartment complex, along with Investigator [redacted] who was driving in his own vehicle; two OCSD investigators, who were riding together in a single vehicle with [redacted] and her male companion in the back seat; and Officer [redacted], who was traveling in a marked SAPD patrol car. Another OCSD investigator remained at the Adrin Way address to continue to monitor activity at that location. At approximately 1:15 PM, with the assistance of [redacted], the specific domicile for [redacted] and his wife was determined to be the Saddleback Park Villas apartment complex located at [redacted] in Santa Ana. Inasmuch as [redacted] could not recall the exact number of the apartment where [redacted] and [redacted] resided, Investigator [redacted] requested that the two FBI SAs conduct a visual search of the parking lot, which was located in the rear of the apartment complex, in order to determine if the blue getaway vehicle was situated there. The other three law enforcement vehicles then

parked at a location in front of the apartment complex, and Investigator [redacted] used this opportunity to sit in Officer [redacted] vehicle and utilize the officer's Mobile Data Terminal in an attempt to independently ascertain the apartment number for [redacted]

b6
b7C

After determining that the vehicular access gate to the walled-in parking lot was closed, SA [redacted] and SA [redacted] parked on the street outside of parking lot, dismounted their vehicle and entered the parking lot area through the unlocked pedestrian gate. Once inside, the SAs conducted a visual search of the entire area, to no avail; however, as they walked back towards the entrance of the parking lot, they observed a vehicle entering through the drive-in gate which was similar in appearance to the blue car they were attempting to locate. The driver of the vehicle, which also contained a female passenger and a small child in a car seat, was a Hispanic male who matched the description of the individual who had committed the bank robbery earlier that day. As the vehicle drew closer to where the SAs were standing, they observed that the license plate on the car was identical to that which had been affixed to the blue bank robbery getaway vehicle. Certain that they had been seen by the driver of the vehicle, whom they now believed to be [redacted] and having discreetly notified Investigator [redacted] via Nextel phone about locating the subject vehicle, the SAs fully intended to detain and interview [redacted] regarding any knowledge he might possess relative to the bank robbery, as was previously planned. However, as the SAs continued to walk toward the blue vehicle, it suddenly stopped at a point approximately 25 feet away from the SAs, backed up to the gate entrance, drove out of the parking lot and proceeded away from the apartment complex in a northbound direction.

b6
b7C

In reaction to this elusive maneuver on the part of [redacted] the SAs contacted Investigator [redacted] via the Nextel phone, advised him of the blue vehicle's sudden departure and ran to their Bureau vehicle in anticipation of following the subject vehicle. As the SAs departed the area of the parking lot and proceeded northbound, they observed that the subject vehicle was stopped at a red light at an intersection in the distance. Simultaneously, the three other law enforcement vehicles, led by the SAPD unit, also departed the area of the apartment complex and joined in the pursuit of the subject vehicle. When the light at the intersection turned green, [redacted] turned left and continued to travel along at an escalating rate of speed, followed closely from behind by the Bureau vehicle, which had not activated any sirens or emergency lights and was being driven by SA [redacted] As the pursuit continued, SA [redacted] maintained

contact via Nextel radio with Investigator [redacted] who advised that while he and the other investigators were currently underway and attempting to join the pursuit, the SAPD marked unit was rapidly closing in on their location and would be available to render assistance in stopping [redacted] vehicle.

At this juncture, the SAs noted that the SAPD vehicle was situated directly behind their vehicle and that Officer [redacted] had activated both its emergency lights and siren. SA [redacted] slowed the Bureau vehicle and allowed the SAPD unit to pass on their left and pull in behind the subject vehicle. As the SAPD vehicle and Bureau vehicle followed in pursuit, [redacted] vehicle slowed perceptibly, turned right onto Grand Avenue and continued northbound along the thoroughfare. After traveling along Grand Avenue for approximately one city block, [redacted] suddenly executed an abrupt right turn on East 2nd Avenue and rapidly exited his vehicle through the driver's side door while the vehicle was still moving forward. The vehicle, which was still occupied by [redacted] wife and son, collided with the rear of another vehicle which was parked next to the curb on the right hand side of the street.

b6
b7C

At that same instant, as the SAPD vehicle came to a stop behind the blue vehicle, [redacted] began to run eastbound down East 2nd Avenue, either inadvertently losing or intentionally discarding his wallet in the process. The Bureau vehicle followed behind [redacted] and when it pulled up to his left side, SA [redacted] swerved the vehicle to the right in an effort to cut him off. [redacted] ran into the Bureau vehicle, struck the right side of the hood and was deflected towards the right side of the road, where he resumed his running in an easterly direction. Despite this collision, SA [redacted] was still unable to view any part of [redacted]s front torso or waistband area. SA [redacted] stopped the Bureau vehicle, and both he and SA [redacted] exited with their weapons drawn. At this point, the SAs noted that Officer [redacted] had passed by their current position, in pursuit on foot and yelling at [redacted] to stop and show his hands. Both SAs also gave chase and repeatedly issued verbal commands for [redacted] to halt and put his hands in the air. [redacted] refused to comply with these instructions and continued to run with his back to the SAs and Officer [redacted] in a crouched manner, in which he leaned forward at the waist, glanced over his right shoulder on occasion, and hid his hands from view by his pursuers in the midsection of his body as if he had something in his waistband. SA [redacted] admitted to experiencing a high level of anxiety at this point, particularly since [redacted] was not obeying any of the commands to stop and display his hands; and because a strong likelihood existed that he was the

b6
b7C

b6
b7C

bank robber who had brandished a semiautomatic weapon earlier that day.

Shortly thereafter, [redacted] suddenly stopped, with his hands still occluded from view, and began to raise his hands and pivot around to the right. SA [redacted] who was now standing in a two handed shooting position off to the right and in front of Officer [redacted], noted that as [redacted] continued his rotation to the right, he had adopted a two-hand shooter's grip as if he were drawing a weapon from his waistband. SA [redacted] yelled a warning to his colleagues that [redacted] was raising his hands and thought that the subject had a weapon. As [redacted] hands swept past the position where SA [redacted] was standing and continued towards Officer Beilby, the SA could not see a weapon from his particular angle and elected to not shoot. At this time, however, SA [redacted] heard three to five shots fired from behind him and to his left and had the impression that Officer [redacted] who likely did not have the same unobstructed view of [redacted] hands that SA [redacted] had due to his position, had fired his weapon at [redacted] faced the SAs and Officer [redacted] for a second or two, seemingly undeterred and uninjured after having been fired at, turned his back to them again, placed his hands in his waistband area and took a couple of steps forward, stating, "Fuck it! I'm not going out like this-or that."

b6
b7C

[redacted] stopped and repeated his previous motions, raising his clenched hands from his lower waistband area and pivoting around to the right as if he were going to shoot a weapon. SA [redacted] who had moved forward a couple of steps and consequently had a better angle of observation than his colleagues, noted that [redacted] right index finger was red and was again unable to detect any objects in [redacted] hands. However, as SA [redacted] was making this observation, he heard another two or three shots from his left rear and ultimately surmised that SA [redacted] had fired his weapon at [redacted] on this particular occasion. [redacted] crumpled to the ground after the last series of shots, having been struck a total of four times during the course of his encounter with the two SAs and Officer [redacted] While [redacted] was lying in a supine position in the street, he was subjected to a high-risk weapons search by responding SAPD officer [redacted] who recovered a silver cellular phone from [redacted] left front pants pocket and placed this item on the street beside [redacted] No weapon associated with [redacted] has been recovered to date.

Santa Ana Fire Department paramedic personnel responded to the scene of the shooting, provided Adult Life Support (ALS) treatment to [redacted] and transported him to the Western Medical

b6
b7C

Center, 1001 North Tustin Avenue, Santa Ana. Subsequent investigation and consultation with [redacted] attending physician, Dr. [redacted] determined that [redacted] had sustained a gunshot wound to his left index finger; a gunshot wound to his right hand which entered between his thumb and forefinger and exited six inches above his wrist; a gunshot wound to his left side which had entered and exited through his oblique area; and a gunshot wound to the upper right side of his chest. Dr. [redacted] further opined that it was highly unlikely that the one bullet which remained deeply imbedded under [redacted] left clavicle would ever be removed.

On 11/20/2001, although still hospitalized at the Western Medical Center, [redacted] agreed to provide a recorded statement to investigators regarding his knowledge of the activities on 11/15/2001. However, after being advised of his Miranda rights, he only provided general identification and background information, stating that although he could remember injecting himself with a quantity of heroin that morning, he had no independent recollection of having been involved in a bank robbery or a shooting incident.

[redacted] spouse, [redacted] and his son, [redacted], who were left behind in his vehicle when the initial foot chase ensued, were uninjured. [redacted] subsequently provided Investigator [redacted] who had arrived on the scene after the shooting had occurred, with consent to search her blue 1988 Honda Civic, California license plate number [redacted] which had been driven by her husband before he exited the vehicle at East 2nd Street and fled on foot. The search of this vehicle yielded [redacted] including [redacted] which were stolen during the earlier robbery of the Union Bank on North Grand Avenue. An additional four bait bills, also associated with the same robbery, were recovered from [redacted] wallet at the shooting site. b7E

SA [redacted] maintained custody of his weapon until a replacement weapon was provided by ADIC Iden, who had traveled to the SARA from Headquarters City in order to check on the welfare of SA [redacted] and SA [redacted] in the wake of the shooting incident. SA [redacted] Springfield Model 1911 .45 caliber pistol, serial number CRG 500, was provided to SA [redacted] LA [redacted] who examined the weapon and transferred custody of the weapon to OCSD Lead Forensic Specialist [redacted] for ballistics comparison purposes. b6 b7C

The shooting incident crime scene was processed, photographed and diagramed in its entirety by the OCSD's Forensic

Science Service Unit. Reports reflecting forensic examinations, as well as other data, was forwarded upon request to the FBI Laboratory for review, extrapolation and incorporation into the final Shooting Incident Report. Evidence collected at the scene included nine expended cartridge cases and three jacketed bullets, and it should be noted that forensic analysis determined that two of the expended cartridge cases were fired from SA [redacted] weapon, while the remaining seven cases were fired from Officer [redacted] handgun.

Investigation conducted immediately after the shooting by the three-person interview teams comprised of OCDAO, FBI and SAPD personnel resulted in the interviews of several potential witnesses; however, of all of the interviews which were conducted, only one individual [redacted] admitted to actually observing the shooting incident as it took place. The majority of the other respondents, to include [redacted] professed to having only heard gunshots; observing only a limited aspect of the foot chase sequence; or neither. [redacted] a transient who advised that he had been drinking a vodka and tomato juice mix in a Styrofoam cup at the time of the shooting, observed some police officers shouting commands to stop at a man who was running away from them. [redacted] then saw the man suddenly stop, turn around and start shooting at the police officers, who returned fire at the man. [redacted] then observed the man briefly turn away from the police officers, turn back toward them and then shoot at them again. The police officers returned fire once again, and after taking a couple of steps, the man fell down in the street.

b6
b7C

Another interviewee, [redacted] was standing in front of a business office located adjacent to East 2nd Street and North Grand Avenue when he heard police sirens and observed a blue vehicle collide with the back of a black vehicle which was parked on 2nd Street. He then observed a police vehicle park behind the blue vehicle, at which time the driver of the blue vehicle exited his vehicle and ran east on 2nd Street while being pursued on foot by the police officer. [redacted] advised that he heard the police officer yell several times at the driver as he ran, and while [redacted] could not be absolutely certain of what the officer was saying, he believed that it was possibly "Stop!" He lost sight of both individuals as they ran east along East 2nd Street, but later heard seven to eight shots being fired.

b6
b7C

Although the above interviews are somewhat limited and lacking in specific detail, they provide independentcorroboration of the accounts of the shooting which are enumerated herein.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: HONOLULU b6 b7C
Date: 12/04/2001

Case ID #: 297-HQ-A1271508-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
HONOLULU DIVISION
10/12/2001

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred while Federal Agents attempted to make the arrest of [redacted] on the evening of 10/12/2001. b2 b7A

**DETAILS:**

The following is a chronology of the events leading up to the attempted arrest of [redacted] and the discharge of a weapon by SA [redacted]

[redacted] was a subject of a Honolulu Division OCDETF case, [redacted] S11. [redacted] was one subject of this ongoing investigation. At the time of the attempted arrest the FBI had obtained an arrest warrant for [redacted] on drug and firearms related charges. The arrest warrant was obtained at approximately 3:04 p.m. on 10/12/2001. (Enclosed elsewhere in this report is a more detailed summary of the subject's criminal history and a photocopy of his arrest photo.) b6 b7C b7D

[redacted]

[redacted]

[redacted]

On October 4, 2001, SA [redacted] obtained search warrants for a residence at [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] Avenue and three storage lockers, [redacted] and [redacted] at Self Storage 1, located at 438 Kamakee Street. The three storage lockers were utilized by [redacted]. The [redacted] address was where [redacted] was currently residing. (It should be noted, based on their investigation, that agents interviewed advised of [redacted] transient nature and frequent moving from location to location.)

On October 5, 2001, SA [redacted] scheduled a half-pound methamphetamine buy/bust drug deal with [redacted] did not show and SA [redacted] did not execute the search warrants. An "Operational Plan" was prepared for this drug deal that included SAs [redacted] and [redacted]. The Ops Plan had all the appropriate warnings, i.e., FBI Deadly Force Policy and administrative admonishments, i.e., identifying clothing and body armor. The Ops Plan also had a "Caution Statement," which stated: [redacted] criminal history indicates his propensity to carry firearms." b6 b7C

On October 8, 2001, Honolulu Police Department (HPD) notified the FBI that [redacted] was arrested on $35,000 worth of outstanding state warrants. SA [redacted] was advised by SSA [redacted] of [redacted] arrest. Two weapons, a shotgun and a Ruger .223 with a collapsible stock, were recovered at the time of his arrest. Also recovered was drug paraphernalia, consistent with manufacturing and processing of crystal methamphetamine, and distribution quantities of methamphetamine, heroin and cocaine.

On October 9, 2001, SA [redacted] executed the search warrant at the storage facility and seized three weapons, drugs and drug paraphernalia. Copies of the search warrant and receipt of items seized were left in the storage lockers.

On October 11, 2001, [redacted] made bail with $3,500 and got out of jail at approximately 9:30 p.m.

On October 12, 2001, SA [redacted] obtained an arrest warrant, at approximately 3:04 p.m., for [redacted] based on the September 25, 2001 drug deal and Alcohol Tobacco Firearms (ATF) felon in possession of a weapon charge. SA [redacted] did not obtain the warrant earlier because the AUSA assigned the case wanted the crime lab results of the drugs purchased. (The methamphetamine is still at the HPD crime lab.) Prior to obtaining the warrant on October 12, 2001, SA [redacted] had contacted the Department of Public Safety - Intake Services Division, to determine the status of [redacted] It was at this time that SA [redacted] learned that [redacted] was bonded out the previous evening at approximately 9:30 p.m. It was SA [redacted] original intent to place a hold on [redacted] with the Department of Public Safety so that when [redacted] was to be released it would be to the custody of the FBI.

On October 12, 2001, at approximately 5:20 p.m., SA [redacted] received a telephone call from the [redacted] 1, 438 Kamakee Street, Honolulu, Hawaii [redacted] had left a voice mail for SA [redacted] that [redacted] was at the self storage facility. SA [redacted] returned [redacted] advised SA [redacted] that [redacted] was currently at the storage facility. SA [redacted] advised SAs [redacted] and [redacted] that [redacted] was at the storage facility and they agreed to assist on the arrest. It should be noted that the storage facility is less than a five-minute drive from the Honolulu FBI office. b6 b7C

SAs [redacted] and [redacted] traveled to the storage facility to affect the arrest of [redacted]. After arriving at the storage facility the agents learned that [redacted] had left within the last five

minutes. They also learned that [redacted] was upset that his storage lockers had been searched. They obtained a description and the license plate number of the vehicle that [redacted] was driving from the [redacted] conducted a record check, and confirmed that the vehicle was registered to [redacted] It was decided that they would search for [redacted] at two possible locations [redacted] was known to frequent. This was determined by the location of the previous drug deal and surveillance of a co-subject. While proceeding to one of the locations, the agents suddenly found themselves several vehicles behind [redacted] vehicle. After [redacted] vehicle turned, they followed him. A telephone call was placed by SA [redacted] to 911 in an effort to obtain assistance from HPD to assist on the arrest of [redacted] The 911 Operator placed SA [redacted] on hold. The agent's vehicle was then directly behind [redacted] vehicle. The traffic came to a stop at a red light. [redacted] vehicle had cars in front, behind and on either side of him. The agent's vehicle was situated on the driver's side of [redacted] vehicle. [redacted] was in the drivers seat with an unknown individual, believed to be a female, was in the passenger seat. A decision was made to arrest [redacted] at this point. The agents got out of the car and identified themselves as FBI in an effort to affect the arrest. SA [redacted] was in the rear of [redacted] vehicle on the passenger's side. SA [redacted] was in front of [redacted] vehicle on the driver's side. [redacted] vehicle moved forward. SA [redacted] knocked on the back of the car and told [redacted] to stop and get out of the car. [redacted] moved his vehicle forward again, ignoring SA [redacted] commands. SA [redacted] continued to knock on the window. [redacted] vehicle moved forward for a third time at which point SA [redacted] while banging on the back window, broke the rear window. SA [redacted] found it odd that the window broke at the top even though he was knocking at the bottom of the window. Through the back window, SA [redacted] advised that he saw something shiny in [redacted] partially raised right hand. Taking careful aim not to hurt any bystanders or the other occupant in [redacted] vehicle, SA [redacted] fired one shot at [redacted] then sped away.

The agents reentered their vehicle and attempted to locate [redacted] without success. The agents then returned to the office where SA [redacted] turned over his weapon to SSA [redacted]

SAC Daniel R. Dzwilewski, ASAC Kimberly K. Mertz, SSA [redacted] A/CDC [redacted] Media Coordinator SSA [redacted] and the ERT team were notified of the shooting.

Subsequent to the shooting, several teams of FBI Agents were formed for the purpose of conducting witness interviews. ERT was alerted to assist with the collection of crime scene evidence.

On October 12, 2001 at approximately 7:36 p.m., ERT agents arrived at the scene to collect available evidence. Agents waited for HPD Officers to temporarily block traffic so that the scene of the shooting could be examined. The scene was processed by FBI ERT assisted by HPD Detective [redacted] All crime scene evidence was collected by Honolulu FBI ERT.

On October 12, 2001, HPD received 911 calls from citizens regarding a shot fired at the corner of Kapiolani and Atkinson Drive, Honolulu, Hawaii. HPD dispatched an officer and nothing was found by the responding officer.

b6
b7C

On October 12, 2001, at approximately 8:00 p.m., [redacted] vehicle was found abandoned by HPD and was towed. FBI Honolulu was advised at 11:30 p.m. and ERT was dispatched to process the vehicle. The vehicle was towed to HPD for storage in a secure garage

b6
b7C

bay pending the issuance of a Federal Search Warrant for the vehicle.

On October 13, 2001, a federal search warrant was issued by Federal Magistrate Kevin S. C. Chang.

On October 14, 2001, the search warrant was executed on the vehicle belonging to [redacted] b6 b7C The vehicle was described as a 1988 blue Chevrolet two door Camaro, bearing Hawaii license plate [redacted] and vehicle identification number [redacted] FBI ERT processed the vehicle and collected the evidence.

On October 16, 2001, at approximately 3:05 p.m., [redacted] was arrested without incident by agents of the FBI. [redacted] was in the company of [redacted] identified [redacted] as his girlfriend. At the time of his arrest [redacted] was in the possession of a Glock .40 caliber pistol and approximately four ounces of crystal methamphetamine. [redacted] consented to an interview. [redacted] denied that he had a weapon the evening of October 12, 2001. He claimed the weapon that was in his possession at the time of his arrest was purchased after the shooting incident, but would not provide any further details.

[redacted] consented to an interview. [redacted] acknowledged being the passenger in [redacted] vehicle on the evening of 10/12/2001. [redacted] claimed that she did not know [redacted] was involved in drugs and denied that he had a weapon in his possession on the evening of October 12, 2001. [redacted] stated that she thought the two males who approached [redacted] vehicle were either "robbers or car-jackers." The individuals were knocking and banging on the windows but because she and [redacted] were arguing, the windows were up and the music was on, she could not hear what they were saying. [redacted] saw the man's mouth moving but could not hear what he was saying. [redacted] was advised that her story conflicted with that of her mother. [redacted] mother, who was personally interviewed by FBI Agents, stated that her daughter advised her that [redacted] had a weapon and that the cops shot at them. [redacted] recalled telling her mother that she thought maybe the men who shot [redacted] car were cops, but denied telling her mother that [redacted] had a gun. After a moment [redacted] advised that she told her mother that after the shooting incident that [redacted] asked her, "babe, what would you do if I had a gun?" (It should be noted that [redacted] smokes crystal methamphetamine).

The three non law enforcement witnesses, whose statements are enclosed with this report, are identified as follows: b6 b7C

[redacted]

[redacted] advised that he was on his way to work when he observed three men exit a light green four door car as traffic was stopped. All three of these men drew hand guns from their waist area and approached another car stopped directly in front of their car. The three men approached the vehicle and two of them began banging on the windows one on each side of the vehicle. [redacted] did not hear anything that was said. As traffic began to move the car in front began to drive away, the man standing behind the vehicle moved with the vehicle banging on the car and rear window. [redacted] then heard a popping sound and saw that the rear window had shattered. [redacted] assumed the popping sound was a gun shot but was unsure if the shot came from inside the vehicle or from one of three men. [redacted] heard one shot. [redacted] opined that the three men were undercover law enforcement officers.

[redacted] was traveling west bound on Kapiolani Boulevard, by the Honolulu Convention Center, with her son when she heard a loud pop, which she believed was a gun shot. [redacted] saw a man with a gun in the road. Behind this man was a green sedan stopped in the road. [redacted] observed a second man with a gun standing near the sedan. Both of these men got into the sedan and drove away. [redacted] could not hear any conversations because the windows in her vehicle her up. [redacted] only heard one shot.

b6
b7C

[redacted] was traveling west bound on Kapiolani Boulevard, by the Honolulu Convention Center, with his mom when he heard a loud popping sound. His mother told him that she believed it was a gun shot. [redacted] saw a man approximately 25 yards ahead in the road holding a hand gun. The windows on [redacted] vehicle were up but he could hear shouting, although he could not determine what was being said, or who was shouting. As [redacted] vehicle approached the man he turned and ran to a green sedan. Next to the green sedan was a second man also holding a hand gun. [redacted] memorized the license plate number of the green sedan and his mother telephoned 911. [redacted] only heard one shot.

Arrest Team Statements:

SA [redacted]

b7A

SA [redacted] is the case agent for the [redacted] portion of [redacted]. SA [redacted] advised that he received a telephone call from [redacted] that [redacted] was at the facility. SA [redacted] assembled an arrest team of SA [redacted] SA [redacted] and himself.

SAs [redacted] and [redacted] departed the FBI office en route to the self storage facility. SA [redacted] had a copy of the arrest warrant and showed a copy to SAs [redacted] and [redacted]. At approximately 5:33 p.m. the agents arrived at Self Storage 1. Several attempts were made to contact SSA [redacted] as the arrest team was en route. SA [redacted] believed a voicemail message was ultimately left on the desk phone of SSA [redacted]. SA [redacted] advised SAs [redacted] and [redacted] what their respective roles were. SA [redacted] was familiar with the storage facility because he had executed a search warrant on October 9, 2001, for [redacted] storage lockers. SAs [redacted] and [redacted] began to enter the storage facility when the manager came out from the office. The manager said that [redacted] had left approximately five minutes ago. The agents continued a quick search of the storage facility to confirm that [redacted] had departed.

SA [redacted] spoke with the manager. The manager said that [redacted] was "really pissed" that the FBI searched his lockers. [redacted] had questioned the manager as to why they let the FBI search the lockers. The manager stated that [redacted] had seen the search warrant paperwork and was visibly upset the FBI had entered his storage lockers. The manager also provided a description of the vehicle that [redacted] was driving and the license plate. She described the car as a blue IROC Camaro with Hawaii license plate number [redacted]

b6
b7C

SA [redacted] advised SA [redacted] to call the FBI office and get the registered owner information of the license plate. The registered owner was identified as [redacted] The agents

departed the storage facility. SA stated that they should check out the Pagoda Hotel because that was where the September 25 drug deal took place. At Hobron Lane, SA did a U-turn and headed in a westerly direction on Ala Moana Boulevard. At Ala Moana Boulevard and Atkinson Drive, SA stopped at the traffic light. Approximately three to four vehicles in front of his vehicle, in the right-hand lane, was a vehicle matching the description of vehicle. A positive identification could not be made of the vehicle because the license plate was obstructed. The vehicle also had dark tinted windows. As the blue Camaro turned from Ala Moana Boulevard onto Atkinson Drive, all the agents could see the license plate. They identified the license plate and the vehicle as belonging to

b6
b7C

SA placed a call to 911 to have HPD assist in pulling over vehicle. SA advised that the operator attempted to find an emergency line. The vehicles continued driving down Atkinson Drive heading toward the Hawaii Convention Center and Kapiolani Boulevard. SA pulled behind vehicle. SA was still on hold with the 911 Operator. The 911 Operator came on again and informed that an emergency line was still unavailable. SA stated that he told SA "We are going to take him now." SA pulled next to on the left-hand side. was in the second from the left-hand lane. The front passenger side of the Bureau vehicle was next to the driver's side door of vehicle. SA identified as the driver of the vehicle and it appeared that he had a female passenger in the front passenger seat. SA stopped the vehicle at a slight angle but close enough to vehicle that SA could not get out the front passenger side door. The windows were up on both vehicles. SA got out of the car and approached from the front of vehicle. SA had his weapon drawn. As he was going out of the car, SA saw SA addressing through the window and heard SA saying, "FBI, FBI, get out of the car." SA identified himself as the FBI and instructed to get out of the car. Ahu turned toward SA and his eyes were "really big." There was traffic in front of the car that was stopped at a red traffic light. The suspect vehicle was blocked on all four sides. The stop took place at approximately 5:48 p.m. The light changed and the traffic in front started to move, moved his vehicle forward and stopped, pulled away again and SA observed SA move forward with car. SA heard three "bashing" sounds and then the sound of glass cracking as he turned to reenter the Bureau vehicle. SA then heard glass break. He then heard one shot fired and Ahu's vehicle sped away. The agents reentered their vehicle and attempted to locate

SA attempted to call SSA at approximately 5:50 p.m. SSA did not respond. SA told the Night Clerk to get SSA on the phone. SA talked to SSA and advised him that they attempted to arrest and a shot was fired. As the agents were returning to the office, SA telephoned HPD. SA advised he was with the FBI and provided his license plate number to determine if an All Points Bulletin (APB) was placed on the Bureau vehicle. The HPD dispatcher advised there was no APB. SAs and then returned to the Honolulu FBI office.

b6
b7C

SA

On October 12, 2001, at approximately 4:30 p.m., SA was advised by SA that "we" have to go make an arrest. The arrest was one of SA subjects, SA learned from SA that was at his storage facility. The

agents left the Federal Building and drove to the storage facility. On the way to the storage facility SA attempted to contact SSA via the Nextel without success. SA left a message for SSA as to the details of the anticipated arrest of including the time, the event and parties involved. SAs and also attempted to contact SSA on the Nextel without success.

b6
b7C

The agents drove directly from the Federal Building to the storage facility. A woman from the storage facility came out of the office and advised that Ahu had just left. She provided the license plate number of the vehicle. SAs and went inside the storage area to verify had left.

SAs and returned to the vehicle with SA and a decision was made to drive around to find SA telephoned the office to get the registered owner's information on the vehicle. The vehicle was a 2-door blue Chevrolet registered to

SA said, "why don't we check Cleghorn Street." Cleghorn is located between Ala Wai and Kuhio Avenue. As the agents were driving toward Cleghorn, SA stated that he did not believe would be at that location. SA turned around at Hobron Lane, by the Red Lobster restaurant. They were now heading westbound on Ala Moana Boulevard. As they approached Atkinson Drive on Ala Moana Boulevard, they stopped at the traffic light. SA observed a blue vehicle similar to the one they were looking for in the far-right hand lane. The vehicle was three to four cars in front of the Bureau vehicle. SA asked SA if he could see the license plate. SA could not see the license plate because of the angle of the vehicles. When the light changed, the blue colored vehicle turned right onto Atkinson Drive. SAs and identified the license plate and confirmed that it was the vehicle registered to It appeared that two people were in the vehicle but vehicle had a dark tint on the windows. SA stated they should follow the vehicle. SA telephoned 911 to have the Honolulu Police Department (HPD) assist in pulling over vehicle. SA could hear the 911 Operator come on and ask, "fire or police emergency?" SA said, "police emergency" and was put on hold. The vehicles continued down Atkinson Drive and approached Kapiolani Boulevard.

b6
b7C

SA vehicle was directly behind vehicle as they turned from Atkinson Drive onto Kapiolani Boulevard by the Hawaii Convention Center. SA advised that he was going to pull up next to vehicle. SA stopped his vehicle on the driver's side of vehicle. SA could observe that was the driver. SA vehicle was so close to vehicle that SA could not open the passenger side door. SA from inside the vehicle, said, "FBI, don't move." SA got out of the driver's side, SA got out the rear passenger side and SA got out the driver's side. All SAs had their weapons drawn. SA was on the front driver's side of the vehicle. SA was on the passenger's side of vehicle knocking on the window. vehicle started to move. vehicle stopped and went forward several times. SA and gave chase on foot. SA grabbed onto the rear spoiler of vehicle. SA was telling to "Stop, Stop, Stop!" As vehicle approached the next light, SA was knocking on the back window when the window broke. SA heard one gun shot but did not know who fired the shot. vehicle then sped away.

When he reentered the Bureau vehicle SA informed them that he fired one shot into the vehicle because when the window broke, he saw either reaching for something

or something was in his hand. They drove down Kapiolani Boulevard a short distance to look for [redacted] SA [redacted] contacted SSA [redacted] and advised him of what had happened. They proceeded directly back to the office. When they arrived at the office, SA [redacted] gave SSA [redacted] his weapon.

SA [redacted] advised that he wore his badge on his belt during the arrest operation. SA [redacted] had observed [redacted] photo from previous preparations involving the case. Operation Plans (Ops plans) had been prepared on previous drug deals involving [redacted] SA [redacted] read these Ops plans. At the briefings, they spoke of the possibility of Ahu being armed and dangerous. b6 b7C

SA [redacted] (Agent who fired his weapon)

SA [redacted] voluntarily provided the following information. On October 12, 2001, at approximately 5:00 p.m., SA [redacted] was working at his desk in the office when he received a telephone call from SA [redacted] advising him that subject [redacted] was currently at his storage locker facility in the vicinity of Kamakee Street in Honolulu, several blocks from the field office. By way of background, SA [redacted] is the Case Agent on a drug investigation entitled [redacted] in which [redacted] is one of the targets (Honolulu file number [redacted] Sub S11). During the last two weeks of September, the investigation began focusing on [redacted] and another subject [redacted] SA [redacted] was assisted by SA [redacted] as Case Agent in this aspect of the investigation. [redacted] b2 b6 b7A b7C b7D

On October 8, 2001, SSA [redacted] supervisor of Squad 3, received a call from the Honolulu Police Department (HPD) advising that [redacted] had been arrested by HPD. SSA [redacted] was also advised that two weapons, chemicals, and other precursors for meth had been seized at the time of [redacted] arrest. One of these weapons was a sawed-off or modified shotgun. On October 9, 2001, SA [redacted] and other SAs from Squad 3 conducted a search of [redacted] three storage lockers pursuant to the search warrant issued on October 4, 2001. SA [redacted] was not present for this search but was advised by SA [redacted] that drugs and weapons had been seized.

On the morning of October 12, 2001, SA [redacted] was advised by SA [redacted] that [redacted] had bonded out of jail the previous night, Thursday, October 11, 2001. [redacted] whereabouts were unknown at the time, and he is known to be very transient in nature. At approximately 5:00 p.m., SA [redacted] advised he had received a call from the caretaker of the storage facility who stated [redacted] was at the storage facility at the time. SA [redacted] asked SA [redacted] to assist him in locating and apprehending [redacted] SA [redacted] agreed and asked SA [redacted] to assist them. SA [redacted] advised SA [redacted] to grab all of his gear and they proceeded out of the office. b6 b7C b7D

As they drove to the storage facility, SA [redacted] explained the layout of the storage facility to SAs [redacted] and [redacted] SA [redacted] also advised that he and SA [redacted] would approach [redacted] directly and make the arrest, and SA [redacted] was to cover the exit in case [redacted] went around one of the back aisles and attempted to run. Safety issues and concerns were emphasized by SA [redacted]

They arrived at the storage facility and reemphasized the arrest plan and stated that safety was their number one concern. The caretaker of the storage facility came out of her

office and advised SA [redacted] that [redacted] had already left. SAs [redacted] and [redacted] checked the storage facility to clear the area and ensure Ahu was not there. The caretaker advised [redacted] was with another individual and was "hysterical" when leaving the facility. She had written down his Hawaii license plate number, [redacted], which she provided along with the vehicle's description, a blue IROC Camaro.

SA [redacted] phoned in the vehicle plate information and received confirmation that the vehicle was registered to [redacted] with a Kaneohe address. They decided to attempt to locate [redacted] They discussed possible whereabouts for [redacted] and decided he might be on Cleghorn Street in Waikiki, or at the Pagoda Hotel on Rycroft Street in Honolulu. It was decided that [redacted] would most likely not be on Cleghorn Street due to his recent conflicts/disputes with [redacted] As they stopped for a red light at the intersection of Ala Moana Boulevard and Atkinson Drive, they noticed a blue Camaro stopped four cars in front, in the far right-hand turn lane. b6 b7C

As the blue Camaro moved forward and prior to its turning right onto Atkinson Drive, they confirmed the license plate was that of [redacted]. SA [redacted] advised SA [redacted] to follow [redacted] and see where he took them. They followed [redacted] vehicle. SA [redacted] told SA [redacted] to call HPD to get a police car to assist them in affecting the arrest. SA [redacted] called 911. SA [redacted] tried to contact SSA [redacted] to advise him of the situation.

[redacted] vehicle turned right from Atkinson Drive onto Kapiolani, near the Convention Center. At this point the agents were right behind [redacted] vehicle, and both vehicles were in the second to far left lane. They identified [redacted] as the driver of the vehicle through the tinted windows and also observed an occupant in the front passenger seat.

The traffic was stopped as the agents approached Kalakaua Avenue, causing [redacted] vehicle to stop as well. At this time SA [redacted] pulled next to [redacted] vehicle, on the left, at a slight angle. SA [redacted] stated that he was unaware that SA [redacted] was contemplating either pulling next to [redacted] vehicle or getting out of the Bureau car and approaching [redacted] in his vehicle at this time. SA [redacted] vehicle was close enough that SA [redacted] could not get out the passenger door. SA [redacted] suddenly jumped out the driver's side and proceeded to the front of [redacted] vehicle. As he exited the car, he drew his weapon. SA [redacted] instinctively reacted and exited the Bureau vehicle as there was a narrow opening that permitted him to get out the rear passenger side. SA [redacted] proceeded around in back of [redacted] vehicle, taking up a position in the rear of the vehicle on the passenger side. As he exited the vehicle, he drew his weapon from his holster. SA [redacted] shouted, "FBI, stop the car, you are under arrest!" SA [redacted] began pounding on the rear spoiler with his left hand as his weapon was in his right hand. SA [redacted] heard SA [redacted] shouting "FBI, FBI, stop the vehicle!" or "FBI, FBI, get out of the vehicle!" The traffic began to move in front of the car and [redacted] vehicle lunged forward and stopped. SA [redacted] had to step away from [redacted] vehicle when the car lunged. SA [redacted] began pounding on the lower portion of the back window with his left hand, all the time shouting "FBI" and telling [redacted] to stop, he was under arrest. [redacted] vehicle lunged forward again and stopped. SA [redacted] grabbed hold of the rear spoiler for balance with his left hand, and began hitting the lower part of the back window with his weapon. [redacted] vehicle lunged forward for a third time and stopped. While holding on to the spoiler for balance, SA [redacted] hit the lower part of the back window one more time. Suddenly the top part of the back window shattered. This startled SA [redacted] for a second. b6 b7C

SA [redacted] advised that he could see light from the inside of the vehicle. He clearly

saw [redacted] turned around and facing him from the driver's seat with his right hand partially raised. SA [redacted] observed a silver, shiny object in his right hand and was fearful for his life. SA [redacted] raised his weapon, focused on the driver and fired one round through the lower portion of the back window into the vehicle. The vehicle may have begun to roll forward as he fired the one shot. SA [redacted] advised that he was careful not to cause injury to the passenger or any bystanders, and kept his muzzle suppressed. He estimated that his weapon was approximately four to six inches from the rear window when he fired. He could see a bullet hole through the intact lower portion of the tinted back window. [redacted] immediately sped away at this point. SA [redacted] advised that he did not fire any more shots out of safety concerns for the surrounding traffic and bystanders. He estimated that it was only 30-40 seconds from the time he exited SA [redacted] vehicle to the time his weapon was discharged and [redacted] vehicle sped away. b6 b7C

SA [redacted] reentered the vehicle and together with SA [redacted] and SA [redacted] proceeded to look for [redacted] without success. They then started to head back toward the office. At this time, SA [redacted] telephoned SSA [redacted] and explained to him what had occurred involving the shooting incident. When they had returned to the office, SA [redacted] immediately surrendered his personally-owned, Bureau-approved weapon to SSA [redacted]

## OBSERVATIONS

### ISSUES EXAMINED:

In conducting this inquiry, two issues were examined. The first issue was whether the use of deadly force was justified. The second issue was whether sufficient preplanning was undertaken prior to attempting the arrest.

Regarding the deadly force issue, witness statements as well as interviews of the Arrest Team Agents and the Agent that fired his weapon, indicated that [redacted] did not comply with Agent commands to stop and get out of his vehicle. [redacted] known to carry a weapon capable of inflicting death or serious bodily harm, was observed by SA [redacted] to have something shiny in his partially raised right hand. At the time of his subsequent arrest [redacted] had a Glock .40 caliber pistol in his possession.

As pertains to the preplanning issue, arrest team members were either informed or aware that SA [redacted] had obtained an arrest warrant for [redacted] on drug and firearm charges and that [redacted] should be considered armed and dangerous. Arrest team members were involved in previous drug deals with [redacted] and the scheduled buy/bust on October 5, 2001. A previous written Ops plan stated that [redacted] criminal history indicates his propensity to carry firearms.* Arrest team members were aware of a recent arrest of [redacted] in which two weapons were taken from him and a search of his storage lockers in which weapons were seized. Additionally, the arrest team was aware of [redacted] criminal past and his alleged current involvement with the selling of crystal methamphetamine. b6 b7C

En route to apprehend [redacted] the Case Agent, SA [redacted] orally communicated an arrest plan to team members. Later, when the subject was not located at the storage facility, SA [redacted] updated the plan to conduct a felony car stop. SA [redacted] attempted a 911 call to seek the assistance of HPD in affecting the arrest. The exact timing of when the felony car stop would take place was vague.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: Inspector [redacted] Office: Inspection Division
Date: 09/05/2001

Case ID #: 297-HQ-A1271285 SUB D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CHICAGO DIVISION
AUGUST 28, 2001

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred while FBI Agents and FBI Violent Crime Task Force Officers attempted to arrest a bank robbery subject, [redacted] on Tuesday morning August 28, 2001, in Chicago, Illinois.

DETAILS:

[redacted] Black male, DOB [redacted] was identified as the perpetrator of two bank robberies at the same branch of the Charter One Bank at 3250 W. 87th Street, on the south side of Chicago. [redacted] displayed a chrome-plated handgun at the second robbery. These robberies occurred on successive Fridays, August 17 and 24, preceding the shooting on August 28. Enclosed in this report is a more detailed summary of the subject's background and criminal history.

On August 17, 2001, the Charter One Bank noted above was robbed by a lone Black male who stated he had a gun but did not display one. Upon exiting the bank, he stated, "Tell President Bush to kiss my ass." He escaped on foot with $17,319.72. The following Friday, 08/24/2001, this same gunman, later identified positively as [redacted] robbed the same branch, this time displaying a "large, silver" handgun. He vaulted the tellers' counter and stole [redacted] from the bank's vault. A bank

b7E

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

employee watched [redacted] leave the bank in a Ford Expedition with dealer plates. Bank employees identified the robber as the same person who had robbed them the previous week. Bank security cameras captured [redacted] robbing the bank the second time. The robber again made a reference to President Bush, telling employees they could thank Bush for the robbery, and, "Like I said last time, tell President Bush to kiss my ass!"

Investigation at the Webb Ford dealership, 2601 West 95th St., Chicago, revealed that [redacted] had taken the Expedition used in the robbery for a test drive the morning of the first robbery. Bank surveillance film was shown to Ford employees who identified [redacted] as the customer who took the Expedition for a test drive. He had provided identification in his true name with address of his mother [redacted] Chicago, which was near the dealership. Physical surveillance was established at the [redacted] location that Friday evening and Saturday, August 24 and 25, with negative results. A federal criminal complaint and arrest warrant were also obtained for [redacted] on Saturday, August 25. On Sunday and Monday, the 26th and 27th of August, case agent [redacted] prepared an operations plan to approach the single family residence at [redacted] and arrest [redacted] if he was there.

On Monday, August 27, SA [redacted] and others continued the surveillance at the mother's house. He finalized the arrest plan and discussed it with his supervisor, SSA [redacted] SSA [redacted] discussed it with his ASAC, J.P. Weis, who approved using six SAs to approach the house and arrest [redacted] the following morning, Tuesday, August 28. ASAC Weis mentioned the plan to SAC McChesney on Monday, but did not go into great detail as it was seen as a routine VCTF arrest.

On Tuesday morning, at approximately 7:00 a.m., SA [redacted] and five other SAs approached the residence at [redacted] They spoke with [redacted] and [redacted] who invited them in and told the SAs that [redacted] had in fact lived there for a while, but had not been there since August 17. She also advised that [redacted] had not been himself lately, acting very moody and emotional. She allowed the SAs to search throughout her house, including the room [redacted] had stayed in and his personal effects he had left behind.

During this search, SAs found several evidentiary items and items of lead value on his possible whereabouts. Among these items was a letter addressed to [redacted] at [redacted], Chicago, IL. [redacted] identified [redacted] as her son's current girlfriend. The SAs also found receipts for ammunition

commonly used in AK-47 assault rifles and 30.06 rifles. Also observed was an empty soft cover for a long weapon and military camouflage shirts and a hat similar to the one worn by the bank robbery suspect during the robberies. The search concluded at approximately 8:00 a.m.

At this point, SA [redacted] contacted his supervisor, SSA [redacted] and advised him of the results of the search and that he and SA [redacted] were going to drive by the girlfriend's apartment to look for the Expedition [redacted] had stolen. At approximately 9:00 a.m., SAs [redacted] and [redacted] obtained permission from the building manager to look inside the parking garage at [redacted] and found the Ford Expedition which [redacted] had taken for a test drive and not returned. SA [redacted] looked through the windows of the vehicle and saw a black duffel bag similar to the one used in the bank robberies, a camouflage shirt, along with a hard case for a long weapon partially covered by a blanket. Also observed were two cell phone chargers and a half bottle of water, which indicated to SA [redacted] that the vehicle had not been abandoned. b6 b7C

SA [redacted] again contacted SSA [redacted] and told him about finding the Expedition and requested additional Agents/TFOs to respond for a possible arrest. SSA [redacted] sent his available SAs and asked SSA [redacted] the Fugitive Task Force supervisor, for three bodies. SSA [redacted] provided one SA and two TFOs including TFO [redacted] SSA [redacted] also responded to a staging area one block from the apartment building, and then briefed the others on what he knew. TFO [redacted] and SA [redacted] drove into the garage in TFO [redacted] police vehicle and blocked the Expedition.

Between 9:30 and 9:45 a.m, all Agents/TFOs walked to the parking garage at [redacted] where SSA [redacted] and SA [redacted] briefed everyone on [redacted] background, including arrest record and known violent tendencies. SA [redacted] also passed around an arrest photo of [redacted] ensuring everyone's familiarity with the subject's appearance. Present for this briefing were the following law enforcement personnel: SSA [redacted], SA [redacted] SA [redacted] TFO [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] TFO [redacted] SA [redacted] SA [redacted], TFO [redacted] and TFO [redacted] b6 b7C

During this briefing in the garage of [redacted] SSA [redacted] and SA [redacted] discussed with team members various options and scenarios for arresting [redacted] if in fact he was in the apartment. SSA [redacted] advised the SIRT that it was his

belief that [redacted] had in all likelihood fled the area and simply parked the Expedition in the enclosed parking garage. However, SA [redacted] observations about the Expedition's contents indicated [redacted] may actually be present.

SSA [redacted] then made assignments of personnel, deploying them as follows: SA [redacted] and TFO [redacted] to watch the garage and the stolen Expedition. TFO [redacted] and SA [redacted] were assigned to watch the front of the building. SAs [redacted] and [redacted] and TFO [redacted] were assigned to two positions in the alley way behind the apartment building. SSA [redacted] SAs [redacted] and [redacted] along with TFO [redacted] were designated as the entry team. Before dividing up, SA [redacted] and TFO [redacted] suggested a ruse whereby TFO [redacted] who is black, would pose as a neighbor of apartment 301 who had erroneously received a package for that apartment. This ruse was adopted as the safest, most direct means of ascertaining [redacted] presence and effecting his arrest if so. SSA [redacted] believed that all personnel had their protective vest on. However, other SAs stated that everyone with the exception of TFO [redacted] wore vests.

At approximately 10:00 a.m., the entire arrest team got into position and checked radio communications on both FBI Nextels and CPD radios. After everyone was confirmed in position, SSA [redacted] gave TFO [redacted] the thumbs up sign to knock on the door of apartment 301. TFO [redacted] had a package in his hand that he had picked up from the mail box area in the lobby. The other four SAs were lined up along the wall out of sight of the occupants of 301, all with weapons drawn. TFO [redacted] who was casually dressed with slacks and a sport coat, did not have his gun drawn as he stood with the package. He knocked and there came a muffled response followed by a male asking "What do you want?" TFO [redacted] said he was a neighbor with a package for 301. SA [redacted] recalls hearing children's voices, which TFO [redacted] also heard according to [redacted] as [redacted] signaled to the others with hand signals. After a brief pause, the door to apartment 301 partially opened. TFO [redacted] placed his foot in the door and told the occupant, "Mr. [redacted] I have a package for you." [redacted] responded, "No, no, I don't think so." [redacted] then attempted to close the door. TFO [redacted] SSA [redacted] and SA [redacted] began pushing on the door and announced they were the police, seeing [redacted] now for the first time.

[redacted] then ran from the door toward the rear of the apartment. TFO [redacted] SSA [redacted] and SA [redacted] were in direct pursuit. [redacted] saw [redacted] carrying a chrome-plated

b6
b7C

b6
b7C

handgun as he ran, generally pointing it at the Agents/TFO. [redacted] rounded a corner closely followed by TFO [redacted] and [redacted] both heard TFO [redacted] say, "No, you don't want to do that." Almost contemporaneous with this statement, the Agents heard a single gunshot. SSA [redacted] who had now also rounded the corner, saw TFO [redacted] fall face forward away from him. He saw [redacted] with a handgun in both hands turning from TFO [redacted] and pointing and firing both guns at him, all while [redacted] was falling or lunging for cover. SSA [redacted] and SA [redacted] both returned fire, estimating they each fired four to five rounds. They looked for any available cover and decided to try to round the corner and apprehend [redacted] As SSA [redacted] started toward the corner, he saw two hands with a gun in each, come around the corner low to the floor and start firing again at him and the other Agents. Realizing they had no cover, SSA [redacted] and SA [redacted] then moved to the closest available cover, which was the doorway to the apartment. SSA [redacted] and SA [redacted] instructed SAs [redacted] and [redacted] to call 911.

b6
b7C

SSA [redacted] then began calling into the apartment for TFO [redacted] to determine if he could answer. Hearing no response, he called out for [redacted] or the children, and finally got a response from [redacted] "What do you want?" SSA [redacted] who is trained as a hostage negotiator and is the Division's Hostage Negotiation Coordinator, began dialogue with [redacted] attempting to get immediate medical care to TFO [redacted] would not allow this and eventually asked to speak to his girlfriend, [redacted] During these negotiations, Chicago FBI and CPD SWAT arrived and other tenants near apartment 301 were evacuated. A command post and crisis negotiation center were established in the building and telephonic contact was established with [redacted]

[redacted] girlfriend was brought to the building and allowed to speak with [redacted] on the phone. After further negotiations, [redacted] advised he would allow FBI and CPD personnel to enter the apartment to arrest him and provide medical care to TFO [redacted] and [redacted] First, however, [redacted] wanted to speak with a reporter so he could tell his story. FBI Chicago agreed to allow a reporter two minutes to speak telephonically with [redacted] which he did. Following this discussion, [redacted] agreed to surrender. FBI SWAT in full gear with shields entered the apartment, handcuffed [redacted] and provided security while emergency medical personnel provided care to TFO [redacted] TFO [redacted] was rushed to Northwestern Memorial Hospital in critical condition with a .45 caliber gunshot wound to the left temple. [redacted] was taken to the Cook County Hospital where he was treated for four gunshot wounds, the most serious of which entered his leg and fractured his femur. A grazing chest wound did virtually

b6
b7C

no damage.

There were no civilian eyewitnesses to these events, although three tenants from other apartments called 911 when they heard the gunshots. These tenants were interviewed but none could provide any details other than hearing noises, possibly gunshots.

Crime scene evidence was collected primarily by FBI Chicago Evidence Response Team (ERT) members. They secured the weapons and turned them over to SAC McChesney, who reached an agreement to have the Illinois State Crime Lab conduct ballistics testing on the guns. All other forensic work, including crime scene analysis of bullet paths and trajectories, and special photographic analysis was conducted by FBI Laboratory Division personnel under the direction of [redacted] from the Firearms Unit.

Medical records describing [redacted] initial treatment and assessment were obtained from the Cook County Hospital. Although requested, TFO [redacted] medical records were not obtained with Northwestern Memorial Hospital citing privacy concerns. On Tuesday, September 4, [redacted] was moved from the Cook County Hospital to the medical ward of the Metropolitan Correction Center in Chicago.

b6
b7C

# 2001

Savage-1755

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/26/2001

To: Inspection

Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271908-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/12/2001
SALT LAKE CITY DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 01/12/2001. Special Agent (SA) [redacted] fired two shots at a fleeing subject during an attempted arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Supervisory Senior Resident Agent [redacted] dated 01/31/2001.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271908-D, 02/26/2001

Details of the Shooting Incident

On the afternoon of Thursday, 01/11/2001, a Salt Lake City Police Department (SLCPD) officer assigned to the FBI sponsored Violent Crimes Task Force (VCTF), received a request from a SLCPD Detective. The request asked for FBI assistance to locate and identify an unknown subject who was responsible for ten armed robberies of commercial establishments in the Salt Lake City area during the past month. After discussing the request with a supervisor and notifying FBI Headquarters of the initiation of the investigation, an Operations Order was prepared for a surveillance operation that same evening.

The operations plan called for law enforcement personnel to surveil various commercial establishments previously robbed by the unknown subject as well as other potential targets. Additional law enforcement personnel would act as roving units to immediately respond to particular locations where unusual activity was observed.

The unknown subject's method of operation in some of the robberies was to steal a vehicle and use the stolen vehicle to commit the robbery. Following the robbery, the subject would return the stolen vehicle to the vicinity where it was stolen.

While conducting surveillance that evening, SLCPD provided surveillance units a list of vehicles stolen that day from the general area of previous robberies and stolen vehicle recoveries. Officer [redacted] and SA [redacted] located an abandoned stolen vehicle in a townhouse parking area near Riverside Drive and Northwood Avenue at approximately 7:00 p.m. Surveillance units set up north and south of the vehicle hoping that the unknown robbery subject would return to the vehicle. Acting Supervisory Special Agent (A/SSA) [redacted] and SA [redacted] were in a Bureau vehicle located north of the stolen vehicle and other SLCPD units were south of the stolen vehicle.

b6
b7C

At approximately 8:00 p.m., SA [redacted] reported to the surveillance scene and parked his Bureau vehicle in an adjacent parking lot next to SA [redacted] vehicle. A/SSA [redacted] who was a passenger in SA [redacted] vehicle, provided SA [redacted] with an update on the surveillance.

Shortly before 9:40 p.m., after discussion among the surveillance units, A/SSA [redacted] decided to have SA [redacted] place a tire spike under the right front tire of the stolen vehicle. This action would deflate the tire if someone attempted to drive away and would hopefully prevent a high speed pursuit if the robbery subject attempted to flee in the stolen car.

As SA [redacted] returned to his Bureau vehicle, SA [redacted] observed an unknown male, whose clothing and physical appearance was similar to the unknown robbery subject, walking in a southern direction toward the stolen vehicle. SA [redacted] notified units in the area of the actions taking place via radio. The unknown subject entered the stolen vehicle and began to drive away. As the vehicle drove toward Redwood Road, SA [redacted] and A/SSA [redacted] began driving in a westerly direction paralleling the stolen vehicle on the north side. SA [redacted] repositioned his vehicle by moving it to a parking location across the street and exited his vehicle.

b6
b7C

As the subject was driving in a westerly direction through the parking area, surveillance units attempted to stop the vehicle. The subject attempted to back up and turn the vehicle to flee. He backed the vehicle on a curb and abandoned the vehicle, fleeing on foot in the direction of SA [redacted] A/SSA [redacted] exited SA [redacted] vehicle and began to run toward SA [redacted] when he heard SA [redacted] shout "He's got a gun." A/SSA [redacted] observed SA [redacted] with his weapon drawn, tracking the subject. Other law enforcement officers heard SA [redacted] yell "Stop." SA [redacted] advised that he repeatedly identified himself to the subject and ordered him to stop. As the subject continued to flee, SA [redacted] fired two shots. After the subject successfully eluded capture, a perimeter was established around the apartment building and a nearby command post was established. A search of the area failed to locate the subject.

A follow-up investigation identified the subject as [redacted] who was subsequently arrested by FBI and SLCPD personnel on 01/17/2001, without incident.

On 02/20/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; William Q. Doherty, Section Chief, Global Counterintelligence Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271908-D, 02/26/2001

SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted], and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

The only observation made by SIRG members was the fact that SA [redacted] exited his vehicle and left the vehicle running, unlocked and unsecured allowing access to the vehicle as well as his MP-5 shoulder weapon. This matter will be brought to the attention of the Special Agent in Charge of the Salt Lake City Division.



Savage-1759

To: Inspection From: Inspection
Re: 297-HQ-A1271908-D, 02/26/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm. 5155)
2 - Mr. [redacted] m. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted], Rm. 7837
1 - Ms. [redacted], DOJ
1 - Mr. [redacted] DOJ
(Attn: Mr. [redacted]
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] uantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861



Savage-1760

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/21/2002

To: Inspection

Attn: Acting Assistant Director
Thomas Bernard Locke

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271781-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/13/2001
NEWARK DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/13/2001, involving Special Agent (SA) [redacted], while hanging onto the hood of a vehicle driven by a subject attempting to elude arrest, fired five shots into the vehicle injuring the subject's arm. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Assistant Special Agent in Charge [redacted] dated 07/24/2001, and Electronic Communication (EC) of Supervisory Special Agent [redacted] dated 05/15/2002.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271781-D, 06/21/2002

Details of the Shooting Incident

SSA [redacted] had been contacted by the New Jersey State Police (NJSP) regarding the fraudulent lease of four luxury vehicles from an Ohio automobile dealership. In order to assist the NJSP and determine whether or not the lessees of the vehicles were connected to a Nigerian group being investigated by the Newark Division for similar activities, SSA [redacted] assigned SA [redacted] and United States Customs Service SA [redacted] to follow up on information provided by the NJSP. The Agents located and recovered two of the vehicles prior to this shooting incident. b6 b7C

Using a pretext of delivering license plates to the operator of a leased Mercedes-Benz, SAs [redacted] and [redacted] arranged to meet the operator of the vehicle in a parking lot in East Orange, New Jersey. The purpose of the meeting was to attempt to interview the vehicle's operator regarding the facts and circumstances of the vehicle lease. New Jersey State Police officers had determined that the driver's licenses used to effect the lease of the vehicles were fictitious.

Upon their arrival into the parking lot, SAs [redacted] and [redacted] waited for the vehicle operator in the pre-arranged parking area. The subject vehicle, driven by an individual later identified as [redacted] arrived accompanied by a passenger who was later determined to be [redacted] Subsequent to the arrival of the subject vehicle, the passenger exited the car while [redacted] remained inside the vehicle with the driver's side front door open. As SAs [redacted] and [redacted] approached, [redacted] began to flee the scene and [redacted] placed the vehicle in reverse, striking SA [redacted] with the door. Placing the car in forward, [redacted] also struck SA [redacted] who landed on the hood of the vehicle. While holding on to the hood of the car, SA [redacted] continually identified himself as a law enforcement officer; however, the subject did not respond and continued to drive the vehicle with the driver's side door open. SA [redacted] drew his weapon and fired five shots into the vehicle's front windshield. Four of the shots entered the front windshield of the subject's vehicle, while the fifth shot ricocheted off of the vehicle's hood vent. The driver of the subject vehicle was struck in the arm and the Mercedes-Benz crashed into a parked car. Following a struggle, [redacted] was apprehended by the Agents and two off-duty police officers. b6 b7C

[redacted] was treated at University Hospital, released and detained in the county jail.

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated



Savage-1762

08/14/2001, regarding SA [redacted] actions in this shooting incident. Subsequent to the subject's trial in the United States District Court, District of New Jersey, where the subject was convicted on two counts of Assault on a Federal Officer and two counts of Mail Fraud, SA [redacted] provided a signed sworn statement regarding his involvement in the shooting incident.

On 08/14/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Inspection Division, Office of Inspections; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; [redacted], Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only nonvoting member present was SSA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271781-D, 06/21/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] 7837
1 - Mr. [redacted] DOJ
1 - Ms. [redacted] DOJ
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] FO
1 - Mr. [redacted], Rm. 7861

b6
b7C



Savage-1764

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/16/2001

To: Inspection

Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271511-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/05/2001
HOUSTON DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 07/05/2001, involving Special Agent (SA) [redacted] SA [redacted] confronted four individuals believed to be suspects in a probable carjacking when two of the individuals stopped and turned toward him in an aggressive and threatening manner. Fearing for his safety, SA [redacted] fired one round from his .40 caliber Glock, model 22 pistol. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Supervisory Special Agent (SSA) [redacted] dated 07/26/2001.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271511-D, 10/16/2001

Details of the Shooting Incident

On 07/05/2001, members of the Special Operations Group (SOG), augmented with aerial support, were conducting a drug surveillance in northeast Houston. At approximately 1:30 p.m., SA [redacted] was parked at an intersection when he observed three vehicles approaching. The vehicles drove past SA [redacted] vehicle, then stopped. In his driver's side mirror, SA [redacted] observed four to six black males exit the vehicles and approach his vehicle. When the individuals were approximately 10 to 12 feet from SA [redacted] vehicle, he observed one of the males carrying a pistol. SA [redacted] immediately placed his vehicle in gear and sped away from the area. SA [redacted] contacted Team Leader [redacted] and informed him of what had transpired. SA [redacted] was instructed to dial 911 and notify the Houston Police Department (HPD) of the incident.

b6
b7C

SA [redacted] and members of the drug surveillance team, including the surveillance aircraft, attempted to locate the three vehicles. SA [redacted] remained in the area pending arrival of HPD marked units. Upon the arrival of HPD officers, SA [redacted] advised the officers that the SOG surveillance units observed the males drive to an apartment complex at 5500 Collingsworth. When the HPD marked units approached the apartment complex, six to eight black males began running. SA [redacted] drove to the apartment complex and observed three red vehicles, two of which he believed were the ones he previously observed near his vehicle.

SA [redacted] advised via radio that at least two of the fleeing individuals were wearing red shirts and holding their sides as if to cradle a weapon, to keep it from falling out of their waistbands. Another Agent advised the fleeing individuals crossed a street and were cutting through the parking lot of another apartment towards a public school. SA [redacted] drove through the open gates of the school entrance, and upon seeing him, four individuals ran in the opposite direction. SA [redacted] drove his Bureau vehicle to the southeast corner of the school building, exited the vehicle, and proceeded to a covered concrete walkway. Viewing the four black males running along the east side of the school, SA [redacted] shouted, "Police, Stop". Two of the individuals stopped and faced SA [redacted] with their hands at their sides, in a bladed stance. According to SA [redacted] although the two individuals stopped as commanded, the manner in which they stopped was threatening. Fearing for his safety, SA [redacted] fired one round from his .40 caliber Glock, model 22. All of the subjects scaled a cyclone fence into a wooded area. SA [redacted] returned to his vehicle and departed the school grounds in an attempt to locate the

b6
b7C

subjects. Several minutes later, SA [redacted] stated that a black male wearing a red shirt hopped over a fence located on the east side of the school and was walking towards the north side of the school. SA [redacted] returned to the school's north parking lot and detained the individual until HPD assistance arrived.

No injuries were sustained as a result of this shooting incident.

On 08/14/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Inspection Division, Office of Inspections; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; [redacted], Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. The only nonvoting member present was SSA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271511-D, 10/16/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] DOJ
1 - Ms. [redacted], DOJ
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861

b6
b7C



Savage-1768

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 02/13/2002

**To:** Inspection **Attn:** AD David R. Knowlton

**From:** Inspection
Contact: [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271508-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/12/2001
HONOLULU DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred 10/12/2001, involving Special Agent (SA) [redacted] SA [redacted] fired one shot from his Bureau-approved Glock .40 caliber pistol during the attempted arrest of an individual wanted on drug and firearm related charges. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 12/04/2001.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271508-D, 02/13/2002

Details of the Shooting Incident

On 10/12/2001, at approximately 5:00 p.m., SA received a telephone call from SA advising he had received information that an individual identified as currently wanted by the FBI on drug and firearm related charges, was at a storage locker facility several blocks from the Honolulu Division office space. SA requested SA assistance in locating and apprehending SA also accompanied SAs and in an effort to locate and arrest the fugitive. b6 b7C

As SAs and departed the office for the storage facility, SA explained the layout of the building. SA also advised that he and SA would approach the subject directly and make the arrest while SA covered the exit in case attempted to run.

Upon their arrival at the storage facility, SA re-emphasized the arrest plan to SAs and and stated that safety was the number one concern. The Agents entered through a locked electronic door for which SA had the combination. of the storage facility exited and explained to SA that the subject had left the building prior to their arrival. advised that was with a second individual and was "hysterical" as the two departed the building. She provided the Agents with a Hawaii license plate number and a description of the vehicle used by the subject.

Further investigation determined that the license plate number provided by belonged to a vehicle registered to with a Kaneohe address. The Agents decided to attempt to locate discussing several possible locations of where he may have went. As the Agents stopped for a red light at the intersection of Ala Moana Boulevard and Atkinson Drive, they saw a blue Camaro stopped four cars in front of them, in the far right turn lane. As the blue Camaro moved forward and prior to turning right onto Atkinson Drive, the Agents confirmed the license plate as that of confirmed that the driver of the vehicle was and determined that a passenger was in the vehicle with him. SA instructed SA to follow and place a call to the Honolulu Police Department for a police vehicle to assist in the apprehension. b6 b7C

The Bureau vehicle and the suspect's vehicle were in the second to far left lane. As both cars stopped due to traffic, SA suddenly pulled to the left at a slight angle next to s vehicle. SA was close to the subject's vehicle rendering SA incapable of exiting the passenger side front door. SA suddenly jumped out of the driver's side door of

the Bureau vehicle and proceeded to the front of [redacted] vehicle with his weapon drawn. SA [redacted] reacted and exited the Bureau vehicle through a narrow opening at the rear passenger door. As SA [redacted] exited the Bureau car and proceeded to the back of [redacted] vehicle, he drew his weapon and shouted, "FBI, stop the car, you are under arrest!" SA [redacted] also heard SA [redacted] shouting commands for [redacted] to stop the vehicle. As traffic began to move, [redacted] vehicle lunged forward and stopped several times. SA [redacted] grabbed the rear spoiler of [redacted]'s vehicle for balance and for the second time hit the lower part of the back window with his weapon. As he hit the window a third time, the top part of the back window of the subject's vehicle shattered. SA [redacted] could see light from inside the vehicle and observed [redacted] turn around and face him from the driver's seat with his right hand partially raised. SA [redacted] observed a silver, shiny object in [redacted] right hand. Fearing for his safety, SA [redacted] raised his weapon, focused on [redacted] and fired one round through the lower portion of the back window into the vehicle. [redacted] immediately sped away. The Agents returned to their office space after an unsuccessful search for [redacted]

b6
b7C

On 01/08/2002, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and SSA [redacted] Washington Field Office. The only nonvoting member present was SSA [redacted] Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

Members of the SIRG made several observations regarding this incident including the fact that the Agents did not utilize protective armor although this was not a spontaneous arrest. Members also noted that the participating Agents had no visible identification other than a belt badge.

The second observation pertained to participants having no contingency plan for a car stop. Members noted the Bureau vehicle pulled close enough to the subject's vehicle that one Agent could not exit and assist the other Agents on the scene. Members opined that vehicle stops should be used as a last resort and discussed the fact that this stop took place in a densely populated area with many innocent bystanders in the area. b6 b7C

SIRG members noted that SA [redacted] used his weapon as a club in order the break the subject vehicle's window and that the Agents improperly abandoned the scene of the shooting. It was also noted that, due to the positions taken by SAs [redacted] and [redacted] they could have been subject to cross fire resulting in serious injury. Based on these observations, members recommended that the Agents receive additional training in properly conducting vehicle stops. These observations will be addressed with the Special Agent in Charge of the Honolulu Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271508-D, 02/13/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this incident.

1 - Mr. [redacted] Rm. 7142
1 - Mr. Cousins, Rm. 5155
2 - Mr. [redacted], Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. Doherty, Rm. 4042
(Attn: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted], Rm. 7861

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 11/19/2001

**To:** Inspection **Attn:** AD David E. Knowlton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271285-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/28/2001
CHICAGO DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/28/2001, involving Supervisory Special Agent (SSA) [redacted] and Special Agent (SA) [redacted] Both Agents fired shots injuring a subject who shot a Task Force Officer (TFO) in the head during his attempted arrest. SIRG members recommended that no administrative action be taken against SSA [redacted] and SA [redacted] as a result of their involvement in this shooting incident. b6 b7C

**Administrative:** Reference report of Inspector [redacted] dated 09/05/2001.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

**Details of the Shooting Incident**

On 08/17/2001, a Charter One Bank located in Chicago was robbed by a lone black male who stated that he had a gun; however, never displayed the weapon during the robbery. On 08/24/2001, this same gunman, later identified as [redacted], again robbed the Charter One Bank. On the second occasion, the subject displayed a "large, silver" handgun. An employee of the bank watched the subject leave the area in a Ford Expedition with dealer plates. Investigation revealed that [redacted] had taken the Expedition used in the robbery for a test drive the morning of 08/17/2001, and provided his true name and an address of [redacted] in Chicago.

On the evenings of 08/24 and 08/25, physical surveillance was established at the Dauphin Street address, however, [redacted] was not observed in the area. A federal criminal complaint and arrest warrant were obtained for [redacted] on 08/25/2001.

After preparing an operations plan to approach the [redacted] Street address and arrest [redacted] if he was there, surveillance continued on 08/27/2001. An arrest plan was finalized and approved using six SAs to approach the residence and arrest [redacted] on the following morning.

At approximately 7:00 a.m., on 08/28/2001, SA [redacted] and five additional SAs approached the [redacted] Street address and spoke with [redacted] and [redacted]. Both advised the Agents that [redacted] had lived at the address for a while, but had not been there since 08/17/2001. The occupants allowed Agents to search the house, including the room [redacted] had stayed in and the personal effects that he had left behind.

During the search, several items were located regarding [redacted] possible whereabouts. Among the items found was a letter addressed to [redacted] at a South Wabash Street address, [redacted] identified [redacted] as [redacted]. Additionally, receipts for ammunition commonly used in AK-47 assault rifles and 30.06 rifles were located as well as an empty soft cover for a long weapon and military camouflage shirts and a hat similar to the one worn by the bank robbery suspect in both Charter One Bank robberies.

Based on the items located, SA [redacted] advised his supervisor that he and SA [redacted] were going to drive by the South Wabash Street address to look for the stolen Expedition. Upon their arrival, SAs [redacted] and [redacted] obtained permission from the building manager to look inside the parking garage at the building and located the vehicle. SA [redacted] looked

b6
b7C

b6
b7C

through the windows of the vehicle and observed a black duffel bag similar to one used in the bank robberies, a camouflage shirt and a hard case for a long weapon which was partially covered by a blanket. SA [redacted] saw several other items in the vehicle indicating that it had not been abandoned.

SA [redacted] contacted SSA [redacted] advising that he had located the Expedition and requested additional Agents/TFOs to respond to his location for a possible arrest. Available SAs were sent to the scene and a request was made to the Fugitive Task Force supervisor for an additional three bodies. The Task Force supervisor provided one SA and two TFOs. SSA [redacted] also responded to a staging area one block from the apartment building and briefed other participants on the information received from SA [redacted] TFO [redacted] and SA [redacted], drove into the garage in a police vehicle and blocked the Expedition. b6 b7C

Between 9:30 and 9:45 a.m., all Agents and TFOs walked to the parking garage on South Wabash where SSA [redacted] and SA [redacted] briefed participants on [redacted] background including his known violent tendencies and disseminated an arrest photograph of him. During the briefing, both Agents discussed various options and scenarios to effect [redacted] arrest if he was in the apartment.

Assignments were made by SSA [redacted] with SA [redacted] and TFO [redacted] assigned to watch the garage and the Expedition; TFO [redacted] and SA [redacted] assigned to watch the front of the building, and three SAs and one TFO assigned to positions in the alleyway behind the apartment building. SSA [redacted] along with SAs [redacted] and [redacted] and TFO [redacted] were designated as the entry team. Prior to deploying to their respective assignments, SA [redacted] and TFO [redacted] suggested a ruse where TFO [redacted] a black officer, would pose as a neighbor of [redacted] (possibly housing [redacted] who had erroneously received a package intended for [redacted]

At approximately 10:00 a.m., the entire arrest team proceeded into position and checked radio communications on both FBI Nextels and Chicago Police Department radios. After everyone was in position, SSA [redacted] gave TFO [redacted] the signal to knock on the door of [redacted] TFO [redacted] was carrying a package and the four SAs were lined up along the wall, out of sight of the occupants of the apartment, with weapons drawn. As TFO [redacted] knocked there was a muffled response followed by a male asking "What do you want?" TFO [redacted] stated that he was a neighbor with a package for the apartment. SA [redacted] and TFO [redacted] heard children's voices in the apartment. After a brief pause, the door was partially opened and TFO [redacted] placed b6 b7C

his foot in the door and said, "Mr [redacted], I have a package for you." [redacted] responded, "No, no. I don't think so." As [redacted] attempted to close the door TFO [redacted] SSA [redacted] and SA [redacted] began pushing on the door announcing they were the police.

[redacted] ran from the door toward the rear of the apartment with the three law enforcement officers in pursuit. SSA [redacted] saw [redacted] carrying a chrome-plated handgun as he ran, pointing it at them. As [redacted] rounded a corner closely followed by TFO [redacted] SSA [redacted] and SA [redacted] heard TFO [redacted] say, "No, you don't want to do that." Almost simultaneously with the statement, the Agents heard a single gunshot. SSA [redacted] who had rounded the corner, observed TFO [redacted] fall face forward away from him. Seeing [redacted] with a handgun in both hands turning from TFO [redacted] and pointing and firing both guns at him, SSA [redacted] and SA [redacted] returned fire. Searching for available cover, both Agents decided to attempt to round the corner and apprehend [redacted] As SSA [redacted] started toward the corner, he saw two hands, with a gun in each, come around the corner low to the floor and began firing again. SSA [redacted] and SA [redacted] moved to the closest available cover which was the doorway to the apartment where they instructed SAs [redacted] and [redacted] to call 911.

SSA [redacted] began calling into the apartment for TFO [redacted] to determine if he could answer. Hearing no response, SSA [redacted] called out for [redacted] or the children in the apartment, finally getting a response from [redacted] SSA [redacted] a trained hostage negotiator and the Chicago Division's Hostage Negotiation Coordinator, began dialogue with [redacted] attempting to obtain immediate medical care for TFO [redacted] [redacted] would not allow medical attention to be provided to TFO [redacted] and eventually asked to speak with his girlfriend. [redacted] girlfriend was brought to the building and allowed to speak with [redacted] telephonically. After further negotiations, [redacted] advised that he would allow FBI and Chicago Police Department personnel into the apartment to arrest him and provide medical care to TFO [redacted] and himself after he spoke with a reporter. Law enforcement personnel allowed [redacted] to have a two minute conversation with a reporter before he surrendered. FBI Special Weapons and Tactics (SWAT) Team members, in full gear with shields, entered the apartment, handcuffed [redacted] and provided security while emergency medical personnel provided care to TFO [redacted] TFO [redacted] was transported to the Northwestern Memorial Hospital in critical condition with a .45 caliber gunshot wound to the left temple. [redacted] was transported to the Cook County Hospital where he was treated for four gunshot wounds.

b6
b7C

b6
b7C

As of 11/15/2001, TFO [redacted] had emerged from a coma and was scheduled to be transferred to the Rehabilitation Institute of Chicago.

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 09/21/2001, regarding SSA [redacted] and SA [redacted] actions in this shooting incident. By letter dated 09/06/2001, Supervisor [redacted] Felony Review Unit, Office of the State Attorney, Cook County, Illinois, advised that his office would recommend that there be no filing of criminal charges in this matter. b6 b7C

On 11/13/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Inspection Division, Office of Inspections; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted] Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SSA [redacted] and SA [redacted] was justified and in conformance with the deadly force policy.

SIRG members expressed several concerns about the shooting incident including the fact that TFO [redacted] the first law enforcement officer to enter the apartment, was not utilizing

a ballistic protective undergarment. Additionally, members noted that SA [redacted] was wearing personally owned body armor on the day of the incident, not a Bureau-issued vest.

The second observation made by SIRG members pertained to the lack of details contained in the arrest plan including the fact that participants were not overtly identified as law enforcement officers; no use of SWAT personnel or shields during the apartment entry and the use of a dynamic entry knowing that children were present in the apartment.

Members noted that SA [redacted] weapon contained fourteen rounds, however, he had no extra magazines in his possession on the day of the shooting incident. Although not critical in the final phase of this incident, this action could prove problematic in future situations. b6 b7C

Lastly, the SIRG recognized that SSA [redacted] had received no deadly force training in the past year.

These observations will be provided to the Special Agent in Charge of the Chicago Division to ensure they do not recur.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 11/19/2001

LEAD (s):

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SSA [redacted] and SA [redacted] as a result of their involvement in this shooting incident.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
(Attn: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs [redacted] Rm. 7861

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 11/30/2001

To: Inspection Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271748-D

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/31/2001
MIAMI DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 08/31/2001, involving Special Agent (SA) [redacted] SA [redacted] fired four shots from a Bureau-issued M4 rifle, injuring a subject involved in a law enforcement planned attempted hijacking of a tractor trailer purported to contain computer parts. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector-in-Place [redacted], dated 09/14/2001.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 11/30/2001

Details of the Shooting Incident

On 08/10/2001, the Miami Cargo Theft Task Force (CTTF) received information from a [redacted] that he was approached by [redacted] inquiring about any known robbery targets of which he knew. [redacted] advised that he had two associates, one identified as [redacted] who were willing to assist him in conducting armed robberies and that he had a fully automatic AK-47 assault rifle and law enforcement paraphernalia in which to carry out these crimes. [redacted] that he might have some work for him in the near future and subsequently advised the CTTF of [redacted] inquiry.

b6
b7C
b7D

[redacted]

[redacted] that he had knowledge of a shipment of computer parts valued at approximately two million dollars. The UCO asked [redacted] if he was interested in committing an armed hijacking and if he and his associates were capable of doing the job. [redacted] replied yes, and continued to explain that this was his type of work which he had done many times. [redacted] also advised the UCO that he had several shirts labeled "FBI" and equipment to execute the robbery. The UCO asked [redacted] if he was willing to kill the truck driver to which [redacted] responded, "Don't worry about the driver, I'll take care of him." [redacted] at a later meeting that he would kill the driver if necessary, however, his plan was to place the driver in the trunk of his car.

b6
b7C
b7D

[redacted] who reiterated his desire to commit the robbery. [redacted] stated that, on the evening of the hijacking, he would drive a Ford Taurus equipped with a blue flashing police light, wear a shirt labeled "FBI" and would be armed with a Glock .40 caliber semi-automatic pistol. The UCO told [redacted] that he would direct him to the location of the tractor trailer containing the computer parts where [redacted] and his associates would commit the armed hijacking.

[redacted]

black shirts with white "FBI" lettering, a tactical holster, a

semi-automatic pistol, ballistic vests, baseball style caps labeled "FBI", a Military Armament Corporation, a MAC-10 machine gun pistol which [redacted] claimed to be fully automatic and an AK-47 assault rifle.

On the same date, SA [redacted] prepared an Operations Plan to arrest the subjects of the proposed hijacking which was approved by ASAC Ricardo Martinez and the Assistant Director of the MDPD. b6 b7C b7D

[redacted] to finalize the logistics for the armed hijacking which was planned for 08/30/2001. [redacted] stated to them that he was ready and willing to commit the hijacking.

On 08/30/2001, at approximately 10:30 a.m., a briefing was held by the CTTF to review the Operation Plan, which included background and photographs of the subjects, their criminal histories and propensity for violence, a description of the clothing that the individuals may be wearing and possible weapons being used, as well as the Bureau's Deadly Force Policy.

Several Special Weapons and Tactics (SWAT) members conducted a site survey of the target location, identified as an [redacted] b7E

Subsequent to placing an empty tractor trailer at the warehouse site and holding additional briefings which included FBI and MDPD personnel, the SWAT Team traveled to the commercial warehouse park where they assumed positions on the rooftops of the east and west buildings, behind the north wall and at the entrance to the warehouse. The team rehearsed approximately four arrest scenarios encompassing a variety of possible situations that may be encountered. Included in the rehearsals were the responsibilities of each tactical member and negotiators as well as the order of commands and by whom they would be given. At the conclusion of the rehearsals, SWAT members repositioned themselves at their designated locations. b6 b7C b7D

[redacted] in the vicinity of the warehouse. [redacted] and a second black male, later identified as [redacted] discussed the

hijacking with the [redacted] and [redacted] left the area for approximately fifteen minutes and returned to the Mobil station where they displayed the MAC-10 machine gun pistol, their "FBI" shirts and other paraphernalia. [redacted] drove to the warehouse location with [redacted] and [redacted] following, where they identified the location of the tractor trailer to be hijacked. The UCO advised [redacted] that the driver of the tractor trailer would be asleep in the truck and that he could not participate in the hijacking for fear of being recognized by the driver.

b6
b7C

At approximately 3:15 a.m., [redacted] and [redacted] traveled to the warehouse complex, parked the vehicle on the southeast side of the facility and entered the warehouse lot approaching the target tractor trailer, which was idling. SWAT members observed [redacted] carrying the MAC-10 in his right hand. SA [redacted] observed the subjects knock on the truck cab announcing they were the FBI. As participants received the word to execute the arrest plan, a Miami Division negotiator announced the presence of law enforcement personnel over a bullhorn and commanded the subjects to surrender. Simultaneous with the announcement, SWAT members located on the building rooftops raised over the building's parapet, addressing their lanes of responsibility. As the subjects turned in the direction of the negotiator's voice, SA [redacted] observed [redacted] exposing the muzzle of his weapon toward positions of other SWAT members. SA [redacted] believing that [redacted] was possibly going to fire his weapon at one of the team members, fired his shoulder weapon four times, striking [redacted] Both subjects went to the ground and were taken into custody. SWAT medical personnel responded to [redacted] to provide medical attention. [redacted] was later airlifted to Jackson Memorial Hospital where he underwent two surgical procedures and was listed in critical condition.

The MDPD Homicide Unit responded to the scene and conducted the shooting investigation with the assistance of members of the Miami Division's Shooting Response Team.

b6
b7C

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 11/01/2001, regarding SA [redacted] actions in this shooting incident. On 09/19/2001, the Miami-Dade Assistant State Attorney advised that, based on details provided to him by the MDPD about the shooting incident, he would decline any criminal charges on SA [redacted]

On 11/13/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director

Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Inspection Division, Office of Inspections; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted], Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

SIRG members made several observations about this shooting incident, the most notable pertaining to the serious administrative deficiencies exhibited by the Executive Management of the Miami Division prior to the arrival of the Shooting Incident Review Team dispatched by FBIHQ.

The first area of concern involved the FBI surrendering the crime scene to the MDPD due to an agreement made in advance regarding scene processing. Instructions were issued by the Special Agent in Charge (SAC) for Agents involved in the incident to pair up with a Miami Shooting Incident Review Team member and be interviewed by MDPD members. SIRG members emphasized the fact that local law enforcement agencies are not familiar with FBI policies and procedures and that any interviews should have been conducted in the presence of MDPD members as well as FBI personnel. Conducting joint interviews eliminates the necessity

for multiple statements. Members emphasized the need for the Miami Division to revisit any Memorandum of Understanding with local law enforcement to ensure these issues are immediately addressed. It was also noted that the SAC did not instruct Agents involved in the incident to remain in the Division to be interviewed by the Inspection Division Shooting Incident Review Team because he did not think it was necessary for FBIHQ to dispatch a team to the Miami Division.

The second area of discussion by the SIRG revolved around the lack of documentation of SWAT personnel qualification scores as well as the lack of documented deadly force training. The Miami Division Principal Firearms Instructor (PFI) provided firearms qualification scores for SA [redacted] for the period of 01/01/2000 through 09/04/2001. There was no official record of any qualification scores for SA [redacted] regarding the weapon involved in the shooting. However, the Senior SWAT Team Leader produced a document indicating that SA [redacted] qualified (scored 90 or better) with an M-4 during a SWAT firearms qualification held 06/10/2001 to 06/13/2001. SIRG members opined that all qualification scores should be submitted to the PFI for inclusion into the computer system to ensure the accuracy and completeness of official firearms records.

b6
b7C

The last documented Annual Mandatory Deadly Force Training occurred during the period of 07/06/2000 - 08/03/2000. Records indicated that SA [redacted] participated in that scheduled deadly force training; however, SIRG members noted the absence of documented SWAT deadly force training. The Senior SWAT Team Leader indicated in an interview that he provided instruction on deadly force policy during SWAT team firearms sessions, however, the training was not documented. Members opined that the SAC of the Miami Division must ensure that each Agent receives the Annual Mandatory Deadly Force Training and that this training is properly documented by the Chief Division Counsel, as required.

The Training Division representative noted that the FD-302 pertaining to SA [redacted] included information that the weapon (MAC-10) of the injured subject was kicked away. He explained to SIRG members that a MAC-10 fires from open bolt and could have fired if loaded.

These observations will be provided to the SAC of the Miami Division to ensure they do not recur.

To: Inspection From: Inspection
Re: 297-HQ-A1271748-D, 11/30/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
(Attn: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr [redacted]
1 - Mr [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs [redacted] Rm. 7861

b6
b7C

(12-31-1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 05/07/2002

**To:** Inspection **Attn:** Acting AD [redacted]

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] :lrr

**Case ID #:** 297-HQ-A1271480-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
09/03/2001
DETROIT DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 09/03/2001, involving Special Agents (SAs) [redacted] and [redacted] Each Agent fired one shot at Grover Thomas Crosslin as he leaned forward in a shooting position with his finger in the trigger guard of a Mini 14 pointed in the direction of SA [redacted] Crosslin was killed as a result of the gunshots. SIRG members recommended that no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

**Administrative:** Reference report of Inspector-in-Place [redacted] dated 10/29/2001.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271480-D, 05/07/2002

Details of the Shooting Incident

Local and state law enforcement officials had been investigating Grover Thomas Crosslin and his Rainbow Farm Campground for a lengthy period of time. Crosslin, a long time advocate of the legalization of marijuana, frequently hosted weekend "concerts" on the property. He advertised his farm as an alternative campground and concert arena.

The investigation culminated in the execution of a search warrant in May 2001, arresting Crosslin. At that time, Crosslin and his homosexual partner, Rollin Eugene Rohm, were charged with multiple drug violations. Crosslin was specifically charged with manufacturing marijuana, more than 200 plants; maintaining a drug house; felony firearms possession during the commission of a crime; and firearms possession by a felon. The initial charges for Rohm included manufacturing marijuana, more than 200 plants; maintaining a drug house and felony firearms charges, the last two being dismissed in June 2001. This incident also resulted in the removal of Rohm's son from the residence shared by Rohm and Crosslin.

Local prosecutors initiated asset forfeiture actions against Rainbow Farm and sought and received a restraining order prohibiting Crosslin from hosting any "festivals" at the farm. In violation of the court order, Crosslin hosted a festival on 08/17 and 08/18/2001. This incident resulted in Crosslin being ordered to appear in court on 08/31/2001, to show cause why he should not be held in contempt of court for violating the restraining order.

On 08/31/2001, at approximately 12:00 p.m., a report was received by the Cass County Sheriff's Office (CCSO) that a building at the Rainbow Farm was on fire. As fire, ambulance and law enforcement personnel began to respond to the fire, the CCSO received a telephone call advising that Crosslin may be setting up an ambush for the first responders. The caller advised that one half hour earlier, Crosslin was seen dressed in camouflage attire, was allegedly armed, and told a neighbor to get out of the area because "there's going to be trouble". According to the caller, Crosslin allegedly stated "They weren't going to take them alive". With this knowledge and for personal safety, units responded to the area but staged down the road away from Rainbow Farm.

Unknown to officers at the time, on 08/29/2001, Crosslin had posted a notice on the Rainbow Farm website that the Labor Day weekend campout had been called off due to "bad government" intervening and closed the campground. During the preceding 24 hours, Crosslin had also told a few neighbors not to

be around over the weekend because "all shit's going to break loose". Additionally, reports advised that Crosslin contacted individuals on the evening of 08/30/2001, telling them goodbye and saying that they would probably never see him again.

At approximately 1:30 p.m., on 08/31/2001, a helicopter belonging to WNDU television studio in South Bend, Indiana, was flying over Rainbow Farm filming two fires burning on the property. Officers in the staging area heard gun fire and believed that Crosslin and/or Rohm may be firing at the helicopter. Officers located a WNDU ground crew who notified the helicopter pilot to immediately depart the area. When the helicopter landed in South Bend, an examination of the aircraft revealed that it had been hit with one bullet hole in the right side, horizontal stabilizer. Upon confirmation that the helicopter had been hit, and in view of the federal jurisdiction connected with the destruction of aircraft, the CCSO notified the St. Joseph, Michigan, Resident Agency (RA) and requested assistance from the Michigan State Police (MSP).

MSP personnel responded to the scene, as well as SA [redacted] of the St. Joseph RA, to monitor the situation. SA [redacted] also advised Senior Supervisory Resident Agent (SSRA) [redacted] in Grand Rapids of the situation, who in turn notified Executive Management in Detroit.

b6
b7C

On 09/01/2001, the MSP was primarily responsible for maintaining a perimeter around Rainbow Farm with resources including a fixed-wing aircraft and light armored vehicles. SSRA [redacted] arrived on the scene and was requested to provide assistance to the MSP at the site. After consultation with Detroit Executive Management, a decision was made to put Detroit's Special Weapons and Tactics (SWAT) personnel on standby until additional information could be obtained regarding FBI jurisdiction prior to authorizing SWAT deployment. Consultation with an Assistant United States Attorney in the Western District of Michigan disclosed federal jurisdiction existed for Destruction of Aircraft charges against Crosslin.

On 09/01/2001, gun shots were heard when an MSP airplane flew over the Rainbow Farm and similar gun shots were heard when a civilian aircraft flew near the area. Efforts by MSP personnel to initiate telephonic contact with Crosslin or Rohm had proven unsuccessful and loud speakers were placed in the woods near the property in order to speak to Crosslin. Crosslin responded by shooting in the area of the speakers.

On the morning of 09/02/2001, Detroit Executive Management arrived on the scene, and following discussions with

the MSP District Commander, his SWAT Team Leader, SWAT Coordinator, Chief Division Counsel and SSRA [redacted] SAC John E. Bell, Jr., committed FBI resources to assist the MSP. An agreement was reached that the FBI would assume control of the tactical situation at approximately 7:00 p.m., on 09/02/2001, for a 24-hour period, relieving the MSP who had been on the scene since 08/31/2001. Efforts to establish communication with Crosslin and Rohm throughout the evening were unproductive. b6 b7C

An acquaintance of Crosslin's, who had been in the residence multiple times while law enforcement authorities were on the scene, agreed to act as an intermediary between the subjects and law enforcement. The acquaintance again entered the residence on 09/03/2001, and subsequently advised law enforcement personnel that Crosslin and Rohm were becoming frustrated because they wanted to talk to "their son" [redacted] The individual also advised that both subjects were carrying around rifles inside the residence and that he saw several boxes of ammunition in the house.

During the early afternoon of 09/03/2001, another young acquaintance of Crosslin's decided on his own to go to the farm and try to talk Crosslin into either giving up or running away. As he arrived, he was invited into the home by Crosslin and Rohm. Subsequent to the shooting incident, this individual also advised law enforcement personnel that Crosslin had shown him a wire inside the residence that was rigged to blow up or burn the house down. Crosslin also stated that the yard was mined and he had done that in preparation of a police stand off. Crosslin also stated to the acquaintance that he and Rohm would like to take a couple of them (indicating police) with them.

At approximately 2:30 p.m., one of the acquaintances, who had advised that the residence had no operational phone on the property, re-entered the residence and spoke to Crosslin about accepting a phone from the FBI to which Crosslin agreed.

At approximately 3:30 p.m., Crosslin and one of the acquaintances departed Crosslin's residence to go to a neighbor's residence to get food and supplies. Both individuals traveled down a path passing by the position of three Agents. SA [redacted] observed Crosslin carrying a Mini 14 rifle. As SA [redacted] retreated from the path as quietly as possible, gaining the cover of a tree, both individuals stopped momentarily beside the campsite; however, did not spot the Agents. They proceeded to the neighbor's residence where Crosslin forced his way in, removing a number of items and walking back to the farm. b6 b7C

At approximately 4:30 p.m., the acquaintance that had convinced Crosslin to accept the phone from the FBI, re-entered the residence with the phone. He initiated a call from inside the residence to the negotiation operations center and advised that Crosslin wanted him to talk to the FBI on his behalf and tell them that Crosslin wanted to talk to his son. Crosslin refused to talk to the negotiators directly and indicated that he would not talk to them until he talked to his son. After several failed attempts to initiate conversation with Crosslin, the acquaintance left the residence taking the telephone with him.

Shortly after 5:00 p.m., Crosslin realized that when he and his friend got the coffee maker from the neighbor's house, he forgot to get the coffee pot. Crosslin asked the friend to return to the neighbor's residence for the pot; however, he refused telling Crosslin that he was not sure of the way and he was concerned about the trip wires and buried mines that Crosslin claimed to have placed along the trails. Crosslin eventually agreed to go with the individual to obtain the coffee pot and advised that upon their return he would walk him off the property. Approximately halfway back to his residence, Crosslin wanted to stop and rest. As they were resting, Crosslin suddenly said, "Did you hear that?" Crosslin stood up, turned around and radioed on a handy talkie to Rohm, "Incoming." Crosslin began walking, stopped briefly, looked in a trash can in the campsite, then continued walking through the campsite area. SA [redacted] observed the movements of Crosslin, realizing that if Crosslin continued walking in the direction he was going, he would run into SA [redacted] SA [redacted] observed Crosslin suddenly stop with a startled look on his face, looking directly at SA [redacted] position. Crosslin raised the Mini 14 to his shoulder and leaned forward in a shooting position with his finger in the trigger guard. Believing that Crosslin was going to fire at SA [redacted] SA [redacted] began squeezing the trigger on his M-16. Before he could fire, SA [redacted] heard two shots and Crosslin dropped. SAs [redacted] and [redacted] confirmed to SA [redacted] that each of them fired one shot from their weapons. b6 b7C

Medics responded to the scene and confirmed that the individual accompanying Crosslin had not been shot and was not injured beyond minor scratches.

The Medical Examiner was contacted, arrived on the scene and pronounced Crosslin dead. It was subsequently determined that the shot fired by SA [redacted] was a fatal gunshot wound to the head and the shot fired by SA [redacted] passed through a small tree with fragments causing the other injuries incurred by Crosslin.

It should also be noted that the MSP assumed the sniper/observer positions as well as perimeter responsibilities later that evening continuing active negotiations with Rohm. However, in a confrontation with the MSP the following morning, Rohm was also shot and killed by MSP snipers.

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 12/11/2001, regarding the actions of the two Agents involved in the shooting. Contact with the Prosecuting Attorney of Cass County, Michigan, revealed that his office would not conduct an independent investigation concerning the shooting incident nor would he convene a grand jury to hear evidence in the matter. The State of Michigan Attorney General's Office also concurred with the declination.

By Electronic Communication dated 03/25/2002, received in the Inspection Division on 04/02/2002, signed sworn statements for SAs [redacted] and [redacted] were provided regarding the incident.

On 11/13/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Inspection Division, Office of Inspections; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted], Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted], Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted], Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning

training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy. b6 b7C

The only observation made regarding this incident pertained to the large number of SWAT personnel within the Detroit Division hitting below the 90% qualification level during firearms training. The Training Division representative emphasized the fact that the SWAT marksmanship standard is 90% on all courses of fire. This concern will be addressed with the Special Agent in Charge of the Detroit Division.

To: Inspection From: Inspection
Re: 297-HQ-A1271480-D, 05/07/2002

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Cousins
1 - Mr. Doherty, Rm. 4042
(Attn: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] FO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted], Rm. 7861

b6
b7C



Savage-1795

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/08/2001

To: Inspection Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] rr

Case ID #: 297-HQ-A1271788-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
05/11/2001
NEW YORK DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/11/2001. Special Agent (SA) [redacted] shot and killed Top Ten Most Wanted Fugitive Khalid Ahmad Mansoor while attempting his arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Inspector-in-Place [redacted] dated 05/24/2001.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 08/08/2001

Details of the Shooting Incident

On 01/02/2001, the Las Vegas Division obtained a warrant for Khalid Ahmad Mansoor for Unlawful Flight To Avoid Prosecution stemming from first degree kidnapping and sexual assault with a deadly weapon charges. On 01/09/2001, Mansoor committed carjacking and second degree murder offenses in New Orleans, Louisiana, as he fled from police who approached him at the New Orleans International Airport. Additionally, on 05/10/2001, Mansoor was captured on videotape in Atlantic City, New Jersey, committing an armed robbery of a jewelry store, taking Rolex watches valued between $300,000 and $500,000.

After the New Jersey armed robbery, Agents of Atlantic City, Las Vegas, Philadelphia and New York, joined by Fugitive Task Force personnel in New York, began an intensive manhunt for Mansoor. On 05/10/2001, at approximately 9:45 p.m., SA [redacted] of the Atlantic City Resident Agency received notification that Mansoor had robbed a jewelry store located inside the Taj Mahal Casino in Atlantic City, New Jersey. After conducting further investigation, SA [redacted] developed lead information to assist in the reconstruction of Mansoor's trail in and out of Atlantic City on 05/10/2001.

On 05/11/2001, SA [redacted] paged a New York Agent to share information in an effort to cover leads and pick up the trail for Mansoor in New York. SA [redacted] discovered the identities of two cab drivers who were believed to be acquainted with Mansoor. One of the drivers was interviewed on the evening of 05/10/2001, and advised that he drove Mansoor from Midtown New York to Atlantic City earlier that evening. The cab driver also provided SA [redacted] with a cell phone number for another cab driver in New York who was originally responsible for transporting Mansoor to Atlantic City; however, was unable to keep the appointment. SA [redacted] provided this information to SA [redacted] of the New York Office.

b6
b7C

SA [redacted] located and met with the cab driver who provided additional cellular telephone numbers including the telephone number from which Mansoor had placed a call on 05/10/2001, while attempting to acquire a ride to Atlantic City. Using the information furnished, SA [redacted] traced the earlier call placed by Mansoor to the Hampshire Hotel and Suites in Midtown Manhattan.

SA [redacted] along with SA [redacted] met at the Hampshire Hotel and approached hotel staff with a description and photographs of Mansoor. Although hotel employees denied seeing Mansoor and guest records were negative for him, SAs [redacted] and [redacted] determined that the phone call to the cab driver was placed

from room 921 of the hotel. A determination was also made that the occupant of room 921 had not checked out of the hotel. Upon establishing these facts, SA [redacted] re-contacted a New York Police Department Lieutenant who agreed to send additional officers and Agents from the High Intensity Drug Trafficking Area (HIDTA) Task Force to assist SAs [redacted] and [redacted]. A surveillance was established in and around the vicinity of the hotel by SAs [redacted] Lieutenant [redacted] and additional NYPD officers who were briefed on the investigation.

Further investigation determined that Mansoor was not inside the hotel room, however, law enforcement personnel located a passport photograph of Mansoor, together with laminating equipment, indicative of possible false identification being prepared. b6 b7C

SA [redacted] requested Deputy United States Marshal (DUSM) [redacted] and Detective [redacted] to assist SA [redacted] with a loose surveillance at the hotel until noon (hotel checkout time) in the event that Mansoor was seen in or around the hotel. After briefing [redacted] and [redacted] regarding the status of the investigation, SA [redacted] displayed the passport photograph of Mansoor. At approximately 9:40 a.m., the three officers observed an individual matching Mansoor's description approach the Hampshire Hotel on foot and enter the hotel lobby.

SA [redacted], DUSM [redacted] and Detective [redacted] followed the individual into the front door of the hotel, and as they approached him standing at the elevator doors, became convinced that the individual was indeed Mansoor. As they made eye contact with the individual, they also believed that he recognized them as law enforcement officers. Aware of Mansoor's propensity for violence and escape, the officers drew closer to Mansoor to initiate his arrest. SA [redacted] announced "Police, we need to speak to you." Mansoor immediately dropped both hands to his waistband and SA [redacted] grabbed Mansoor's right hand, arm and shoulder. DUSM [redacted] grabbed at Mansoor's left arm and while the struggle escalated, Detective [redacted] attempted to tackle Mansoor from the waist and legs to get him on the floor. During the struggle, SA [redacted] observed Mansoor holding a handgun in his right hand attempting to point it at Detective [redacted] and DUSM [redacted]. Fearing for the lives of the officers, as well as his own, SA [redacted] drew his pistol and fired three shots at close range causing Mansoor to fall to the floor and lose control of his gun. b6 b7C

SA [redacted] requested hotel personnel to call emergency medical personnel and notified SA [redacted] of the shooting incident. Mansoor died from his injuries while being transported to a hospital.

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 08/08/2001

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, by facsimile on 08/07/2001, regarding SA [redacted] actions in this shooting incident. Additionally, by letter dated 07/09/2001, the District Attorney for the County of New York advised that no criminal charges would be filed regarding this matter.

On 07/03/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Inspection Division; Office of Inspections; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; SSA [redacted] Practical Applications Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

To: Inspection From: Inspection
Re: 297-HQ-A1271788-D, 08/08/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] DOJ
(Attention: Mr. [redacted]
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

b6
b7C



Savage-1800

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 08/01/2001

To: Inspection

Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271285-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
05/23/2001
CHICAGO DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 05/23/2001, involving Special Agent (SA) [redacted] SA [redacted] shot and wounded a subject making ransom demands in a kidnapping investigation. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Administrative: Reference report of Inspector-in-Place [redacted] dated 06/14/2001.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 08/01/2001

Details of the Shooting Incident

On 05/23/2001, the Violent Crimes Task Force (VCTF) of the Chicago Division received information from the Chicago Police Department (CPD) that [redacted], was the victim of a home invasion/kidnapping and was forcibly removed from the family's residence by several unknown subjects. [redacted] father, a Chicago city employee, received several ransom demand phone calls demanding that payment for the victim be made in an unspecified amount of cocaine and/or marijuana. However, during the afternoon of the same day, the demand for payment changed from cocaine/marijuana to $150,000 in cash in exchange for the safe return of the victim. b6 b7C

Following a series of consensually monitored telephone calls between the subject(s) and the victim's father, a demand was made to drop the ransom package in the vicinity of [redacted] which was known as an area controlled by a street gang known as the Gangster Disciples. Law enforcement authorities determined that this location did not provide adequate safety and security and knew that it provided numerous escape routes for the perpetrator(s) of the kidnapping. At the instruction of law enforcement personnel, the victim's father provided the subject(s) with an appropriate location to drop the ransom package contained inside a canvass bag. The kidnappers advised the victim's father that someone would be sent to the vicinity of Garfield Boulevard and South Carpenter Street to retrieve the ransom money.

At approximately 10:00 p.m., a vehicle driven by CPD Officer [redacted] with the victim's father in the front passenger seat and SAs [redacted] and [redacted] in the rear seat, arrived at the specified location. While parked, an individual, later identified as [redacted] was observed in the area. After a prearranged signal was given by Officer [redacted] acknowledged the signal and approached the vehicle. The victim's father alerted law enforcement officers that [redacted] appeared to be reaching under his jacket with his left hand and believed the subject had a gun. As [redacted] approached the vehicle, he ordered the victim's father to drop the package from the vehicle. [redacted] approached the package, ordered the vehicle to "drive off" and attempted to pick up the package. After traveling several feet, Officer [redacted] stopped the car and SAs [redacted] and [redacted] and Detective [redacted] exited the vehicle and ordered [redacted] to halt. [redacted] began to run from the scene while again being ordered to halt. [redacted] stopped and turned toward SA [redacted] with his hands underneath his jacket. The subject's actions resulted in SA [redacted] firing two rounds from his .45 caliber pistol hitting [redacted] in the left hip and wrist. [redacted] stumbled several steps and fell b6 b7C

to the pavement. Upon approaching the subject, SAs [redacted] and [redacted] ordered him to show his hands to which he did not comply. The Agents rolled [redacted] over and observed a semi-automatic pistol in the area of his midsection. The subject was handcuffed and his weapon was removed. [redacted] was transported from the scene to a local hospital by emergency medical services where he was treated for his gunshot wounds.

The victim was released unharmed approximately thirty minutes following the shooting incident. b6 b7C

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 07/02/2001, regarding SA [redacted] actions in this shooting incident. The CPD advised that the Police Department would not seek filing charges in connection with the shooting incident, deferring to the Assault on Federal Officer investigation. The matter was not referred to the Cook County State's Attorney's Office for consideration.

On 07/03/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Chief Inspector, Inspection Division, Office of Inspections; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; SSA [redacted] Practical Applications Unit, Training Division; [redacted], Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational

standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

The SIRG made one observation regarding this incident. All law enforcement officers in the vehicle wore ballistic armor. However, the victim's father was not afforded the same protection despite his position in the front passenger seat of the vehicle. This matter will be brought to the attention of the Special Agent in Charge of the Chicago Division.

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271285-D, 08/01/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins)
2 - Mr. [redacted] m. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Mr. [redacted] DOJ
(Attention: Mr. [redacted]
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
(Attention: Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs [redacted] Rm. 7861



Savage-1805

# FBI
# Shooting Incident Report Summaries

# 2000

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/30/2001

To: Inspection

Attn: AD David R. Knowlton

From: Inspection
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

b6
b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271292-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/28/2000
CLEVELAND DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/28/2000. Special Agent (SA) [redacted], shot and killed an attacking Rottweiler canine. SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

Reference: Reference Electronic Communication of SA [redacted] dated 11/29/2000.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 01/30/2001

## Details of the Shooting Incident

On 11/28/2000, at approximately 4:30 p.m., Agents of the Youngstown Resident Agency obtained information about fugitive [redacted] Subsequent investigation and a surveillance operation determined that the fugitive was located at [redacted] Avenue. An arrest plan was initiated and a security perimeter was placed around the residence. As SA [redacted] was attempting to take a position of cover near the detached garage of the residence, he ran into and tripped over a wire fence. As SA [redacted] fell to the ground, he was immediately attacked by a large Rottweiler dog. SA [redacted] physically defended himself against the animal's first and second attacks, however, on the third attack, SA [redacted] was forced to shoot the animal. SA [redacted] fired four shots with an H & K MP5 killing the dog. b6 b7C

On 01/09/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; William Q. Doherty, Section Chief, Global Counterintelligence Section - NS-2, National Security Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Firearms Training Unit, Training Division [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and SSA [redacted] Washington Field Office. Nonvoting members present at the meeting included Inspector [redacted] Office of Inspections, Inspection Division; SSA [redacted] Inspection Management Unit (IMU), Office of Inspections, Inspection Division; SSA [redacted] IMU, Office of Inspections; SSA [redacted] Firearms Training Unit, Training Division; and [redacted] Management/Program Analyst, IMU, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2)

provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that no administrative action should be taken against SA [redacted], as a result of his involvement in this shooting incident. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 01/30/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted], as a result of his involvement in this shooting incident. b6 b7C

1 - Mr. Pickard, Rm. 7142
2 - Mr. Garcia, Rm. 7116
(1 - Mr. Cousins, Rm. 5155)
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
2 - Ms. [redacted] DOJ
(1 - Mr. [redacted]
1 - Mr. [redacted] DOJ
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 7849

1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 7861
1 - Mr. [redacted] Rm. 7861
1 - Mrs [redacted] Rm. 7861 b6
1 - Ms. [redacted] Quantico b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/22/2001

**To:** Inspection **Attn:** AD David R. Knowlton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271292-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/20/2000
CLEVELAND DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 11/20/2000. Special Agent (SA) [redacted] fired four shots at a subject who was approaching him brandishing a weapon. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference report of Inspector [redacted] dated 12/06/2000.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 03/22/2001

Details of the Shooting Incident

On 11/20/2000, a surveillance was initiated at an address in Youngstown, Ohio, which was a known prior address for a subject known as [redacted] had been charged with two counts of aggravated burglary with a weapon and an Unlawful Flight to Avoid Prosecution preliminary inquiry was initiated on 11/17/2000. Intelligence information gathered by the Fugitive Task Force (FTF) indicated that [redacted] was involved in crack cocaine trafficking and he purchased products from out-of-state suppliers. b6 b7C

[redacted] was not located at his prior known address and the surveillance moved to the residence of [redacted] brother. [redacted] was not located at his brother's residence; however, further investigation led law enforcement personnel to a third residence. An individual located at the residence advised law enforcement authorities that [redacted] and his girlfriend were believed to be at the Bureau of Motor Vehicles (BMV) in Youngstown.

Task Force Officer [redacted] drove to the BMV building and located the vehicle in which [redacted] was allegedly being transported. Officer [redacted] advised other Task Force personnel of this information via radio. Additional FTF personnel immediately responded to the BMV area and established a perimeter while surveilling the subject vehicle.

SA [redacted] orally communicated an arrest plan via radio which called for SA [redacted] to bumper-lock the subject vehicle in the rear to prevent an escape attempt. Task Force officers were to drive their three vehicles in front of the subject vehicle to prevent any escape. The plan called for the arrest effort to be initiated after the subject entered the vehicle and the subject would be called out of the vehicle using the felony car stop arrest technique.

[redacted] and three other individuals were observed exiting the BMV building and entering the subject vehicle. As the individuals began entering the subject vehicle, the arrest plan was initiated. As SA [redacted] drove toward the subject vehicle, he observed the individuals standing in the rear of and coming back out of the vehicle. Due to [redacted] and one other individual standing at the rear bumper of the vehicle, SA [redacted] could not bumper-lock as planned and drove further beyond the desired stopping point for his vehicle. Additionally, a civilian was in a vehicle parked in close proximity to the subject vehicle and a door used to enter/exit the BMV was within 20 feet of the subject vehicle. b6 b7C

In addition to wearing protective vests and raid jackets, law enforcement personnel on the scene yelled to [redacted] to further identify themselves and advise of their intent to place him under arrest. [redacted] three associates complied with the orders given by the officers while [redacted] ran to the passenger side of the subject vehicle with a nine millimeter pistol in his hand. As [redacted] approached FTF officers, Officer [redacted] fired one shot at him while [redacted] was running in the area in front of the subject vehicle. [redacted] turned back towards the subject vehicle running along the passenger side toward SA [redacted] with his weapon drawn. SA [redacted] fired four shots resulting in [redacted] falling to the ground and subsequently being handcuffed. [redacted]'s weapon fell to the ground next to where he lay wounded. Emergency medical service personnel responded to the scene, stabilized the subject and transported him to Saint Elizabeth Medical Center. [redacted] was subsequently transferred to the Akron City Hospital and was released to the Mahoning County Jail on 11/20/2000.

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 02/14/2001, for the law enforcement officers involved in this shooting incident.

On 03/14/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Kenneth W. Kaiser, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Counterintelligence Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

b6
b7C

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 03/22/2001

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

Representatives of the Training Division advised SIRG members that this FTF was the best organized and trained task force in the country and applauded the training efforts of its members.

SIRG members recognized that law enforcement personnel on the scene were drawn into a cross fire situation; however, due to experience and training, adjustments were made to bring the situation to a successful conclusion. Members opined that this experience should be shared with others in law enforcement for lessons learned.

To: Inspection From: Inspection
Re: 297-HQ-A1271292-D, 03/22/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. Pickard, Rm. 7142
1 - Mr. Garcia, Rm. 7116
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Ms. [redacted] DOJ
1 - Mr. [redacted] DOJ
1 - Mr. Bartnik, Rm. 6646
1 - Mr. [redacted] Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 03/26/2001

**To:** Inspection **Attn:** AD David R. Knowlton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1270951-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/18/2000
BALTIMORE DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 12/18/2000. Special Agent (SA) [redacted] fired one round into the left side of a bank robbery suspect, resulting in the subject's death. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Administrative:** Reference Electronic Communication of Inspector [redacted] dated 12/19/2000.

b6
b7C

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

Details of the Shooting Incident

During December 2000, two banks located in Gambrills and Annapolis, Maryland, were robbed by a white male. In the Gambrills robbery, the robber threatened the bank teller by stating that he had a gun. During the Annapolis bank robbery the suspect brandished a weapon which was described by the bank teller as a black pistol.

Subsequent investigation positively identified the bank robber of both institutions as Peter Jerome Gebbia, and a federal arrest warrant was issued for him on 12/15/2000.

On 12/18/2000, the Annapolis Resident Agency (ARA), Baltimore Division, received a telephone call from the Anne Arundel County Police (AACP) regarding a suspected bank robber. According to the AACP, the agency had received an anonymous telephone call advising that bank robbery suspect Peter Jerome Gebbia was located in a motel in Grasonville, Maryland. Further investigation determined that Gebbia was located in a room at the Chesapeake Motel.

Supervisory Senior Resident Agent (SSRA) [redacted] as well as SAs [redacted] and [redacted] responded to the information and arrived at the motel at approximately 1:00 p.m. SA [redacted] telephonically contacted the Queen Anne's County Sheriff's Office for assistance and requested a canine unit. The canine unit was unavailable, however, four officers of the Sheriff's Office responded as backup assistance for the arrest. Additionally, SSRA [redacted] observed a Maryland State Police trooper at a restaurant next to the motel and solicited his assistance.

SSRA [redacted] diagramed and orally articulated an arrest plan to arrest team members. During the briefing, SA [redacted] provided participants with descriptive data and two photographs of the subject. The plan called for the motel manager to place a telephone call to Gebbia's room and request that he come to the front desk. After the phone call was made, the manager would be removed from the lobby to ensure citizen safety. SA [redacted] and two detectives would remain in the lobby and make the arrest as Gebbia entered, while other participants would set up a perimeter to ensure isolation of the arrest.

b6
b7C

The first two calls made to Gebbia's room were unanswered, however, the suspect answered the phone on the third call. As Gebbia entered the lobby of the motel, arrest team members confronted him. During the confrontation, a struggle ensued between the suspect and SA [redacted] SA [redacted] pushed Gebbia away from him, at which time Gebbia pulled a weapon from

his waist area. SA [redacted] responded and fired one round into the left side of the subject, immediately disabling him. The spent round was recovered inside the shirt of the subject. Upon examination, it was determined that Gebbia's weapon was a pellet gun which resembled a large caliber, semi-automatic pistol. Gebbia was pronounced dead at the scene. b6 b7C

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 02/27/2001, regarding SA [redacted] actions in this shooting incident. By letter dated 01/31/2001, the Queen Anne's County State's Attorney advised that his office would recommend that there should be no filing of criminal charges in this matter.

On 03/14/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Kenneth W. Kaiser, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Counterintelligence Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted] and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance

with the deadly force policy. Attendees acknowledged that senior management of the Baltimore Division should be credited for the excellent training and actions of the participating agents.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 03/26/2001

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D.C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. Pickard, Rm. 7142
1 - Mr. Garcia, Rm. 7116
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. Kaiser, Rm. 7837
1 - Ms. [redacted] DOJ
1 - Mr. [redacted] DOJ
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/19/2000

To: Inspection Division Attn: Thomas Bernard Locke

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard b6 b7C

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271917-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/16/2000
SAN FRANCISCO DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the San Francisco Division on 08/16/2000. Special Agent (SA) [redacted] shot and killed an attacking pit bull dog during the execution of a Drug Enforcement Administration (DEA) search warrant. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident.

Reference: Reference Electronic Communication of Supervisory Special Agent [redacted] dated 08/23/2000. b6 b7C

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. Pickard, Rm. 7142
2 - Mr. Garcia, Rm. 7116
(1 - Mr. Cousins, Rm.5155)
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
2 - Ms. [redacted] DOJ
(1 - Mr. [redacted])

1 - Mr. Bartnik, Rm. 6646
1 - Mr. Doherty, Rm. 4042
(Attn: Mr. Quattrocki)
1 - Mr [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
(Attn: Mr. [redacted] b6 b7C
1 - Mrs. [redacted], Rm. 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271917-D, 09/19/2000

Details of the Shooting Incident

On 08/16/2000, at approximately 3:00 p.m., SA [redacted] of the San Jose Resident Agency (SJRA), fatally shot an attacking pit bull dog during the execution of a DEA search warrant. SA [redacted] was serving as an active member of the DEA Heroin Task Force assigned to the SJRA of the DEA, San Francisco Division. b6 b7C

Upon execution of the search warrant, occupants of the residence refused to comply with the DEA "Knock and Announce" protocol and initiated conversation from within the residence. The occupants also ignored repeated commands from a DEA supervisor to control the barking pit bull dog, which was visible to task force Agents from an exterior window.

As a result of the occupants' refusal to open the door, and believing that drug evidence might be destroyed, Agents forced open the front door and immediately encountered an unrestrained and viciously barking dog. Efforts to contain the dog with a ballistic shield were unsuccessful and SA [redacted] who believed he and another Agent faced imminent attack, fired one shot from his Glock Model 22, 40 caliber pistol hitting the dog. The dog briefly halted, however continued to advance in a threatening manner. SA [redacted] fired two additional shots, killing the dog.

On 09/12/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Assistant Section Chief, East Asia Section - NS-3, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Practical Applications Unit, Training Division; and, SSA [redacted] Washington Field Office. The only nonvoting member present was [redacted] Management/Program Analyst, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations,

and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously opined that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. The SIRG recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271917-D, 09/19/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: SA b6 b7C
Date: 02/22/2000

Case ID #: 297-HQ-A1271480 SUB D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
DETROIT DIVISION
FEBRUARY 1, 2000

Character: CIVIL RIGHTS

Synopsis: On February 1, 2000, Special Agents (SA) of the FBI and Officers from the Southgate, Michigan, Police Department arrested JOHN MELL CAMACHO for his involvement in an armed bank robbery earlier that day. During the arrest procedure, CAMACHO refused to comply with audible commands provided by arresting officers, exhibited the use of deadly force against the Agent and Officers, and thereafter was mortally wounded by multiple rounds fired from the arresting Agent and Officers.

DETAILS:

At approximately 4:45 p.m. on the afternoon of Tuesday, February 1, 2000, the Standard Federal Bank located at 13628 Eureka Road, Southgate, Michigan, was robbed at gunpoint by a lone white male. This subject fled the bank with an undetermined amount of cash, entered an automobile and departed the area. A witness outside of the bank had observed this subject acting suspiciously outside of the bank moments before the bank robbery. The subject's actions caused this witness to continue observation of this subject. This witness observed the subject enter the bank, pull a ski mask down over his face, and immediately following the subject's departure from the bank was able to record a license plate and description of the subject's vehicle as he fled the area. The witness provided a description of the subject (as viewed by the witness without the ski mask in place), the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

license plate and vehicle description to police officers who subsequently responded to the bank. The identification of the license plate set in motion of series of events which were promptly and effectively addressed by SAs, and led to the apprehension of the subject responsible for the bank robbery.

At approximately 4:30 - 4:45 p.m., 2/1/00, SAs [redacted] and [redacted] were dispatched from the Detroit FBI office to the Standard Federal Bank and thereafter initiated an investigation of the bank robbery. During their investigation at the bank, the license plate number provided by the aforementioned witness was obtained. This license number was queried through state motor vehicle records and determined to be registered to [redacted] Thereafter, a driver's license inquiry on this name determined a last known address for Ms. [redacted] of [redacted] Apartment [redacted] Riverview, Michigan. This same record indicated that Ms. [redacted] was 22 years of age. The Agents departed the bank and proceeded to the Fort Street address and determined that address to be an apartment complex. The Agents made contact with the apartment complex manager who thereafter provided the Agents access to a file containing information relative to Ms. [redacted] They determined from a review of this file that Ms. [redacted] had yet to complete her move into the apartment complex, had listed a previous address of [redacted] Lincoln Park, Michigan; and had left behind for the file a recent photograph of herself.

b6
b7C

SAs [redacted] and [redacted] proceeded to [redacted] and upon arrival observed Ms. [redacted] enter an automobile matching the description of the getaway vehicle, and which bore the same plate as was reported to investigators by a witness at the bank earlier in the day. Ms. [redacted] departed the area in the car and drove to a local gas station. At this point in the investigation, SAs [redacted] and [redacted] conferred telephonically and via the car radio with SA [redacted] SA [redacted] is a senior Agent on the same squad, is the division's Bank Robbery Coordinator, and was on the street at this time with SA [redacted] conducting investigation associated with another bank robbery. Upon the direction of SA [redacted] SAs [redacted] and [redacted] confronted Ms. [redacted] at the gas station. An interview ensued followed by a consensual search of her automobile. At this juncture of the investigation, SAs [redacted] and [redacted] joined SAs [redacted] and [redacted] The search resulted in the discovery of two photographs of a white male who Ms. [redacted] identified as her ex-boyfriend JONATHON MILLER, and a document on which the name BRENT J. BURGHART had been written several times. Ms. [redacted] identified the alias BURCHART as a name used by the subject. Ms. [redacted] was shown a bank surveillance photograph of

b6
b7C

the subject responsible for the Standard Federal Bank robbery earlier that day. She believed her ex-boyfriend MILLER to be the person depicted in the photograph. She recognized the coat and the handgun depicted in the photograph as those belonging to Ms. [redacted] told the interviewing SAs that she had loaned her automobile to her ex-boyfriend (MILLER) earlier in the day.

All four SAs and Ms. [redacted] departed the gas station and returned to [redacted] Inside, SAs met with Ms. [redacted] parents in the company of [redacted] It was learned at this point that the subject, using the identity JONATHAN MILLER, had been at this residence earlier in the evening. He had called a cab company from the residence earlier in the evening and thereafter departed. SAs determined the identity of the cab company, made contact with a company representative, and determined that MILLER had been taken to the Suburban Motel, 12269 Dix Road, Southgate, Michigan, where he was dropped off at room #4. b6 b7C

Investigating SAs thereafter departed for the Suburban Motel. Upon arrival, two of the four SAs interviewed the motel manager whereupon it was determined that an individual who identified himself as BRENT BURCHART had checked into room #4. During the course of this interview, the motel manager was shown a photograph depicting Ms. [redacted] ex-boyfriend, the same photograph which was found in the earlier consensual search of Ms. [redacted] car. The motel manager identified the individual depicted in this photograph as the same individual who had used the name BRENT BURCHART to check into room #4.

Upon arrival at the motel, investigating SAs observed a light on in room #4. It was also at this time that investigating Agents contacted the Southgate Police Department to request assistance. The accumulation of information up to that point allowed the investigating Agents to believe that the bank robbery subject was in room #4. All four Agents and six Southgate Police Officers, in a group setting adjacent to the motel, discussed the options available to them to effect the arrest of the bank robbery subject. Upon consideration of the available options, it was agreed that the Agents and Officers present would attempt to effect the arrest of the subject at that time, and do so by performing a surprise and rapid entry through the door of room #4. The arrest plan was based upon the element of surprise, speed, and the tactical use of multiple Agents and Officers to enter room #4 to apprehend the subject. b6 b7C

In the earlier interview of the motel manager, SA [redacted]

obtained a pass key to room #4. Following specific arrest procedure assignments made to those SAs and officers present, each team member was instructed to obtain body armor, raid jackets, and procure appropriate weapons. When all arrest team members were ready, the pass key was utilized to gain access to room #4. SA [redacted] Officers [redacted] and Officer [redacted] were the first individuals to gain access to the interior of room #4. The Agent and Officers gave immediate, audible, and simple commands to the subject inside clearly establishing themselves as the Police and or FBI, and that the subject was to drop the firearm he had in his hand at the time of entry. Additionally, SA [redacted] was wearing body armor which clearly exhibited the letters FBI, and the Officers were each wearing their uniforms. The subject had his weapon trained on the law enforcement officers who had entered the room. The subject failed to comply with the audible commands to drop his weapon. Interviews of Agents and Officers present at the time of the arrest reported that the subject fired his weapon once at the law enforcement officers who had established their presence at the doorway to his motel room. SA [redacted] Officer [redacted] and Officer [redacted] simultaneously, or nearly simultaneously, returned fire from their respective weapons disabling the subject. The arrest team immediately entered into the room and restrained the subject with a set of handcuffs. A call for emergency medical support was made and within minutes the Southgate Fire Department arrived followed thereafter by Emergency Medical Technicians. Care for the crime scene was instituted immediately by Agents on the scene. None of the arresting SAs or Officers sustained any physical injuries during the course of this arrest. One loaded 9mm Luger pistol was recovered from the subject at the time of his arrest.

b6
b7C

The initial crime scene examination was conducted by the Detroit Division Evidence Response Team, and a secondary examination was conducted by Laboratory Division representatives associated with the shooting incident review team. These examinations did not recover a 9mm shell casing or a spent bullet fired from the handgun in possession of the subject at the time of his arrest. Proceeds from the bank robbery committed by the subject earlier that day were recovered.

At approximately 11:55 p.m., February 1, 2000, subject JOHN MELL CAMACHO died from the multiple gunshot wounds received during his arrest.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Baltimore b6 b7C
Date: February 15, 2000

Field Office File #: 297-HQ-A1270951-D
Bureau File #:

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BALTIMORE DIVISION
FEBRUARY 3, 2000

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an Unlawful Flight to Avoid Prosecution (UFAP) investigation regarding subject DONALD LEE WILLIAMS, Jr., aka Donald Thompson (FBI #651 634 WA2).

- P -

DETAILS:

The Maryland Joint Violent Crimes Fugitive Task Force (MJVCFTF) of the Baltimore Division became involved in the WILLIAMS UFAP investigation on 01/21/2000, at the request of Special Agent (SA [redacted] of the Beckley, WV Resident Agency (RA) of the Pittsburgh Division. On that date, the Beckley RA sent the Baltimore MJVCFTF facsimile copies of the federal Criminal Complaint and Affidavit, and the federal Warrant for Arrest on file regarding WILLIAMS. The Complaint and Warrant were signed and dated 01/21/2000 by United States Magistrate Judge Mary S. Feinberg, United States District Court, Southern District of West Virginia, charging WILLIAMS with violation of Title 18, United States Code, Section 1073 (Unlawful Flight ot Avoid Prosecution). WILLIAMS' criminal history reveals that in 1994 he was convicted and sentenced in West Virginia to two to ten years' confinement for Malicious Wounding with use of a firearm and two years, six months confinement for Wanton Endangerment involving a firearm, to run consecutively.

b6 b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Baltimore Division also received other supporting documentation from the Pittsburgh Division regarding WILLIAMS, to include copies of a color photograph, fingerprints/palm print, West Virginia drivers license, and social security card. The Pittsburgh Division also forwarded a copy of the underlying state warrant for WILLIAMS' arrest. The state warrant, dated 01/18/2000, resulted from a Beckley Police Department, West Virginia (WV) investigation, Case #2000577, (NCIC #W160447826), for Homicide. WILLIAMS was also charged with Malicious Wounding, Kidnaping (two counts) and Aggravated Robbery on other local warrants stemming from the same incident on 01/17/2000 in Beckley, West Virginia.

The West Virginia state charges were filed because WILLIAMS' shot to death a former co-worker and seriously wounded that individual's girlfriend, another former co-worker, on 01/17/2000. WILLIAMS had bound and gagged each in separate rooms of their residence prior to shooting them. Earlier, he had taken the male at gunpoint to an ATM machine to rob the couples' bank accounts, while leaving the female bound and gagged at the residence. Based upon the above information, WILLIAMS was designated an "Armed and Dangerous" subject of an FBI fugitive investigation, with "Office of Origin" in the Beckley, West Virginia RA of the Pittsburgh Division.

FBI investigation revealed that WILLIAMS obtained transportation on 01/18/2000 to the metropolitan Washington, D.C. area. He allegedly stopped at a former acquaintance's residence in Washington, D.C., but was not permitted to stay. He then allegedly traveled to Maryland in order to meet a friend with whom he was previously incarcerated at the Huttonsville, WV Correctional Center (HCC). Over the next several days, FBI Baltimore investigation/surveillance in suburban Maryland identified individuals who were known associates of WILLIAMS during his period of incarceration at the Huttonsville Correctional Center.

On 02/01/2000, FBI Baltimore received information from FBI Pittsburgh that a Hyattsville, Maryland resident called the Beckley, WV Police Department to determine whether there was a reward for information leading to WILLIAMS' arrest. The caller was an individual named [redacted] with whom WILLIAMS had been incarcerated at HCC. That same day, a Baltimore FBI Agent attempted to contact [redacted] in an effort to gain his cooperation. However, the FBI Agent was not able to talk to [redacted]

b6
b7C

On 02/02/2000, MJVCFTF members prepared to conduct an investigation and possibly make an arrest of the fugitive at [redacted] residence, Apartment [redacted] Hyattsville, Maryland. The Baltimore FBI case agent, SA [redacted] gave a verbal briefing to his supervisor and other task force members on the fugitive investigation to date. At approximately 6:15 a.m., SA [redacted] made telephonic contact with an individual at [redacted] apartment, who consented to an FBI entry into the residence. However, WILLIAMS was not located.

Later that same day, an FBI source of unknown reliability provided SA [redacted] information regarding a possible location for the fugitive. SA [redacted] obtained detailed information from the source and corroborated several details. The source advised SA [redacted] that WILLIAMS was residing with a [redacted] "Last Name Unknown" (LNU) in Laurel, Maryland. Although the source did not know [redacted] (LNU's) specific address, the source knew how to find the location. The source also provided SA [redacted] a cellular telephone number [redacted] for [redacted] (LNU) and advised that WILLIAMS was utilizing that cell phone. SA [redacted] instructed the source to find the [redacted] (LNU's) Laurel apartment and provide him the street address. b6 b7C

The source recontacted SA [redacted] at about 6:30 p.m. and provided a street number, 903½, for the Laurel apartment, but could not provide a street name. The source provided SA [redacted] accurate directions to the location, specifically describing the outside and inside of the basement apartment and the outside of the duplex apartment building. The source provided SA [redacted] [redacted] (LNU's) name [redacted] and advised that WILLIAMS had stayed with [redacted] for several days. The source described the interior layout of [redacted] apartment (903½), including an interior stairwell leading upstairs to the interior of apartment 903, the residence of [redacted] The source advised there had been crack cocaine on the kitchen table at apartment 903½ in the recent past. The source also stated that WILLIAMS recently indicated he did not have a gun, but was going to get one.

The following morning, 02/03/2000, SA [redacted] and three other Baltimore FBI Agents drove to the location, based upon accurate directions provided by the source. SA [redacted] confirmed through surveillance that [redacted] was the basement apartment in a duplex apartment building at [redacted] Laurel, Maryland. The location appeared to be a garden-style square building with six separate apartments in a cul de sac. Facing the front of the building, the entrance to the upstairs apartment, [redacted] is on the left the building and b6 b7C

the entrance to the basement apartment, [redacted] is in the rear left side of the building. SA [redacted] recontacted the source to confirm the address by physical description and location. SA [redacted] also confirmed with the telephone company the telephone numbers and subscribers names for both [redacted]

At that point, SA [redacted] decided to attempt to locate and arrest the subject, WILLIAMS, at the [redacted] apartment in the basement. Approximately 10:15 a.m., SA [redacted] telephonically contacted MJVCFTF SSA [redacted] and advised him of an arrest plan. SSA [redacted] concurred and additional task force members were deployed to assist in the possible fugitive arrest. The plan called for a perimeter to be established around the duplex, with a five-man entry team at [redacted] A perimeter team was designated to surveil the back yard, the front window area, and side entrance to the upstairs apartment at [redacted] Street. b6 b7C

The task force personnel staged near the Laurel address and SA [redacted] provided the second briefing in two days on WILLIAMS. SA [redacted] updated them on the previous day's investigative developments and the surveillance/arrest plan. At this briefing, SA [redacted] showed all MJVCFTF personnel a color photograph of the subject and a hand-drawn sketch of the apartment and the cul de sac where the duplex was located. He advised that the two relevant apartments were connected via an interior stairwell. SA [redacted] gave each team member a specific assignment during the perimeter surveillance and arrest plan, taking into account each apartment. He reviewed the outstanding warrants and the subject's recent violent activity. SA [redacted] also relayed the source information on recent drug activity at [redacted] and the subject's recent statement that he wanted to get a gun.

On 02/03/2000, while the arrest team was staged near the 903½ Seventh Street, [redacted] WILLIAMS was presently inside the target apartment. At approximately 11:25 A.M., with the arrest team at their designated locations, SA [redacted] gave the order to proceed with the arrest plan. All task force personnel wore body armor. Additionally, all personnel displayed the appropriate law enforcement markings, such as badges, police insignia, and/or FBI insignia. b6 b7C b7D

Immediately prior to entry, an FBI Agent made a telephone call to the apartment in an effort to notify WILLIAMS of their intentions. However, the answering machine engaged and

the FBI Agent did not leave a message. SA [redacted] knocked at least three times at the door to [redacted] and announced he was a law enforcement officer serving a warrant. His actions were confirmed by both law enforcement and non-law enforcement witnesses. There was no response to the "knock and announce." SA [redacted] gave the order and a ram was used to force open the door. The arrest team entered the dimly lit [redacted] apartment and methodically began to clear rooms, using flashlights to enhance visibility. However, the entry team was almost immediately advised by other MJVCFTF members that WILLIAMS had fled upstairs via the interior stairwell to the [redacted] Street apartment. The entry team secured the downstairs apartment [redacted] leaving two members inside, while the other three went back outside to the side entrance to the upstairs apartment [redacted] to join task force members at that location. b6 b7C

According to [redacted] who was the babysitter at [redacted] WILLIAMS then gained access to the upstairs apartment at [redacted] by knocking on the locked door at the top of the interior stairwell between the two apartments. [redacted] answered the door because she believed that [redacted] the downstairs neighbor, had knocked. [redacted] a white male, was known to [redacted] as her sister-in-law's brother. Instead, an unknown black male burst through the doorway. He ran to the front picture window and looked out, and also ran to the bedroom in the back left area of the apartment. With [redacted] inside the apartment, [redacted] heard task force personnel knocking on the door and opened it. She told them that the black male was inside the upstairs apartment but that a small child was still there. [redacted] exited the apartment as task force personnel successfully coaxed the child out.

As MJVCFTF members took up positions inside the upstairs apartment and at the side entrance, an FBI Agent moved [redacted] to safety and interviewed her. He showed her a picture of the fugitive, whom she indicated was possibly, but not positively, the black male who entered from the downstairs apartment. This information was relayed via radio both to the entry team inside the [redacted] apartment and to SA [redacted] who had run to his FBI vehicle in the cul de sac to retrieve an MK-141 Mod 0 diversionary device, commonly referred to as a "flash bang." SA [redacted] had decided to retrieve the flash bang because he heard MJVCFTF personnel ordering WILLIAMS to show his hands and advising each other that WILLIAMS was not complying with their demands. From the time he left the downstairs apartment, it took SA [redacted] two to three minutes to retrieve the item from the padlocked trunk in his FBI vehicle. b6 b7C

During an approximate four-to-five minute stand off inside the apartment, WILLIAMS was ordered to comply with numerous law enforcement commands to show his hands and surrender. However, WILLIAMS did not comply with any commands and warnings. Instead, he searched the closet near the bedroom. There was no closet door. A bed sheet served as a closet curtain. He continually moved his hands in and out of different areas of the closet. During this period, WILLIAMS was often bent over and partially covered by the closet curtain. He was pulling items out of the closet. On many occasions, his hands were not visible to the entry team. At no time during this incident did WILLIAMS verbally acknowledge the commands or warnings directed toward him.

MJVCFTF personnel in position to see WILLIAMS' movements behind the sheet all indicated they were concerned that he was "fishing" or searching for a weapon in the closet. Because of the open configuration of the apartment, they had little to no cover or concealment. [redacted] the movement of WILLIAMS' arms and hands, several entry team members thought he was reaching for a gun or other weapon. His failure to comply with or acknowledge lawful demands heightened their concerns, as did their frequent inability to see his hands.

[redacted] The first round was fired by FBI SA [redacted] approximately four minutes into the stand off. SA [redacted] told SA [redacted] that he was concerned WILLIAMS was reaching for a gun and could shoot more quickly than they could react. Both SA [redacted] and FBI SA [redacted] were observing WILLIAMS' furtive movements and talking about his actions. SA [redacted] fired one round. SA [redacted] who did not have a clear line of sight, told him to take the shot. After SA [redacted] fired the shot, WILLIAMS appeared momentarily to go down. However, WILLIAMS kept reaching into the closet, even as task force personnel yelled at him to comply and show his hands. SA [redacted] then discharged his weapon until it emptied. While SA [redacted] reloaded, FBI SA [redacted] stepped in front of him and fired several rounds at WILLIAMS. It is noted SAs [redacted] and [redacted] upon advice of counsel, have not to date provided statements for this inquiry.

WILLIAMS continued to search in the closet and failed to comply with commands. SA [redacted] had entered the apartment and moved forward by this point. SA [redacted] could see WILLIAMS near the floor, including partial views of his head, arms, and shoulders. WILLIAMS continued to move. SA [redacted] could not see his hands. Believing that WILLIAMS was searching for something in the closet, SA [redacted] decided to use the flash bang. He first

b6
b7C

warned the other task force members and threw the flash bang toward WILLIAMS, in an effort to disorient him and halt his attempts to reach for a weapon.

After SA [redacted] deployed the flash bang, it is probable that more rounds were immediately fired. It is possible that Prince George's County Deputy Sheriff [redacted] fired one of those rounds. However, the recollections of task force witnesses at the scene differ on whether more rounds were fired after the flash bang was deployed or whether Deputy Sheriff [redacted] fired at that time. Upon advise of counsel, Deputy Sheriff [redacted] has not provided a statement to this inquiry. b6 b7C

At that point, WILLIAMS was lying on the floor near the closet. SA [redacted] could see WILLIAMS' hands, and moved forward after a few seconds to handcuff him. SA [redacted] and SA [redacted] assisted in the handcuffing. After WILLIAMS was handcuffed, SA [redacted] pulled him away from the closet area toward the living room.

Emergency medical services (EMS) personnel were summoned and immediate notification was made to FBI Baltimore management, the Laurel Police Department, and the Prince George's County Police Department (PGCPD). Prince George's County communications records show telephonic 911 notification of the incident was made at 11:41 a.m.

At the scene, SA [redacted] asked the shooters to identify themselves. SA [redacted] SA [redacted] and Deputy Sheriff [redacted] did so. SA [redacted] and SA [redacted] were using Bureau weapons and Bureau ammunition, which appeared to function properly. Deputy Sheriff [redacted] weapon and ammunition also appeared to function properly. Pending the final forensic firearms analysis, it is believed a total of 22 rounds were fired. It is believed that SA [redacted] fired 16 rounds, Deputy Sheriff [redacted] fired one round, and SA [redacted] fired five rounds.

According to county Fire/EMS Department logs, EMS personnel were dispatched at 11:47 a.m. to [redacted] Laurel, Maryland. They arrived approximately 10 to 15 minutes after the incident ended. They declared WILLIAMS to be deceased at the scene. Dr [redacted] Forensic Fellow, the State of Maryland, Office of the Chief Medical Examiner, conducted the WILLIAMS autopsy. Dr [redacted] advised that her examination revealed the manner of death was homicide, resulting from five gunshot wounds to the body of WILLIAMS. b6 b7C

The incident scene was taken over by PGCPD, which

conducted evidence collection and forensic analysis. PGCPD seized a loaded 30.06 high-powered rifle from the bedroom. The rifle was found behind the bedroom door, near a bedroom closet. WILLIAMS was in the living room, not the bedroom, as he searched the hallway closet during the incident. At that point, he was approximately four feet away from the rifle. Although [redacted] knew the loaded rifle was kept in the upstairs apartment, this inquiry could not determine whether WILLIAMS also knew about the rifle. To date, [redacted] has not been available for FBI interview.

The PGCPD firearms examination report indicated that a total of three semiautomatic pistols were fired by law enforcement personnel. The pistols included one .40 caliber Beretta brand, model 96 and two 9MM, Sig Sauer brand, model P228. The .40 caliber Beretta was assigned to Detective [redacted] and was fired one time. The 9MM Sig Sauers were assigned to SAs [redacted] and [redacted] and fired sixteen and five rounds, respectively. The report also indicated that a five inch concentric pattern of gunpowder residue was noted on the shorts of Williams around a hole consistent with the passage of a bullet in the upper right thigh, four inches down from his waistband. Range testing using a Sig Sauer pistol showed this pattern could be reproduced at a distance between 20 and 30 inches. Furthermore, one 9MM cartridge case was found in the hall closet near the body of Williams. All other pistol cartridge casings were located several feet away in the living room area where MJVCFTF members took up their positions. An interview of SA [redacted] revealed that about two weeks after the shooting incident, he was told by SA [redacted] that he had accidentally discharged his weapon while effecting the arrest of Williams.

b6
b7C

The Maryland State Medical Examiners autopsy report indicated that the cause of death was multiple gunshot wounds. The report further indicated a total of five gunshot wounds had penetrated the body of Williams. The drug test of Williams' urine revealed traces (unspecified) of cocaine. The drug test of William's blood was negative.

PGCPD has initiated a homicide investigation for presentation to the local Grand Jury. In addition, this summary was provided to PGCPD and to the Department of Justice, Civil Rights Section. No local or federal prosecutive determinations has been made at this time.

Still pending are interviews with law enforcement personnel who discharged weapons, and prosecutive opinions from state and federal authorities.

STATES GOVERNMENT
Federal Republic of Jonesboro

Case ID #

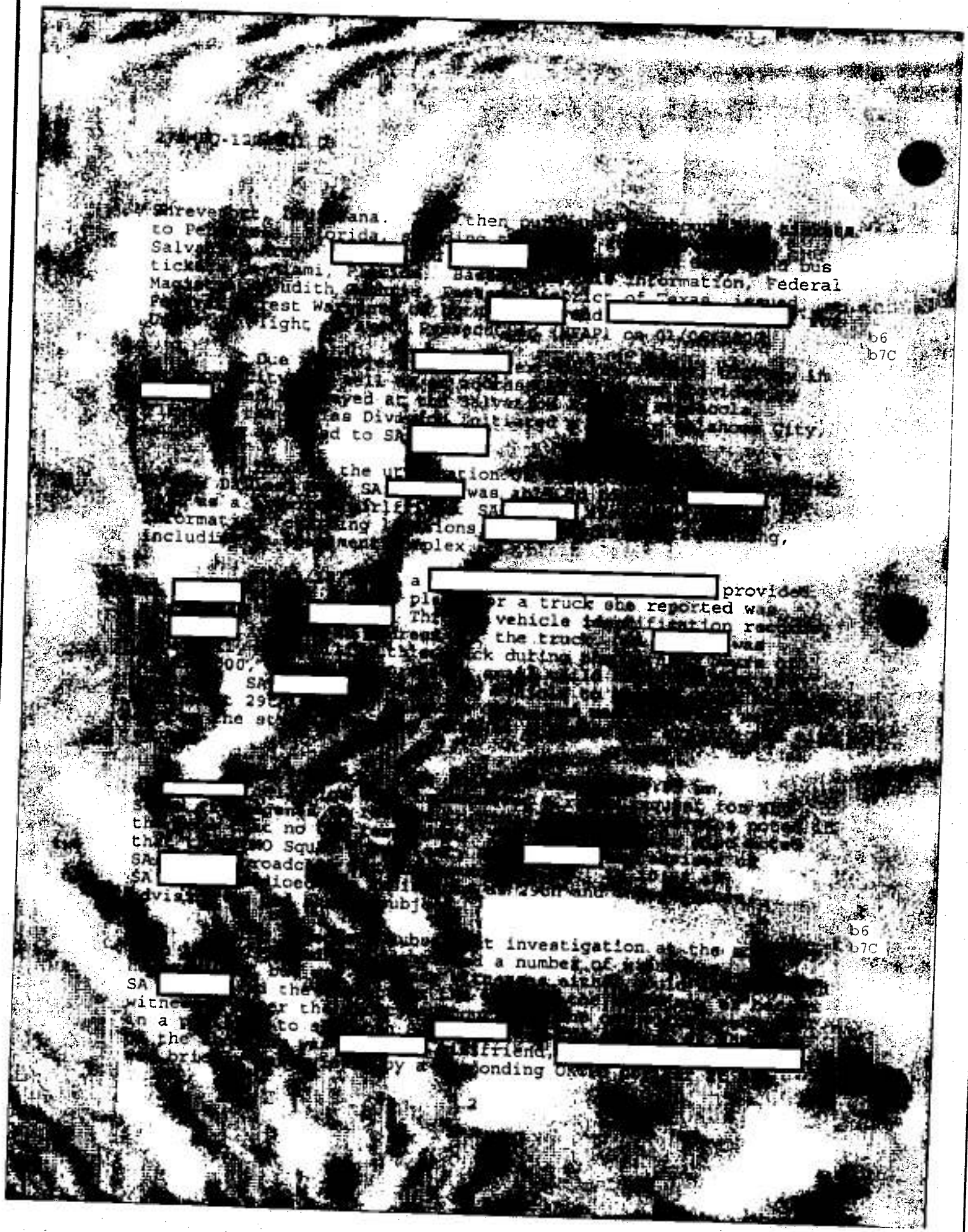
QUIRY
SHOOTING IDENT
CITY
01/ 000

Character: CIVIL RIGHTS

Synopsis: On 3/29/[illegible], FBI S[illegible] shot
and seriously wounded [illegible] date of birth
[illegible] was attempted to arrest him. [illegible] was
being sought [illegible] Federal Flight to Avoid
Prosecution [illegible] Warrant, the Eastern District of
Texas. The underlying [illegible] arrest warrant for Capital
Murder [illegible] Van Zandt County, Texas, where [illegible]
were suspected of murdering [illegible]
[illegible] Meadows [illegible]
[illegible] fleeing [illegible]
[illegible] for Burglary [illegible]
[illegible] with [illegible]
[illegible] Possession of [illegible]
[illegible] Sexual Assault; [illegible]
[illegible] Driving [illegible] violations.

[illegible] fleeing [illegible] vehicle [illegible]
abandoned [illegible] at a rest stop [illegible]
[illegible] use [illegible] alias of [illegible]
[illegible] were [illegible] named
[illegible] County [illegible] picked up by
[illegible] reportedly [illegible] Three
Meadows [illegible]
[illegible] with [illegible]
[illegible] two [illegible] extended [illegible]
[illegible] used to [illegible]
[illegible] head and neck. [illegible]
[illegible] stolen victim Meadows' vehicle [illegible] they abandoned in

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned



[redacted]-12718

scene, [redacted] to [redacted] interview by an FBI SA at the scene, and [redacted] then subsequently interviewed at her residence by members of the Shoot Team. The information [redacted] provided in each of the interviews remained very consistent.

[redacted] told [redacted] at the scene that she, [redacted] the Texaco [redacted] son, and her [redacted] pulled [redacted] They were in [redacted] to get gas [redacted] pulled up next to the [redacted] but of [redacted] identified himself as another agent [redacted] told [redacted] to get out of the truck, and told [redacted] [redacted] suspect wanted for murder [redacted] got out [redacted] truck [redacted] came up and she [redacted] [redacted] told [redacted] [redacted] and [redacted] [redacted] the gun [redacted]

[redacted] an interview [redacted] SA [redacted] stated she had known [redacted] since [redacted] and [redacted] [redacted] Texaco [redacted] [redacted] about [redacted] [redacted] Motel across the [redacted] [redacted] to pick her [redacted] [redacted] in a few [redacted] [redacted] across the [redacted] [redacted] immediately [redacted] [redacted] agent, [redacted] that [redacted] had [redacted] weapon, [redacted] that he [redacted] [redacted] the corner of [redacted] building [redacted] ing for [redacted] [redacted] down to turn [redacted] He was [redacted] her sights [redacted] the [redacted] shoot [redacted]

[redacted] third [redacted] [redacted] action [redacted] [redacted] looking [redacted] [redacted] had [redacted] [redacted] was [redacted] again not [redacted] [redacted] [redacted] [redacted] was getting [redacted] [redacted] [redacted] advised [redacted] [redacted] his name, [redacted] [redacted] [redacted] asked by the agent to raise [redacted] [redacted] aggressively pushed the [redacted] backward, and [redacted] the [redacted] [redacted] the building. She got out of the [redacted] [redacted] [redacted] on, and [redacted] reach [redacted] [redacted] see [redacted] in rapid succession. [redacted] [redacted] agent [redacted] to the corner and [redacted] [redacted] on the [redacted] side, [redacted] to turn him over.

Two interviews of [redacted], the Aunt of [redacted], did not provide any additional or conflicting information. She confirmed the agent identified himself as FBI, and asked [redacted] to lift his shirt. After [redacted] ran, she could only see the agent from the rear window of the truck, and saw him pull his gun and fire two shots. The Texaco mini mart was blocking her view of [redacted]. She had not seen the weapon on [redacted], who she knew only as [redacted], four year old son, [redacted], was in her lap at the time of the shooting, and [redacted] was out of the truck. b6 b7C

The first Police Officer to arrive at the scene, OKCPD Officer [redacted] noted in his report that upon arrival at the scene at 10:52, SA [redacted] immediately identified himself as an FBI Agent, and stated the wounded subject was a murder suspect wanted out of Texas. SA [redacted] also told Officer [redacted] the subject pulled a semi automatic pistol out while running away, and was turning to point it at him when he shot the subject twice. The Officer observed the subject lying on the ground, handcuffed. A semi automatic pistol was laying on the ground approximately three feet from the subject. Officer [redacted] then secured the scene and facilitated EMS treatment of the subject.

Officer [redacted] also spoke to [redacted], a store clerk from the Texaco station. [redacted] advised she saw SA [redacted] and [redacted] talking, then saw the subject shove SA [redacted] with both hands before running out of her sight between the station and the adjacent building, a motel. [redacted] saw SA [redacted] fire two shots, but could not see the subject when it happened.

Officer [redacted] OKCPD, also reported that he arrived on the scene at 10:52, and assisted securing the scene as well as searching the subject for additional weapons prior to EMS transportation of the subject. [redacted] report indicates he found a box of .22 ammunition in the subject's right front pocket. Photographs taken of the scene reveal that Officer [redacted] placed the box of ammunition on the ground near the location where the subject fell.

b6
b7C

Witness [redacted] advised he was sitting in the front room of his residence when he heard two gunshots. He went outside and saw a man standing over another man lying on the ground. He saw the standing man kick an object away from the man on the ground. [redacted] believed this object to be a gun. He then saw the standing man kneel and handcuff the man on the ground while saying "You didn't have to pull a gun on me!" When this man saw [redacted] he showed him a gold badge and said "Call 911!" [redacted] ran back into his house to call 911. He thought the man was an undercover Police Officer, and the wounded man had

robbed the Texaco gas station. [redacted] was shown a photograph of SA [redacted] and confirmed this was the man who he observed handcuffing the injured suspect, and making the statements. [redacted] position as indicated was approximately 60 yards from the location [redacted] fell after being shot.

b6
b7C

Witness [redacted] advised he was sitting in his house when he heard someone yell "FBI!", and then heard two "pops." He looked out the window to see a man walk approximately three steps around the corner of the Texaco station, and then collapse. He then saw a man come and check the fallen man's pulse, and then go to a telephone to call for help.

Witness [redacted] advised he and his wife were eating at Michelle's Restaurant across the street from the Texaco station. He was seated facing the South window and could see the Texaco lot where the shooting had occurred. He could not hear any conversation, and was not close enough to describe the dress of either individual involved until he crossed the street after the shooting. [redacted] saw one man chasing another across the lot. He then saw the man chasing slow down, pull a pistol, and shoot twice toward the other man. He observed the other man fall down immediately, and the one chasing go directly to the fallen man, then show his badge to another individual who was out of [redacted] view. [redacted] thought he heard two shots. He could not see if the other man had a weapon, and did not see the man turn toward the officer.

No other witnesses identified and interviewed in the restaurant, in the neighborhood, or at the Texaco station could provid information to support or refute the statements of the [redacted] or SA [redacted] statement to the Police Officer to first arrive.

b6
b7C

A VCR format video surveillance system was being utilized by the Texaco station, and the VCR tape that was in the system was taken immediately after the shooting. A review of this tape reveals date stamps indicating the tape recording from 03/27/2000, to 03/28/2000, ending at 2:50 pm. An interview of the store manager revealed the system was new, and employee error was probably responsible for the missing time on the tape. A review of the other VCR tape that was place in the recorder after the shooting revealed it begins on March 29th, at 11:18 am. The tape depicts some of the actions of the Police Officers and FBI SAs who arrived at the scene after the shooting, but no footage of the actual shooting event. It is apparent from the review of this tape that it was placed in the VCR unit and started after

the FBI requested the tape that was in the VCR at the time of the shooting.

On 04/11/2000, attending physicians declared subject [redacted] was healthy enough to be interviewed. [redacted] agreed to an interview and provided the following information to OKC SA [redacted] and Task Force Officer [redacted] admitted stealing a vehicle in Oklahoma City with accomplice [redacted] and traveling to a rest stop where they abandoned the car and began hitch hiking toward Shreveport, Louisiana. They were picked up by a man known to them only as "Bo", or "Jimbo" who was driving a truck. Bo drove them to a small town in Texas, where they continued to try to hitch hike to Shreveport. They were unsuccessful getting a ride, and later in the day, Bo, with his half brother in the truck, picked them up again. Bo hired them for a local plastering job, paid them $25.00, and took them to a party with other people at Bo's half brother's house that evening. Bo later took them to his house, then later went drinking with [redacted] in town. An argument ensued between Bo and [redacted] which escalated to Bo threatening to kill [redacted] and [redacted] wrestled a shotgun from Bo, then [redacted] struck Bo in the head with it. They robbed and hog tied Bo who seemed to be alive when they stole his truck. They traveled to Florida, where they separated, and [redacted] was eventually arrested for fighting in a bar. He spent a month in the Broward County jail and returned to Oklahoma City in February, 2000. [redacted] learned of the death of Bo in Oklahoma City from people the FBI had talked to. He decided not to turn himself in, and bought a .22 semi automatic pistol on the street. [redacted] had spent 10 years in jail, and did not want to go back. After spending the night with his girlfriend [redacted] on the 29th of March [redacted] was confronted by an FBI agent at the Texaco gas station. [redacted] and her son, and [redacted] aunt, were in the truck when the FBI agent spotted [redacted]

b6
b7C

When confronted by the FBI agent, [redacted] refused to confirm his identity. When the FBI agent tried to lift up his shirt to look for tattoos, [redacted] shoved the agent and began to run away. The gun that he had began to slip from his waistband, so he reached for it as he ran. As soon as he grabbed the gun, he was shot by the agent and fell to the ground.

b6
b7C

On 04/11/2000, Subject [redacted] was arraigned in Federal Court, District of Oklahoma, on charges of Assault of a Federal Officer with a Deadly Weapon, and being a Felon in the Possession of a Firearm.

This report suggests that the following salient factors be specifically considered in the decision regarding SA [redacted] use of deadly force:

Subject [redacted] has a lengthy criminal record that includes Assault with a Deadly Weapon, and he was wanted for Capitol Murder charges. SA [redacted] was very familiar with his background, and had received specific information regarding the violent death of victim Mesker.

[redacted] when advised by associates that the FBI was looking for him for the murder of Mesker, decided to purchase a pistol rather than turn himself in. b6 b7C

[redacted] was given an opportunity by SA [redacted] to surrender. SA [redacted] clearly identified himself as an FBI agent, and gave [redacted] clear directions in the Texaco parking lot. [redacted] chose not to comply and strenuously shoved SA [redacted] in an attempt to escape and/or gain a position of advantage.

As [redacted] ran toward the space between the Texaco station and the adjacent motel, he was reaching, and successfully grabbed a gun that was in his back waistband. SA [redacted] would have had an excellent view of this inasmuch as [redacted] was directly behind [redacted] as he ran.

The distance and depth of the passageway between the two buildings [redacted] was running to was 18.5 feet wide by 29.11 feet long. He had grabbed the weapon in his waistband, and was very near the northeastern corner of the brick Texaco building, and a short distance away from the two building corners at the southern end of the passageway. Although SA [redacted] could possibly have eliminated the northeastern corner of the Texaco building as cover for [redacted] by adjusting his pursuit to the west, had [redacted] successfully traversed the passageway, the two southern corners of the buildings would have given [redacted] far superior cover over SA [redacted] who was in an open station lot with no immediate cover. b6 b7C

It is suggested SA [redacted] actions be considered vis-a-vis the IMMINENT DANGER clause of the DOJ Deadly Force Policy and defined in the Manual of Investigative Operations Guidelines (MIOG) Part II, Section 12-2.1.(2)(b), 1. through 1.b:

"1. Imminent Danger: "Imminent" does not mean "immediate" or "instantaneous," but an action is pending. Thus, a subject may pose an imminent danger even if he/she is not at that very moment pointing a weapon at the Agent. For example,

imminent danger may exist if Agents have probable cause to believe any of the following:

a. The subject possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against the Agents or others; or

b. The subject is armed and running to gain the tactical advantage of cover; or...."

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Salt Lake City
Date: 02/03/2000

Case ID #: 297-HQ-A1271898 SUB D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHOENIX DIVISION
JANUARY 13, 2000

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an attempted arrest of Fugitive [redacted]

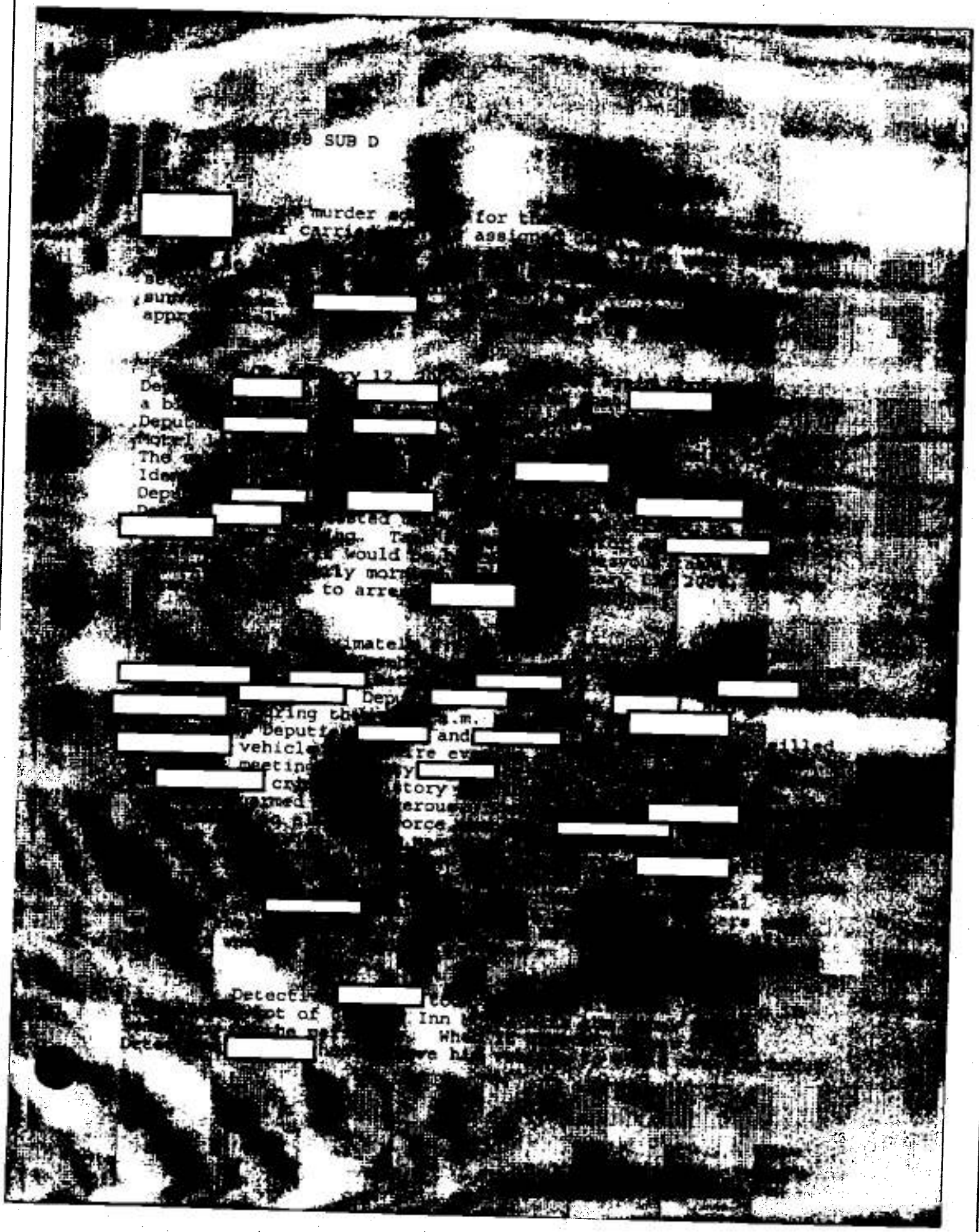
On approximately January 6 or 7, 2000, Task Force Coordinator SA [redacted] was notified by Deputy [redacted] a member of the Fugitive Task Force, that [redacted] was going to initiate a fugitive preliminary inquiry for [redacted] was wanted for attempted murder on a police officer after he used a rock to crack a park ranger's skull and had unsuccessfully attempted to take the ranger's firearm. Deputy [redacted] indicated that [redacted] had a criminal history involving violence and that he was a member of the Aryan Brotherhood.

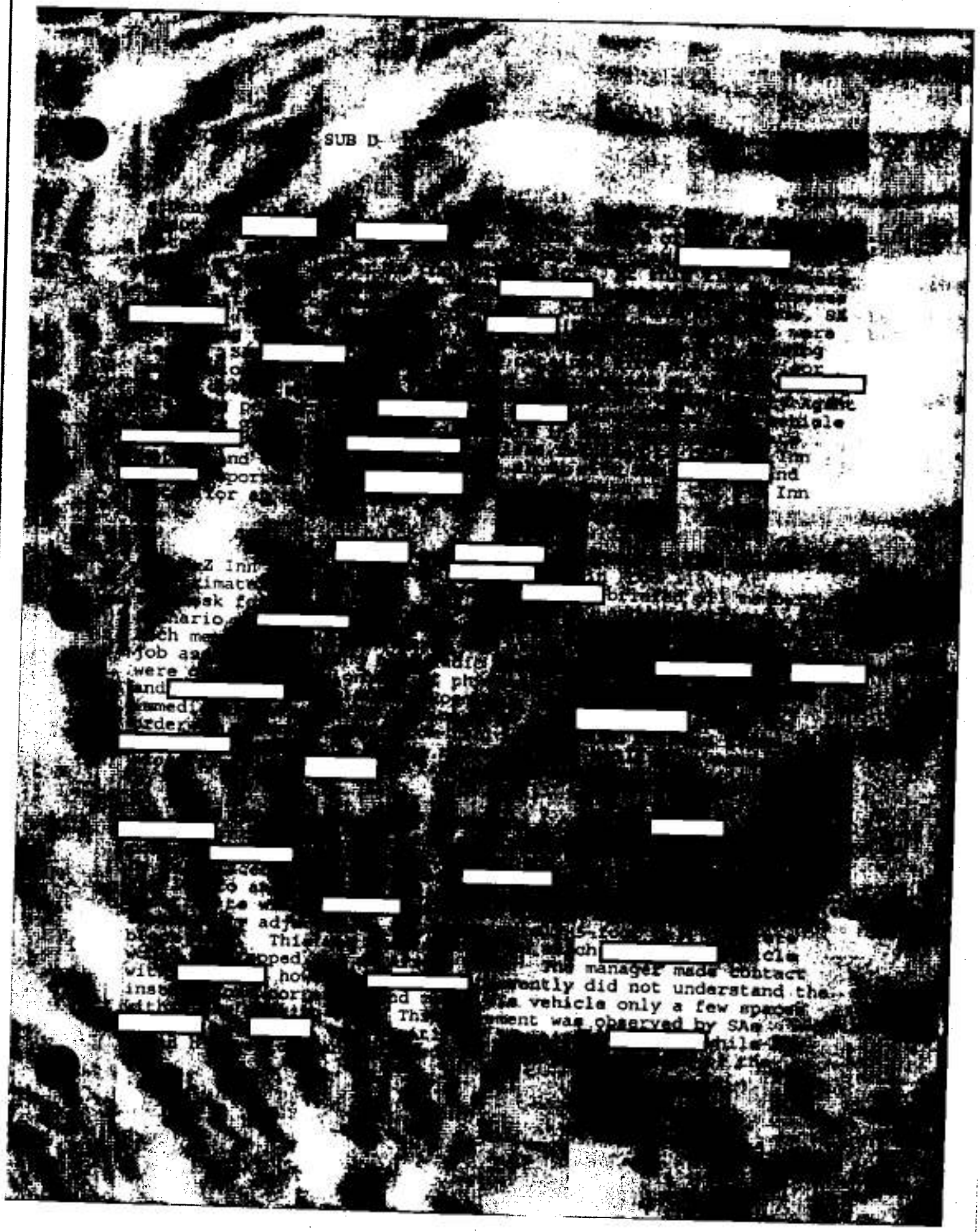
On January 10, 2000, Deputy [redacted] and Deputy [redacted] met with a source who stated that [redacted] was using heroin and was also doing "speed balls", a mixture of heroin and cocaine. The source stated [redacted] had a revolver and always carried the weapon with him in his pants or in an athletic bag. The source further stated [redacted] made the comment that if the police approached him they would be forced to kill him.

On January 11, 2000, Deputy [redacted] contacted [redacted] Adult Probation Officer, [redacted] who advised that [redacted] would not go back to prison because of her knowledge that [redacted] had aligned himself with the Aryan Brotherhood, and when he was released from prison,

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.





positive identification by radio.

Deputy requested the manager to recontact and explain to that the vehicle needed to be moved outside of the motel parking area. The manager complied and again apparently misunderstood and moved his vehicle a few parking spaces and did not leave the motel parking lot as instructed. Deputy then requested SA to contact the manager and have the manager contact a third time to again request that move his vehicle out of the motel parking lot and onto 24th Drive, which is immediately adjacent to the approximately 5-foot tall concrete block wall that surrounds the E-Z Inn Motel. This time it appears understood the request and began to drive out of the parking lot. Detective who was parked inside the parking lot, called out this movement on his radio and began following out of the parking lot. After moved out of view, Agents and exited Room 111 and walked in the direction that was traveling. As approached the exit to the motel parking lot, he stopped his vehicle and began looking around. It was not known if had observed the surveillance or if he was just confused as to where to park his vehicle. At that time Deputy announced via radio the command to initiate a car stop. Detective pulled his vehicle in behind and bumped the rear of vehicle. Detective and Lieutenant then drove their vehicles into the parking lot through the northern entrance and both stopped their vehicles behind vehicle and on the passenger side of Detective vehicle. accelerated toward the southern exit, at which time SA entered the southern exit and collided with the front end of vehicle. Detective then drove forward and again tapped vehicle from the rear. SA vehicle was followed by SA vehicle through the southern entrance. During this time frame, SAs and had taken up protective positions behind the corner of a motel room and then moved to the rear of Detective vehicle as the car stop was being executed. All members of the task force immediately exited their vehicles with weapons drawn and were clearly identified by police markings on their clothing.

b6
b7C

b6
b7C

The task force members began shouting at advising that they were FBI/police officers and for him to keep his hands in plain view. SA saw first look directly at him and then look around at the other law enforcement officers surrounding him . At that time, made a

lunging/reaching motion into the passenger area of his vehicle, at which time SA believed was reaching for a weapon, and shouted words to the effect, "He's going for it". During this same time frame, SA left his position of cover and took up a position approximately ten feet from and very slightly to the rear of the driver's side door of vehicle. Immediately after statement that appeared to be lunging for a weapon, SA Detective Deputy and Investigator opened fire on SA did not fire as he felt he was in a crossfire with the agents/officers at the rear of the vehicle and moved to a vehicle occupied by a civilian who was about to back up his vehicle into the line of fire. Investigator , who was in vehicle, fired two rounds at the front windshield of vehicle and then took up a position of cover. SA did not fire due to a possible crossfire situation and assisted SA in protecting the civilian. SA fired six rounds from his weapon while Deputy fired one rifle slug from his shotgun and one round of 00 buck pellets. Detective fired two rounds at SA remained in a position of cover and was not in a position to safely fire at

b6
b7C

After the shots were fired, it was determined that was no longer mobile and an immediate request was made for medical assistance. The Phoenix Fire Department paramedics were dispatched to the shooting incident at 1:33 p.m. They determined that was dead at the scene, at which time the Phoenix Police Department took over the investigation. All agents/officers at the scene were wearing body armor with the exception of SAs and

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/01/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1270951-D

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/14/2000
BALTIMORE DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Baltimore Division on 01/14/2000. While executing a search warrant, Special Agents (SAs) [redacted] and [redacted] shot and killed a pit bull dog behaving in an aggressive manner. SIRG members recommended that no administrative action be taken against either Agent as a result of their involvement in this incident.

Reference: [redacted] Reference report of Supervisory Special Agent [redacted] dated 02/09/2000.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

1 - Mr. Pickard, Rm. 7142
2 - Mr. Garcia, Rm. 7116
(1 - Mr. [redacted] Rm. 4944)
2 - Mr. Parkinson, Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted])
1 - Mr. Barthik, Rm. 6646

1 - Mr. Doherty, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] m. 3787
1 - Mr [redacted] Quantico
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

## Details of the Shooting Incident

On 01/14/2000, members of the Baltimore Special Weapons and Tactics (SWAT) Team and the Safe Streets Gang Squad were executing a search warrant in conjunction with a joint investigation with the Baltimore City Police Department, Homicide Unit. The search warrant called for a no-knock entry of a residence in Baltimore which was believed to be the headquarters of a violent drug organization.

Upon entry, SWAT Agents began clearing the residence. SAs [redacted] and [redacted] entered the basement and noticed a large chained pitbull terrier dog acting in an aggressive manner, straining against the chain on it's collar. The chain appeared to be secured to an article of furniture in the middle of the basement. The Agents initially thought that the chain was short enough to allow them to conduct securing operations without being in danger of contact with the dog.

Two additional Agents entered the basement and located an adult male hiding in the front area of the basement. The subject was non-compliant with commands given to him and was subsequently restrained while the clearing of the basement proceeded. As SA [redacted] returned to the stairwell, the dog lunged in an extremely aggressive and violent manner. The chain unraveled from the furniture and the dog continued towards SA [redacted] resulting in SA [redacted] firing two rounds from his MP-9 shoulder weapon killing the dog. SA [redacted] also fired one round from his nine millimeter Sig Sauer semi-automatic pistol, striking the animal. The Bureau of Animal Control was notified and responded to remove the dead dog.

On 04/11/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Asset Forfeiture Unit, Operational Support Section, Criminal Investigative Division; SSA [redacted] Practical Applications Unit, Training Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member

b6
b7C

present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

## Observations and Recommendations of the SIRG

b6
b7C

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the deadly force policy. The SIRG recommended that no administrative action be taken against the SAs as a result of their involvement in this shooting incident.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1270951-D, 05/01/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

# 2000

Savage-1729

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/31/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271480-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/01/2000
DETROIT DIVISION

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Detroit Division on 02/01/2000. Special Agent (SA) [redacted] and two members of the Southgate, Michigan, Police Department shot and killed a bank robbery suspect after being fired upon when entering a motel room to execute his arrest. SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Reference:** Reference report of Inspector-in-Place [redacted] dated 02/11/2000.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm.5155)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] m. 7837
2 - Ms. [redacted] DOJ
(1 - Mr. [redacted]
2 - Mr [redacted] DOJ
(1 - Mr. [redacted]
1 - Mr. Bartnik, Rm. 6646

1 - Mr. Middleton, Rm. 4042
2 - Mr [redacted] Quantico
1 - Mr [redacted] Rm. 3787
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Rm. 7867

b6
b7C

Details of the Shooting Incident

At approximately 4:45 p.m., on 02/01/2000, the Standard Federal Bank in Southgate, Michigan, was robbed at gunpoint. The lone subject fled the bank with an undetermined amount of cash, entered an automobile and departed the area. A witness on the outside of the bank who observed the robbery recorded a license plate and description of the subject's vehicle as he fled the scene.

SAs [redacted] and [redacted] were dispatched to the bank and initiated a bank robbery investigation. Upon receipt of the license tag number, a query was made through the state motor vehicle records and it was determined that the tag was registered to [redacted] Due to Ms. [redacted] not having completed her move to the address listed in the motor vehicle records, the Agents proceeded to a previous address listed for her. The Agents obtained a photograph of Ms. [redacted] from her file at the apartment complex office and upon their arrival at the residence, observed Ms. [redacted] enter an automobile matching the description of the getaway vehicle and which bore the license plate that was reported by the witness at the bank robbery. Ms. [redacted] departed the area and went to a gas station. Based on a conversation with the Detroit Division's Bank Robbery Coordinator, the two Agents approached Ms. [redacted] at the gas station. During the interview with her, she permitted the Agents to search her vehicle. Additional Agents joined SAs [redacted] and [redacted] during the vehicle search. Two photographs of a white male were found in the car who Ms [redacted] identified as her ex-boyfriend Jonathon Miller. It was also determined that he used an alias name of Brent J. Burchart. The Agents had Ms. [redacted] review a surveillance photograph obtained from the bank robbery scene. Ms. [redacted] advised the Agents that she believed that the person depicted in the photograph was in fact her ex-boyfriend. She advised that she recognized the coat and the handgun in the photograph as belonging to Miller, and also verified that she had loaned her car to him earlier in the day.

b6
b7C

b6
b7C

Based on the information gathered from Ms [redacted], the Agents and Ms. [redacted] returned to Ms. [redacted] residence. They met with Ms. [redacted] parents and learned that Miller had been at the residence earlier in the evening, had called a cab company and departed the residence. Subsequent conversation with a cab company representative revealed that Miller had been taken to the Suburban Motel in Southgate, where he was dropped off at Room #4.

Agents responded to the Suburban Motel and determined that an individual who identified himself as Brent Burchart had checked into Room #4 of the motel. The motel manager was shown a photograph of the subject previously found in Ms. [redacted] car, and he verified the photograph as the same person who had checked into Room 4.

Investigating Agents observed a light on in Room 4 and contacted the Southgate Police Department for assistance. The four Agents and six Southgate Police Officers discussed the options available to effect the arrest of the suspect. An agreement was reached that the law enforcement personnel on the scene would attempt to effect the arrest of the subject by performing a surprise and rapid entry through the motel room door. b6 b7C

A pass key to the motel room had been received earlier and following specific assignments being made, the key was utilized to gain access to the room. According to members of the arrest team, SA [redacted] placed the key in the door knob and pushed the door quickly open, immediately followed by other officers on the scene. Commands of "police" and "FBI" were made several times before members of the entry team yelled "Drop the gun." A single gunshot was heard from the room causing law enforcement personnel to return fire.

The subject was handcuffed, and although injured by gunfire, was conscious and combative. An ambulance was called and the subject was placed on a gurney and put into the ambulance for transporting to a hospital. The subject subsequently died and an autopsy confirmed that 14 of the wounds incurred were inflicted by a shotgun and two wounds were made by a handgun.

Examination of the crime scene verified that the subject was in possession of a nine millimeter Luger, having one round in the chamber and several additional rounds in the magazine.

A declination of prosecution was received from the United States Department of Justice, Civil Rights Division, dated 04/28/2000, for law enforcement personnel involved in this shooting incident.

On 05/09/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Office of b6 b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271480-D, 05/31/2000

Inspections, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; Charles H. Middleton, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; and, SSA [redacted] Washington Field Office. The only nonvoting member present was [redacted] Management/Program Analyst, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members held a lengthy discussion of this shooting incident and unanimously agreed that the use of deadly force by SA [redacted] and other law enforcement personnel was justified and in conformance with the current deadly force policy. Members recommended that no administrative action be taken against him as a result of his involvement in this shooting incident.

Members made several observations and discussed numerous events that took place during this incident.

The first observation made by the group was the fact that although briefly discussed during the planning, participants did not place enough thought into the wall structure of the motel and the well-being of the individuals located in adjacent rooms. Members opined that at a minimum, law enforcement personnel should have removed all individuals from rooms located on each side of the subject's room.

The Training Division representative expressed his concern that there was not enough communication between Agents on

the scene and the supervisor at any time during this incident. Information contained in the administrative inquiry report stated that all members of the squad were cognizant of the fact that communication must be maintained with the communications center and that prior to any arrest scenario the supervisor is to be notified. However, it appeared that Agents did not follow through with these requirements during this incident.

Members noted that after the subject's apprehension, an arrest team member saw a long-barreled handgun on an end table. He was advised by SA [redacted] that the gun had been removed from under the subject and placed on the table for safety reasons during the apprehension. SIRG members opined that the action of placing a loaded firearm on a table approximately three feet away from a combative, handcuffed prisoner is not conducive to a safe environment.

The next observation made by the SIRG involved the firearms qualification records of two Agents involved in the incident. The Training Division representative advised that records indicated that SA [redacted] had last qualified on an MP-5 shoulder weapon in 1998 and that SA [redacted] possessed a weapon that he had not shot since 1997. It was also recognized that participants in the incident did not utilize shields.

b6
b7C

The last observation made by SIRG members pertained to participants not attending "deadly force" instruction training sessions. Although legal instruction training was recently provided three times by the Chief Division Counsel (CDC) of the Detroit Division, records indicated that neither SA [redacted] nor SA [redacted] attended any of these sessions. SIRG members unanimously agreed that all Agents of the Detroit Division should be reminded of the necessity to attend mandated deadly force training and that the CDC ensure that the session includes a legal refresher on exigent circumstances.

All of the observations made by the SIRG will be discussed with the Special Agent in Charge of the Detroit Division.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271480-D, 05/31/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C



Savage-1735

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 04/19/2001

**To:** Inspection **Attn:** AD David [redacted] Knowlton

**From:** Inspection
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1270951-D

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/03/2000
BALTIMORE DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred on 02/03/2000. Special Agents (SAs) [redacted] and Corporal [redacted] of the Prince George's County Sheriff's Office shot and killed a subject wanted for homicide. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this incident; however, a recommendation was made that SA [redacted] be censured, suspended from duty for three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures. This recommendation was based on an accidental discharge of SA [redacted] weapon during the incident, not shots fired to incapacitate the subject.

**Administrative:** Reference report of Inspector-in-Place [redacted], dated 02/16/2000.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 04/19/2001

**Details of the Shooting Incident**

The Maryland Joint Violent Crimes Fugitive Task Force became involved in the Unlawful Flight to Avoid Prosecution case regarding Donald Lee Williams, Jr., at the request of the Beckley, West Virginia (WVA), Resident Agency. Williams was wanted for shooting to death a former co-worker and seriously wounding the co-worker's girlfriend as well as a second co-worker.

Investigation revealed that Williams obtained transportation on 01/18/2000, to the Washington, D.C., area. He allegedly stopped at a former acquaintance's residence in Washington and subsequently traveled to Maryland to meet a friend with whom he was previously incarcerated in New York. Surveillance in suburban Maryland identified individuals who were known associates of Williams during his period of incarceration in New York.

On 02/01/2000, the Baltimore Division received information from Pittsburgh stating that a Maryland resident called the Beckley, WVA, Police Department to determine if there was a reward for information leading to Williams' arrest. The caller was an individual named [redacted] with whom Williams had been incarcerated in New York. An Agent of the Baltimore Division attempted to contact [redacted] to gain his cooperation; however, contact was never made.

On 02/02/2000, task force members prepared to conduct an investigation and possibly make an arrest of Williams at the residence of [redacted] in Hyattsville, Maryland. SA [redacted] the Baltimore case Agent, gave a verbal briefing to his supervisor and other task force members regarding the fugitive investigation. At approximately 6:15 a.m., SA [redacted] made telephonic contact with an individual at [redacted] residence who consented to an FBI entry into the residence; however, Williams was not located.

Further investigation revealed that Williams could be residing with an individual known as [redacted] later identified as [redacted] in Laurel, Maryland. Although SA [redacted] was provided with only a partial address for [redacted] accurate directions to the location, specifically describing the outside and inside of the basement apartment and the outside of the duplex apartment building, were given. The individual also described the interior layout of [redacted] apartment including an interior stairwell leading upstairs to the interior of [redacted] residence. Information was provided to SA [redacted] that crack cocaine had been on the kitchen table in the

b6
b7C

past and that Williams recently indicated that he did not have a gun but was going to get one.

On the morning of 02/03/2000, SA [redacted] and three other Baltimore Agents drove to the location provided and confirmed the address of the apartment by physical description and location. SA [redacted] also confirmed the telephone numbers and subscribers names for both [redacted] and [redacted] b6 b7C

At that point, SA [redacted] decided to attempt to locate and arrest Williams at the basement apartment of [redacted] SA [redacted] telephonically contacted Supervisory Special Agent (SSA) [redacted] and advised him of an arrest plan. SSA [redacted] concurred with the plan and additional task force members were deployed to assist in the possible arrest of Williams. SA [redacted] provided all task force personnel a briefing on the previous day's investigative developments and the surveillance/arrest plan. All attendees were shown a photograph of the subject and a hand-drawn sketch of the apartment and the cul-de-sac where the duplex apartment was located. Specific information was provided regarding the layout of the apartments as well as details about recent drug activity and the subject's statement that he wanted to get a gun. SA [redacted] gave each team member a specific assignment during the perimeter surveillance and during the arrest plan.

On 02/03/2000, confirmation was made that Williams was inside the target apartment and at approximately 11:25 a.m., SA [redacted] gave the order to proceed with the arrest plan. After failing to contact Williams via phone to advise of their intentions, SA [redacted] knocked at least three times on the door of [redacted] and announced that he was a law enforcement officer serving a warrant. With no response to the "knock and announce", a ram was used to force open the door. The arrest team entered the apartment and began clearing rooms. Task Force members on the scene advised that Williams fled upstairs via the interior stairwell to the [redacted] b6 b7C

The babysitter in [redacted] heard task force personnel knocking on the door and opened it. She advised the officers that a black male was inside the upstairs apartment but that a small child was also there. The babysitter exited the apartment as task force personnel successfully coaxed the child out.

As officers took positions inside the upstairs apartment and at the side entrance, an Agent interviewed the babysitter. She was shown a picture of the fugitive whom she indicated was possibly, but not positively, the black male inside the apartment. This information was relayed via radio to members

of the entry team inside the apartment and to SA [redacted] who had returned to his vehicle to retrieve a diversionary device due to the subject's noncompliance with law enforcement demands. b6 b7C

Williams was ordered to comply with commands to show his hands and surrender, however, he refused. Williams searched a closet near a bedroom, continually moving his hands in and out of different areas of the closet. Williams was often bent over and partially covered by the closet curtain. The subject continued pulling items out of the closet and at no time during the incident did he verbally acknowledge the commands of warning by law enforcement personnel.

The law enforcement officers viewing Williams' movements behind the sheet indicated they were concerned that he was searching for a weapon in the closet. Due to the open configuration of the apartment, they had little or no cover and due to the subject's lack of compliance with commands, officers were concerned for their safety.

Due to these safety concerns, SA [redacted] fired one round and Williams appeared to momentarily go down. Williams continued reaching into the closet and failed to comply with commands to surrender. SA [redacted] discharged his weapon until it emptied. While SA [redacted] reloaded his weapon, SA [redacted] stepped in front of him and fired several rounds at Williams. Williams continued to search in the closet and failed to comply with commands. SA [redacted] entered the apartment and moved forward observing Williams moving and unable to see his hands. SA [redacted] believed that Williams was searching for a possible weapon inside the closet area and decided to use a flash bang in an effort to disorient him and halt his search attempts. b6 b7C

Subsequent to the deployment of the flash bang, it was believed that more rounds were immediately fired; however, this could not be proven. Williams was lying on the floor near the closet and SAs [redacted] and [redacted] proceeded to handcuff him. After Williams was handcuffed, SA [redacted] pulled him away from the closet area toward the living room. Emergency medical service personnel were summoned and immediate notification of the shooting was made to pertinent local law enforcement agencies. Williams was declared deceased at the scene. A subsequent autopsy revealed that Williams died from five gunshot wounds to the body.

During evidence collection, a loaded 30.06 high powered rifle was seized from behind the bedroom door, near a closet. Additionally, a firearms examination report indicated that a total of three semiautomatic pistols were fired by law

enforcement personnel on the scene. It was determined that the pistols belonged to Detective [redacted] SA [redacted] and SA [redacted]

It was subsequently determined that SA [redacted] accidentally discharged his weapon while effecting the arrest of Williams. The accidental discharge resulted in a non-life threatening injury to the subject's right thigh.

After a lengthy review, a declination of prosecution was received from the United States Department of Justice, Civil Rights Division, on 04/02/2001, regarding the actions of law enforcement personnel involved in the shooting incident.

On 04/10/2001, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted] Unit Chief, Asia, Middle East and Africa Unit, National Security Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted], Firearms Training Unit, Training Division; SSA [redacted] Operational Support Section, Undercover and Sensitive Operations Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and SSA [redacted] Washington Field Office. Nonvoting members present were SSA [redacted], and [redacted] Management/Program Analyst, Inspection Management Unit, Office of Inspections, Inspection Division.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to: (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by law enforcement personnel was justified and in conformance with the deadly force policy.

As a result of the accidental discharge of SA [redacted] weapon, members opined that he should be censured, suspended from duty for three days, and receive documented remedial firearms training for his neglect in practicing routine firearms safety procedures. b6 b7C

To: Inspection From: Inspection
Re: 297-HQ-A1270951-D, 04/19/2001

LEAD (s):

Set Lead 1:

DIRECTOR'S OFFICE

AT OPR

That SA [redacted] be censured and suspended from duty for a period of three days for his failure to employ routine firearms safety procedures. Additionally, SA [redacted] should receive remedial firearms training regarding proper handling of firearms and this training should be properly documented.

Set Lead 2:

That the Adjudication Unit, OPR, include in the SAC's copy of the letter of suspension, the need for remedial firearms training for SA [redacted] regarding the proper handling of weapons. Additionally, the letter should advise that this remedial training should be properly documented and that a copy of the documentation should be forwarded to the SIRG Chairman upon completion.

1 - Mr. [redacted], Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. [redacted]
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Ms. [redacted] DOJ
(Atten: Mr. [redacted]
1 - Mr. [redacted] DOJ
1 - Mr. Bartnik, Rm. 6646
1 - Mr. [redacted] 4042
1 - Mr. [redacted] Quantico
(Atten: Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted]
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Rm. 7861
1 - Mrs. [redacted] Rm. 7861

b6
b7C



Savage-1742

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/15/2000

**To:** Inspection **Attn:** Thomas Bernard Locke

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271801-D

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
03/29/2000
OKLAHOMA CITY DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Oklahoma City Division on 03/29/2000. Special Agent (SA) [redacted] shot and seriously wounded a fugitive during an attempted arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Reference:** Reference report of Inspector-in-Place [redacted], dated 04/08/2000.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. [redacted]
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted], Rm. 7837
1 - Ms. [redacted], DOJ
1 - Mr. [redacted] DOJ

1 - Mr. Bartnik, Rm. 6646
1 - Mr [redacted] Rm. 4042
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 3787
1 - Mr [redacted] Quantico
1 - Mr [redacted] WFO
1 - Mr [redacted] Quantico
1 - Mrs. [redacted] Rm. 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271801-D, 08/15/2000

**Details of the Shooting Incident**

On 03/29/2000, SA [redacted] shot and seriously wounded [redacted] who was being sought on a Federal Unlawful Flight to Avoid Prosecution warrant out of the Eastern District of Texas. [redacted] and an accomplice were suspected of murdering Gerald Lee Mesker who had picked them up while hitchhiking. [redacted] had an extensive criminal history involving crimes of violence.

After stealing a vehicle in Oklahoma city and abandoning it at a rest stop in Texas on 12/29/1999, [redacted] and an accomplice known as [redacted] were picked up by Mesker. The three reportedly went to Mesker's residence. Mesker was subsequently found dead at his residence with his hands and feet bound behind his back with electric extension cords. The cause of death was determined to be blunt force trauma to the back of the head and neck. [redacted] and [redacted] reportedly stole Mesker's vehicle and abandoned it in Shreveport, Louisiana. The two individuals then purchased Greyhound bus tickets to Pensacola, Florida, and subsequently proceeded to Miami via bus. b6 b7C

Due to the subject's extensive criminal history in Oklahoma City, as well as an Oklahoma address provided by [redacted] when he stayed at the Salvation Army in Pensacola, the Dallas Division initiated a lead to Oklahoma City which was subsequently assigned to SA [redacted]

Through the utilization of a composite sketch provided by the Dallas Division, SA [redacted] was able to identify [redacted] as well as his previous girlfriend, [redacted] also developed information regarding locations [redacted] frequented, including an apartment complex.

On 03/28/2000, [redacted] provided SA [redacted] with a license plate for a truck reportedly associated with [redacted] Through vehicle identification records, SA [redacted] located an address for the truck and on the morning of 03/29/2000, SA [redacted] was surveilling the truck. SA [redacted] noticed a woman with a small child driving the truck and followed the vehicle to the Bel Air Motel in Oklahoma City. SA [redacted] waited in his b6 b7C

vehicle across the street from the motel and at 10:53 a.m., he broadcast a radio request for any Squad 5 Agents to respond to him. At 10:58 a.m., SA [redacted] radioed for assistance advising he had shot a subject.

A subsequent interview with the subject's girlfriend determined that she, [redacted] her four year old son and her aunt pulled into a Texaco station to get gas. A man pulled up next to the truck, exited his vehicle and identified himself as an FBI Agent. According to the girlfriend, [redacted] was advised by SA [redacted] to get out of the truck. As [redacted] exited the truck, his shirt came up and she saw a gun in his pants. When the Agent told [redacted] to put his hands on the truck, [redacted] shoved SA [redacted] and ran. As [redacted] ran away, he was reaching for the gun in his waistband. She heard the Agent fire two shots. The injured subject was handcuffed and transported for medical attention. The subject recovered from his wounds and is currently on trial for Assault on a Federal Officer.

b6
b7C

On 08/08/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Chief Inspector, Office of Inspections, Inspection Division; [redacted], Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted], Unit Chief, NS-2B, National Security Division, SSA [redacted] Undercover and Sensitive Operations Unit, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted], Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and, SSA [redacted] Washington Field Office. The only nonvoting member present was [redacted] Management/Program Analyst, Office of Inspections, Inspection Division.

b6
b7C

Savage-1745

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271801-D, 08/15/2000

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. District Attorney [redacted] Seventh District, State of Oklahoma, declined prosecution of SA [redacted] on 04/04/2000. Additionally, by letter dated 07/10/2000, the U.S. Department of Justice, Civil Rights Division, provided a declination of prosecution regarding this shooting incident.

b6
b7C

No observations or issues were voiced by SIRG members during the discussion of this shooting incident.

Savage-1746

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271801-D, 08/15/2000

**LEAD (s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, DC

b6
b7C

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 08/14/2000

**To:** Inspection Division **Attn:** Thomas Bernard Locke

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271898-D

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/13/2000
PHOENIX DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Phoenix Division on 01/13/2000. Special Agent (SA) [redacted] along with task force members, shot and killed a subject wanted for attempted murder on a police officer during an attempted arrest. SIRG members recommended that no administrative action be taken against any law enforcement personnel involved in this shooting incident.

**Reference:** Reference report of Inspector-in-Place [redacted] dated 04/10/2000.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. [redacted]
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
1 - Ms. [redacted] DOJ
1 - Mr. [redacted] DOJ

1 - Mr. Bartnik, Rm. 6646
1 - Mr. [redacted] Rm. 4042
(Attention: Mr. [redacted]
1 - Mr. [redacted] Rm. 3787
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Rm. 7861

**Details of the Shooting Incident**

SA [redacted] was notified in early January by Deputy [redacted] a member of the Fugitive Task Force (FTF), that he was going to initiate a fugitive preliminary inquiry for subject Donald Dean Compton. Compton was wanted for attempted murder on a police officer and had a criminal history involving violence. Information also indicated that Compton was a member of the Aryan Brotherhood. b6 b7C

On 01/10/2000, Deputy [redacted] and Deputy [redacted] met with a source who stated that Compton was using heroin and was also doing "speed balls", a mixture of heroin and cocaine. The source advised that Compton possessed a revolver and always carried the weapon either with him, in his pants, or in an athletic bag. According to the source, Compton had stated that if the police approached him, they would have to kill him.

On the evening of 01/11/2000, several members of the FTF conducted a surveillance at Compton's ex-girlfriend's residence; however, Compton was not sited.

On 01/12/2000, the source contacted Deputies [redacted] and [redacted] a second time and advised that Compton was driving a bluish-gray colored Plymouth Colt. Later that evening, the Deputies located the vehicle at the E-Z Inn Motel in Phoenix. After confirming the vehicle identification number as the vehicle belonging to Compton, Deputy [redacted] requested that the task force attempt to arrest Compton that evening. SA [redacted] determined that it would be more feasible to effect Compton's arrest in the early morning hours of 01/13/2000, and to take the time to formulate a plan for the arrest. b6 b7C

At approximately 4:30 a.m., on 01/13/2000, task force members met to formulate an arrest plan. Information was provided that Compton's vehicle had been surveilled the entire evening of 01/12/2000. Attendees were also briefed about Compton's criminal history and the fact that he should be considered armed and dangerous. Photographs of Compton were disseminated and information regarding Compton's vehicle and license plate was discussed.

The initial arrest plan called for the surveillance of Compton after he left the motel and for officers to allow him to arrive at a destination and effect Compton's arrest as he was exiting his vehicle. At the briefing, SA [redacted] ensured that all task force members were wearing ballistic vests and that an adequate number of shoulder weapons was available.

Detective [redacted] took up a surveillance position in the parking lot of the E-Z Inn Motel with the other units remaining on the perimeter. As it began to get daylight, Detective [redacted] moved his vehicle to avoid drawing undue attention to himself. At approximately 10:00 a.m., Deputies [redacted] and [redacted] went to the office of the motel to speak with the manager and noticed that Compton's vehicle was no longer in the parking lot. Task Force members began checking Compton's associates' addresses in an attempt to locate his vehicle. b6 b7C

During this same time, SAs [redacted] and [redacted] were returning to the Phoenix Division after conducting early morning leads. SA [redacted] a Training Agent, had obtained previous permission from his supervisor to assist in arrests on other squads in order for SA [redacted] a Probationary Agent (PA), to obtain appropriate experience during her PA training period. SAs [redacted] and [redacted] were given a location to surveil in an attempt to locate Compton's vehicle. Compton's vehicle subsequently returned to the motel and all task force members along with SAs [redacted] and [redacted] reported to SA [redacted] on the perimeter of the motel for an updated briefing. b6 b7C

Deputies [redacted] and [redacted] recontacted the manager of the motel and learned that Compton was in Room 118. Detective [redacted] briefed all members of the task force regarding a proposed felony car stop arrest scenario if Compton left the motel parking lot again. Each task force member was given a specific location and job assignment during this radio briefing. SAs [redacted] and [redacted] were given the assignment of physical surveillance of Compton's motel room and vehicle from Room 111, which was located immediately across the parking area from Compton's room. In order to covertly enter Room 111, both Agents removed their ballistic vests to avoid alerting Compton to law enforcement presence.

At approximately 12:45 p.m., Deputies [redacted] and [redacted] recontacted the hotel manager requesting that he contact Compton and advise him that the motel parking lot was to be resurfaced and request that Compton move his vehicle from it's current location. The location that Compton was to park his car was immediately adjacent to an approximately five foot tall concrete block wall. According to the plan, this was the location in which Compton's vehicle would be stopped and his arrest executed. The manager made contact with Compton; however, Compton did not understand the manager's instructions correctly and moved his vehicle only a few spaces within the parking lot. This movement was observed by SA [redacted] and SA [redacted] who positively identified Compton while he moved his vehicle and advised task force members of the positive identification by radio.

b6
b7C

Deputy [redacted] requested that the motel manager recontact Compton and explain to him that his vehicle needed to be moved outside of the motel parking area. The manager complied with the request; however, again Compton moved his vehicle a few parking spaces but did not leave the motel parking lot as instructed. Deputy [redacted] then requested that SA [redacted] contact the manager and have him contact Compton a third time to request that he move his vehicle out of the motel parking lot and onto 24th Drive. It appeared that Compton understood the instructions as he entered his vehicle and began to drive out of the parking lot. Via radio, Detective [redacted] advised other task force members of Compton's actions and he began following Compton out of the parking lot. After Compton moved out of view, SAs [redacted] and [redacted] exited Room 111 and walked in the direction that Compton was traveling. As Compton approached the exit to the motel parking lot, he stopped his vehicle and began looking around. At that time Deputy [redacted] announced via radio the command to initiate a car stop. Detective [redacted] pulled his vehicle in behind Compton's while Detective [redacted] and Lieutenant [redacted] drove their vehicles into the parking lot and stopped behind Compton's vehicle and to the side of Detective [redacted] vehicle. Compton accelerated toward the southern exit, at which time SA [redacted] entered the southern exit and collided with Compton's vehicle. During this time, SAs [redacted] and [redacted] took protective positions behind the corner of a motel room and then moved to the rear of Detective [redacted]

b6
b7C

vehicle as the car stop was executed. All task force members immediately exited their vehicles with weapons drawn.

Task force members began shouting at Compton advising they were law enforcement officers and for him to keep his hands in plain view. SA [redacted] saw Compton look directly at him and then look at the other officers surrounding him. At that time, Compton made a lunging/reaching motion into the passenger area of his vehicle. Believing that Compton was reaching for a weapon, SA [redacted] shouted words to the effect, "He's going for it". Immediately after SA [redacted] statement, SA [redacted] as well as three task force members opened fire on Compton. b6 b7C

When the gunfire ceased, a determination was made that Compton was no longer mobile and an immediate request was made for medical assistance. Paramedics of the Phoenix Fire Department determined that Compton was dead at which time the Phoenix Police Department took over the investigation.

On 08/08/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted], Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; [redacted] Unit Chief, NS-2B, National Security Division, SSA [redacted], Undercover and Sensitive Operations Unit, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Office of the General Counsel; [redacted] Jr., Unit Chief, Firearms Training Unit, Training Division; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and, SSA [redacted], Washington Field Office. The only nonvoting member present was [redacted] Management/Program Analyst, Office of Inspections, Inspection Division. b6 b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271898-D, 08/14/2000

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

During the discussion of this shooting incident, SIRG members unanimously opined that the use of deadly force by law enforcement officers was justified and in conformance with the deadly force policy. By letter dated 04/26/2000, a declination of prosecution was issued by [redacted] Special Assistant County Attorney, Office of the Maricopa County Attorney in Phoenix, Arizona. Additionally, by letter dated 07/10/2000, the U.S. Department of Justice, Civil Rights Division, provided a declination of prosecution regarding this shooting incident. b6 b7C

Observations made by members of the SIRG was the fact that neither SA [redacted] or SA [redacted] were wearing body armor during this incident and that no FBI Supervisor was present on the scene during the arrest of a subject prone to violence. These observations will be brought to the attention of the Special Agent in Charge of the Phoenix Division.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271898-D, 08/14/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/13/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III
Cordier Robert J

Drafted By: [redacted]

Case ID #: 297-HQ-A1271781-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
01/27/1999
NEWARK DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Newark Division on 01/27/1999. SA [redacted] of the New York Division, fired three rounds of rifle slug from a Remington 870 shotgun while attempting to assist local authorities in the capture of an escaped Bengal tiger. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Reference: Report of Assistant Special Agent in Charge (ASAC) Garey S. Chin, dated 02/25/1999.

Details: This communication was prepared to furnish the analysis, comments and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Cordier, Room 7837
1 - Ms. Ginsburg, DOJ
(Attention: [redacted]
1 - Mr. Biehl, DOJ
1 - Mr. Foran, Room 6646

2 - Mr. Middleton, Room 4042
(1 - Mr. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Room 3787F
1 - Mrs [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271781-D, 09/13/1999

**Details of the Shooting Incident**

This incident was predicated on a phone call received by Donald L. Perusi, the Acting ASAC (A/ASAC) for the New York Office (NYO), on the afternoon of 01/27/1999. SA [redacted] of the NYO's Special Operations Group (SOG) Aviation Unit located at the Lakehurst, New Jersey (NJ), Naval Air Station advised A/ASAC Perusi that he had received a request from the Jackson, NJ, Township Police Department (JTPD) for aerial assistance in a search for a tiger that had been sighted roaming free in the area bordering Six Flags Great Adventure Safari Theme Park in NJ. A/ASAC Perusi advised SA [redacted] to provide the requested aerial assistance to the JTPD and to also request that a liaison officer from the JTPD ride with the SOG contingent to facilitate communications between each agency. He also advised SA [redacted] to notify the Red Bank Resident Agency, Newark Division, that the New York Division would have an aircraft working on this matter in the vicinity of Great Adventure. b6 b7C

A/ASAC Perusi inquired about the availability of the Forward Looking Infrared (FLIR) equipped aircraft and after being advised that it had not returned from maintenance, he instructed that a helicopter be used until the FLIR became available.

At approximately 6:00 p.m., that evening, the helicopter returned to the Lakehurst facility at the same time the FLIR aircraft returned from maintenance. Patrolman [redacted] of the JTPD and SA [redacted] entered the FLIR aircraft and returned to the search site. SA [redacted] also volunteered to drive to the search site with a Bureau radio in case ground communication problems were incurred with the aircraft. This was later determined to be an excellent decision because SA [redacted] provided a vital communications link when the JTPD radio went out approximately one hour after their arrival on site. b6 b7C

SA [redacted] was the Pilot in Command (PIC) of the FLIR aircraft and was assisted by SA [redacted] and Investigative Specialist-Aviation (ISA) [redacted] in trying to ascertain the location of the tiger. Ground observation was very difficult due to the area under observation being a combination industrial and residential area interspersed with heavy thicket. Almost immediately upon arriving at the site, ISA [redacted] verified the tiger's location via the FLIR. This information was relayed to law enforcement officers at the command post on the ground which was being used to position the various ground units at the scene. Ground communications

established by the JTPD ceased functioning and an alternate ground communication link was established using SA [redacted] who assumed the role of ground coordinator with local authorities.

With the tiger's location being ascertained, the local authorities attempted to tranquilize the animal without success on several occasions. Fearing that the animal would move into a nearby heavily populated residential area, the local authorities decided to euthanize the tiger. This decision was facilitated with the onset of fog moving into this location. A plan was devised whereby various elements of the available ground personnel would flush the tiger out of the wooded area toward an open space where shooters perched atop woodpiles could fire toward the animal as he exited the woods.

SA [redacted] entered the woods with the team that would flush the tiger toward the open space. His primary function was to provide radio communications for the team and to ensure that this contingent did not walk into a crossfire situation with those "shooters on the woodpiles." SA [redacted] was provided with an 870 Remington shotgun with rifle slug for his own protection by a member of the Fish and Wildlife Department who was present. After one pass through the woods, and while he was standing in an open space, SA [redacted] observed the tiger to walk out of the woods directly toward himself and one New Jersey State Trooper. Realizing that he had a clear shot at the animal, SA [redacted] squeezed off one round and the tiger fell to the ground. SA [redacted] fired a second and third round at the tiger which quickly scampered back into the woods. SA [redacted] was certain that he hit the tiger with his first and third rounds. b6 b7C

The FLIR-equipped aircraft located the tiger in a stationary position in the woods and SA [redacted] directed the ground personnel toward the tiger's location. SA [redacted] entered the wooded area as part of the entry team which would verify whether the tiger was dead or alive. With the use of night vision goggles being utilized by a fellow FBI Agent, the tiger was located from a distance. Fearing that he might still be alive, a decision was made to fire several shots into the tiger to ensure the safety of law enforcement personnel. Inasmuch as he was in a position to fire at the animal's spinal column, SA [redacted] fired one round of slug into this area of the tiger with a second weapon, a Remington 1100 which had been provided to him. At 10:45 p.m., that evening, it was determined that the tiger was dead and his remains were removed from the woods.

On 08/03/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Assistance Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously agreed that the escaped tiger represented a serious danger to society in general, and particularly to the law enforcement authorities attempting his capture. The SIRG determined that SA [redacted] use of deadly force was justified.

From a safety and training perspective, however, it was determined that there were inadequate precautionary safety measures employed upon the assignment of personnel to this situation. The SIRG determined that the SAs who responded to this search scene should have arrived in possession of the appropriate weapons which would have provided for their welfare considering the imminent danger presented by the tiger. The SIRG believed that SA [redacted] participation in this event, armed with only his Glock 27 firearm, was problematic. His need to borrow shotguns from other agencies to provide for his safety was

evidence of inadequate planning and preparation on his part, and it raised concerns of management oversight of this situation once acquiescing to the request for assistance from the Jackson Township Police Department.

For the information of all managers and supervisors within the NYO, it should be emphasized that prior to the commitment of manpower and resources toward situations which lack any discernible federal law enforcement nexus, there is a need for the division to obtain FBIHQ approval for the commitment of these resources and expenditure of appropriated funds toward these non-Federal matters. This approval process can be facilitated through telephone calls to the appropriate substantive investigative unit at FBIHQ which will coordinate the request with the Office of General Counsel (OGC) to ensure proper use of appropriated funds.

To expedite this approval process, the SIRG recommended that the Administrative Law Unit, OGC, establish a process and form by which this approval can be expedited, and where appropriate, can be coordinated with the Department of Justice.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271781-D, 09/13/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident

b6
b7C

Set Lead 2:

OFFICE OF GENERAL COUNSEL (OGC)

AT WASHINGTON, DC

That the Administrative Law Unit, OGC, devise a form and protocol by which field divisions can expeditiously receive FBIHQ approval for the commitment of personnel and resources toward operational situations which lack any federal jurisdiction but to which local or state law enforcement departments request FBI involvement and/or resolution.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/17/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III
Cordier Robert J

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271748-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/17/1999
MIAMI DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Miami Division on 02/17/1999. Supervisory Special Agent (SSA) [redacted] unintentionally discharged his Smith and Wesson Model 1076, while in the process of securing the weapon at his residence. SIRG members recommended that SSA [redacted] be censured and suspended from duty for a period of three days, as well as receive remedial firearms training. b6 b7C

Reference: Reference report of Special Agent (SA) [redacted] dated 06/08/1999, and his Electronic Communication to the Office of Professional Responsibility (OPR), FBIHQ, dated 05/24/1999.

Details: This communication was prepared to furnish the analysis, comments and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. [redacted] Rm. 7129
Attention: Adjudication Unit
1 - Mr. Cordier, Room 7837
2 - Ms. Ginsburg, DOJ
(1 - Ms. [redacted]
2 - Mr. Biehl, DOJ
(1 - Mr. D. [redacted]
2 - Mr. Foran, Room 6646
(Attention: Mr. [redacted]

2 - Mr. Middleton, Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861

Details of the Shooting Incident

The underlying substantive investigation was predicated on source information received by the Miami Division which resulted in SAs [redacted] and [redacted] conducting a preliminary investigation at a residence located in Miami, Florida. The SAs were accompanied by three representatives from the Florida Power and Light (FPL) Utility Company. Source information indicated that the residence was being utilized as a "Grow House" to harvest illegal drugs. The FPL representatives were conducting a lawful, cursory investigation involving the theft of power from their company by the resident at the same Miami address.

While the foregoing investigators discussed their initial findings across the street from the residence, an unknown white male exited from this house and walked toward SAs [redacted] and [redacted] As the white male walked towards them, the SAs identified themselves and the individual immediately began to retreat back toward his house. As he did so, he indicated that if the SAs did not remove themselves from his property he would "sic" his dog on them.

b6
b7C

The man opened the gate to a large privacy fence surrounding the property and a large pit bull dog emerged and instantly charged at the SAs, who were standing near the front sidewalk area. SA [redacted] attempted to dissuade the dog by yelling commands; however, the dog continued to charge. Fearing for his safety as well as the safety of SA [redacted] SA [redacted] produced his Bureau-issued handgun and fired two rounds at the charging dog. The dog immediately retreated and the subject re-entered the residence. Subsequent investigation revealed that the dog was hit by one round from SA [redacted] weapon and died from the wound.

The area was immediately flooded by additional FBI SAs, as well as other law enforcement personnel and a perimeter was established. The United States Attorney's Office (USAO), Southern District of Florida, gave oral authorization for law enforcement personnel to arrest the occupant of the house who was identified as [redacted] Additional contact with the USAO resulted in a search warrant being issued for the residence which confirmed that the house was being utilized in the manufacturing and distribution of controlled substances.

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271748-D, 09/17/1999

Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted], Trial Attorney, Civil Rights Division, USDOJ; [redacted], Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted], Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted], Supervisor, Washington Field Office. The only nonvoting member present was [redacted], Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy.

The only observation regarding this incident involved comments by the Training Division representative who advised that firearms records indicated that SA [redacted] had only qualified twice with his issued weapon during Fiscal Year 1998, as opposed to the required quarterly qualification. This matter will be brought to the attention of the SAC of the Miami Division.

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271748-D, 09/17/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 08/17/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III WDT/jc
Cordier Robert J jc

Drafted By: [redacted] rr

Case ID #: 297-HQ-A1271699-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/17/1999
LAS VEGAS DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Las Vegas Division on 02/17/1999. SA [redacted] fired one round from his Bureau issued Glock Model 22, .40 caliber pistol at a known "Armed and Dangerous" fugitive during his attempted arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Reference: Report of Supervisory Special Agent (SSA) [redacted] dated 05/28/1999.

Details: This communication was prepared to furnish the analysis, comments and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
1 - Mr. Thompson, Rm. 7825
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Cordier, Room 7837
1 - Ms. Ginsburg, DOJ
(Attention: Roy Austin)
1 - Mr. Biehl, DOJ
1 - Mr. Foran, Room 6646

2 - Mr. Middleton, Room 4042
(1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Room 3787F
1 - Mrs [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271699-D, 08/17/1999

Details of the Shooting Incident

Special Agent (SA) [redacted] was assigned to the Reactive Squad in the Las Vegas Division. His duties consisted of periodically assisting the Criminal Apprehension Team (CATS), a multi-jurisdictional task force comprised of FBI Agents and local officers from the Las Vegas Metropolitan Police Department, the North Las Vegas Police Department and the Henderson Police Department, with fugitive apprehensions.

In the early evening of 02/17/1999, SA [redacted] and Sergeant [redacted] were conducting a spot surveillance of the residence of the spouse of local fugitive, [redacted] was wanted for Parole Violation for Robbery as well as having outstanding warrants for the charges of Burglary and Grand Theft. It should be noted that the subject's National Crime Information Center wanted persons notice indicated that he was "an escape risk" and Sergeant [redacted] had been advised by California authorities that [redacted] should be considered "Armed and Dangerous".

During the course of the investigation, information was obtained that [redacted] may be located in an apartment in Las Vegas. Sergeant [redacted] who had acquainted himself with the past criminal record of the subject, had been making periodic checks at the Las Vegas residence. [redacted] wife, who resided at this apartment, had been contacted by Sergeant [redacted] to enlist her cooperation in the capture of her husband, however, she declined to assist law enforcement authorities in this manner. b6 b7C

As SA [redacted] and Sergeant [redacted] were conducting the spot surveillance of the residence, the subject and his spouse arrived at the residence which resulted in the formulation of an oral arrest plan. Sergeant [redacted] and SA [redacted] drove to the north alley behind this residence when they noticed another vehicle behind them also entering the alley. The vehicle was a 1979 Ford Fairmont, gray in color, with no license plates. As Sergeant [redacted] pulled his unmarked vehicle into the parking area, he noticed the other vehicle was backing into the parking space next to his. The occupants of the car were observed to be a Hispanic male and female with several small children. Both [redacted] and [redacted] noted that the male closely resembled the fugitive [redacted] as he exited the vehicle and walked toward the previously identified apartment residence and entered with [redacted] following shortly afterwards. Not locating him in the apartment, [redacted] alerted SA [redacted] that [redacted] had exited

through the back door of the residence and both investigators began to search for him in the darkness to the rear of this location. From a distance, SA [redacted] spotted [redacted] crouched down behind a junk pile, noting that he was discernable because of the light-colored clothing he was wearing. The investigators decided to approach [redacted] from separate directions in an attempt to corner him in to his location.

As SA [redacted] hurried around to the south side of the apartment complex, he heard what he thought were three gunshots, as well as [redacted] yelling several commands for [redacted] to stop. SA [redacted] held his position and upon peering into the darkness on the south side of the complex, he suddenly saw [redacted] hurriedly moving out of the darkened alley in a crouched position, not wearing his light-colored shirt, and continue to move toward his position. Not being able to see [redacted] hands because of the darkness, cognizant of his armed and dangerous reputation and the likelihood of his carrying a weapon, and fearing for his life because of the three gunshots which he previously heard, SA [redacted] ordered [redacted] to stop. [redacted] ignored these commands and SA [redacted] believing he posed an imminent danger, fired one round from his weapon at [redacted] who continued to run past him and toward the front of his residence.

[redacted] heard SA [redacted] commands and his gunshot and he quickly joined with him and radioed for additional police assistance. [redacted] was subsequently located within his apartment residence, hiding himself within a closet area. He was not injured as a result of SA [redacted] shot at him.

On 08/03/1999, the SIRG met to discuss the above captioned shooting incident. Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Assistance Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, Washington Field Office. The

b6
b7C

b6
b7C

only non-voting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy.

The observations made by members of the SIRG pertained to the use of probationary agents on certain task forces such as CATS. Members commented that the FBI, as well as other law enforcement agencies, incurs difficulty in getting experienced agents and officers to participate in task forces and this results in the use of inexperienced agents in some instances. As part of this observation, members noted that neither SA [redacted] or Sergeant [redacted] utilized their ballistic protective vests. Members opined that both officers should have treated this situation as more than a routine surveillance. Additionally, the officers should not have separated from each other during their approach upon [redacted] since a one-on-one scenario is not conducive to officer safety. SIRG members emphasized the need for all task force personnel to be provided with basic street survival training, if this had not already been done.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271699-D, 08/17/1999

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/28/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III
Cordier Robert J

Drafted By: [redacted] lrc

Case ID #: 297-HQ-A1271748-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/26/1999
MIAMI DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Miami Division on 02/26/1999. One Supervisory Special Agent (SSA) and five Special Agents (SAs) fired numerous rounds at a bank robbery suspect attempting to evade arrest. SIRG members recommended that no administrative action be taken against any of the individuals involved in this shooting incident.

Reference: Report of Assistant Special Agent in Charge Thomas E. Bush, III, dated 05/25/1999.

b6
b7C

Details: This communication was prepared to furnish the analysis, comments and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Cordier, Room 7837
2 - Ms. Ginsburg, DOJ
(1 - Ms. [redacted]
2 - Mr. Biehl, DOJ
(1 - Mr. [redacted]
2 - Mr. Foran, Room 6646
(Attention: Mr. Dickerson)

2 - Mr. Middleton, Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271748-D, 09/28/1999

**Details of the Shooting Incident**

Subsequent to a bank robbery that occurred on 02/17/1999, bank surveillance photographs were obtained and aired on a local television station's crime stopper program. An anonymous tip was received identifying [redacted] as the individual depicted in these photographs. Based on this tip and a follow-up investigation, a Federal arrest warrant was issued for [redacted] on 02/23/1999.

[redacted] West Palm Beach Resident Agency Case Agent [redacted] was contacted by an attorney who put him in contact with an individual who indicated that he would possibly be able to assist in the apprehension of [redacted] According to the source, he and [redacted] had resided at the same residence in the past but had remained telephonically in contact with each other. The source also advised that [redacted] was extremely paranoid, believed his phone was bugged, and did not want to meet with anyone since he knew he was wanted for bank robbery. b6 b7C

On 02/26/1999, the source contacted SA [redacted] numerous times to report his telephone contacts with the subject. SA [redacted] briefed his supervisor [redacted], and requested that several Agents remain in the Resident Agency on standby to assist with the possible arrest of [redacted] At approximately 7:00 p.m., SA [redacted] advised the source not to contact him again unless he could establish a personal meeting with [redacted] He then alerted his supervisor of his actions and told his fellow SAs to stand down for the evening.

At approximately 7:15 p.m., while en route to his residence, SA [redacted] was paged by the source who stated that he had been advised by [redacted] to go to the Publix Shopping Center in West Palm Beach, Florida, and to call him from a pay phone. SA [redacted] contacted the SAs originally briefed on the matter and who had remained on standby earlier that evening. He advised these SAs and his Supervisor to meet him at a Mobile Gas Station located near the shopping center to develop an arrest plan should the meeting occur between the source and the subject. SA [redacted] also notified the Palm Beach County Sheriff's Office about the situation and requested that they respond to the area for back-up purposes. b6 b7C

Upon the arrival of the arrest team members, SA [redacted] advised them of the location of the possible meeting and also advised them that the subject was armed and dangerous. He provided photographs of [redacted] and a description of the

vehicle that [redacted] was believed to be operating. The six Agents orally developed a plan for the subject's arrest. It was later determined that this oral plan was misunderstood by several of the Agents involved in the shooting incident. Three of the Agents stated that the arrest was to take place outside a nearby McDonald's Restaurant, while three others believed that the arrest should occur within the restaurant. b6 b7C

At approximately 9:00 p.m. after waiting for [redacted] for a considerable period, the source unexpectedly departed the McDonald's Restaurant and was observed using a nearby pay phone. Shortly thereafter, the source walked down Military Trail and entered a green Nissan Maxima. SA [redacted] who had a view of the vehicle, identified the driver as [redacted] He advised the other units of the identification and advised them to follow the subject's vehicle.

Two Agents followed the individuals as they proceeded north on Military Trail and subsequently turned into the Cotton Bay Apartment Complex where the source was known to reside. As they arrived at the source's residence, the source exited the vehicle and the subject proceeded through the complex. It became apparent to the Agents that the subject was aware of their surveillance. [redacted] began to drive erratically as the Agents followed him into a rectangular shaped parking area within the apartment complex. The subject's vehicle proceeded around the parking area and stopped. Two other Agents stopped their vehicle in a position behind the subject's vehicle and took positions of cover. SA [redacted] who was driving his vehicle with SA [redacted] as a passenger, stopped his vehicle in a position which blocked the forward progress of the subject's vehicle.

Both SAs [redacted] and [redacted] exited their Bureau vehicle, shouting verbal commands to the subject when they observed [redacted] pointing a handgun, first at SA [redacted] and then at SA [redacted]. After SA [redacted] shouted that [redacted] had a gun, both Agents fired their weapons at the subject. The subject reversed his vehicle toward SAs [redacted] and [redacted], which prompted SSA [redacted] to fire one round of buckshot from his shotgun from his position on the passenger side of the subject's vehicle. SA [redacted] from his position of cover behind a tree, also fired one round at the subject. [redacted] quickly stopped his vehicle and started forward toward SAs [redacted] and [redacted]. As he proceeded towards them, both SAs fired their handguns. As the subject sped out of the parking area, he drove directly at SA [redacted] who fired an b6 b7C

additional round at the subject. [redacted] sped out of the apartment complex.

Following a brief search for the subject with negative results, the Agents returned to the scene of the shooting and secured the area for the local Sheriff's Office.

It was subsequently learned that the subject had been apprehended on 03/01/1999, by members of the West Palm Beach Police Department, following a shooting incident with that agency.

This incident was originally discussed by the SIRG on 08/03/1999, with the following members present: Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Assistance Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations; and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously agreed that the use of deadly force by all of the SAs involved in this incident was justified and in conformance with the current deadly force policy.

SIRG members expressed certain reservations about the lack of a written operational plan, noting that the oral discussion of the arrest scenario resulted in certain confusion among several of the Agents involved. SIRG members noted that the oral briefing did not provide for any alternative arrest scenario if it were not to occur within/near the aforementioned McDonald's Restaurant. The SIRG also raised certain issues regarding the failure of any of the involved SAs or SSA to telephonically alert executive management of the Miami Division as to their possible arrest of a violent subject that evening. The SIRG members decided to table this matter until the recommendations of the SAC, Miami, could be obtained regarding this shooting incident.

On 09/14/1999, the SIRG held final discussions regarding this incident. Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

Based upon the review of an EC dated 06/25/1999 wherein the SAC, Miami advised that he had counseled SSA [redacted] regarding proper notification procedures and the necessity for written and comprehensive operations plans for all arrest scenarios within the division, the SIRG Board determined that all pertinent issues had been appropriately raised and resolved. As such, the Board confirmed its previous decision that the foregoing shooting was an appropriate employment of the FBI's deadly force policy by all Agents involved in this incident.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271748-D, 09/28/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

b6
b7C

That no administrative action be taken against SSA [redacted] as well as SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] AIIP [redacted] Office: New York
Date: March 26, 1999

Case ID #: 297-HQ-A1271781 SUB D

Title: SHOOTING INCIDENT
2/28/99
NEWARK DIVISION

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting occurred during the arrest of [redacted] b6 b7C a forty-two year old male who operated Mark I Video Productions from his home, [redacted] New Milford, New Jersey. [redacted] was the subject of an Innocent Images Task Force assigned to the Newark Division, Franklin Township Resident Agency (FTRA), located in Somerset, New Jersey. Members of the arrest team included four Special Agents of the Newark Division, one investigator from the Middlesex County Prosecutor's Office, one Sergeant and one Detective from the Somerset County Prosecutor's Office and two officers from the Bridgewater Police Department.

By way of background, Special Agent (SA) [redacted] acting in an undercover capacity, logged onto America Online as [redacted] (herein referred too as [redacted], a 14 year old girl from New Jersey. While in the "barely legal 14 older M" chat room, an individual using the screen name [redacted] initiated chat with [redacted] subsequently identified as [redacted] indicated an interest in meeting [redacted] for the purpose of engaging in sexual activities. During subsequent chat sessions, [redacted] described in detail what he intended to do stating that he had a black Ford van with a fold down bed. [redacted] sent pictures of the black Ford van and of himself which showed him holding his penis. During these sessions, [redacted] agreed to meet [redacted] on Sunday 2/28/98, 11:00 am at the Bridgewater Sports Arena (BSA), Bridgewater, New

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Jersey.

In anticipation of the 2/28/99 meeting with [redacted] and arrest of [redacted] SA [redacted] prepared an operation order, in the form of an electronic communication (EC), dated 2/25/99. This EC was reviewed and approved by Supervisory Senior Resident Agent (SSRA) [redacted] FTRA, and Assistant Special Agent in Charge (ASAC) GARRY S. CHIN, of the Newark Division. All participants in the anticipated arrest of [redacted] were present during a 9:00am briefing on 2/28/99 at the FTRA. A copy of the 2/25/98 EC was provided to each participating member of the arrest team and individual assignments in conjunction with the execution of the arrest plan were discussed. Members of the arrest team received photographs of [redacted] and his vehicle, a black conversion van.

b6
b7C

At approximately 10:15 a.m., the arrest team arrived at the BSA and assumed positions in their vehicles as discussed during the 9:00 a.m. briefing. It was raining on this day with intermittent periods of drizzle and heavy rain. At approximately 11:35 a.m., a van fitting the description of the vehicle [redacted] indicated he would be driving, entered the one-way drive entrance to the BSA. SA [redacted] notified the other units by radio that the van was approaching the BSA. As [redacted] vehicle approached the BSA, vehicles with arrest team members moved in to block [redacted] vehicle from escape. A vehicle driven by SA [redacted] with SA [redacted] as passenger, was placed perpendicular and angled in front of [redacted] vehicle. Sergeant (Sgt.) [redacted] positioned the vehicle he was driving with Detective (Det.) [redacted] as passenger, behind SA [redacted] vehicle, facing [redacted] vehicle. A vehicle driven by Investigator (Inv.) [redacted] with no passenger, was positioned to the driver's side rear of [redacted] vehicle. SA [redacted] driving with SA [redacted] as passenger, positioned his vehicle to the passenger side rear of [redacted] vehicle.

Inv. [redacted] exited his vehicle and approached [redacted] at the driver's side window. Inv [redacted] displayed his Middlesex County Prosecutor's Office badge, worn on a chain around his neck. Inv. [redacted] confirmed the driver was [redacted] who had both hands on the steering wheel and was looking out the windshield toward the right side of the vehicle. Inv. [redacted] knocked on the window and opened the driver's door, placing one foot on the running board of the vehicle. Inv. [redacted] said [redacted], at which time [redacted] grabbed the gear shift as [redacted] yelled "put it in park, put it in park." [redacted] vehicle lunged backwards, then forward. The forward motion forced the driver's door to close as Inv. [redacted] fell off the running board and away from the vehicle. While this was

b6
b7C

occurring, other members of the arrest team exited their vehicles to take assigned positions around [redacted] vehicle. SA [redacted] exited his vehicle and positioned himself at the rear driver's side of [redacted] vehicle. SA [redacted] observed Inv. [redacted] at the driver's side door of [redacted] vehicle and heard Inv. [redacted] tell [redacted] to put the car in park. SA [redacted] also heard a female SA yell, "FBI, show me your hands." The pavement was wet and [redacted] vehicle had difficulty in gaining traction, causing the tires to spin. As [redacted] vehicle lunged backwards, SA [redacted] had to move out of the way to avoid being hit by the vehicle. b6 b7C

SA [redacted] positioned herself to the rear passenger side of [redacted] vehicle. Upon exiting her vehicle on the passenger side, SA [redacted] went to the passenger side rear, then moved up the side of [redacted] vehicle to determine if there were passengers. The windows on [redacted] vehicle were slightly tinted with shades and it was raining. As [redacted] vehicle gained traction and moved forward rapidly, SA [redacted] had to jump backward to keep from being hit by the side of the vehicle. Knowing that SA [redacted] was in front of [redacted] vehicle, SA [redacted] was concerned that [redacted] vehicle was going to hit and kill [redacted]

SA [redacted] exited her vehicle which was parked in front of [redacted] vehicle by approximately two vehicle lengths, perpendicular and angled, facing the BSA. SA [redacted] wearing her bullet proof vest with FBI displayed on the upper left chest area, moved around the front of the vehicle as SA [redacted] exited on the passenger side. In accordance with her assignment, SA [redacted] intended to move to the passenger side window of [redacted] vehicle. As SA [redacted] moved around the front of her vehicle, she observed Inv. [redacted] at [redacted] drivers side window and heard Inv. [redacted] issue commands to [redacted] to exit the vehicle and [redacted] refusal to do so. Due to [redacted] defiance of Inv. [redacted] commands, SA [redacted] continued around the front towards the passenger side of her vehicle in anticipation of going to assist Inv. [redacted] This placed SA [redacted] in front of and not at the passenger side window of [redacted] vehicle. SA [redacted] was in front of [redacted] vehicle, between the center of the vehicle and the passenger side of the vehicle. While moving into this position, SA [redacted] observed SA [redacted] as he went behind [redacted] vehicle. SA [redacted] heard [redacted] vehicle trying to get traction on the wet pavement and observed [redacted] vehicle lunge backwards. SA [redacted] was concerned that the vehicle hit SA [redacted] who she lost sight of when he went behind [redacted] vehicle. [redacted] vehicle then moved forward rapidly after again trying to get traction on the wet b6 b7C

pavement. SA [redacted] observed distance between Inv. [redacted] and [redacted] vehicle, which was the result of the vehicle's rapid forward motion causing the driver's side door to close as Inv. [redacted] fell off the running board of the vehicle. [redacted] vehicle moved forward rapidly in the direction of SA [redacted] Fearing that [redacted] vehicle may have just backed up and hit SA [redacted] defiance of Inv. [redacted] commands and the vehicle now coming at her, SA [redacted] drew her weapon. While drawing her weapon from her holster, SA [redacted] moved backwards and to the left side of [redacted] vehicle to get out of the way as she believed her life was in imminent danger and the vehicle was going to hit her. As [redacted] vehicle moved rapidly toward her, SA [redacted] took aim at [redacted] who she viewed through the windshield and fired a shot. [redacted] vehicle quickly veered left causing SA [redacted] shot to impact the passengers side window and exit the drivers side window. As a result, both front windows were shattered. The vehicle continued into a jug handle turn in the roadway. This jug handle turn provided the means of escape for [redacted] vehicle.

b6
b7C

[redacted] vehicle exited the driveway to the BSA, making a right turn onto Frontier Road, and headed west. Frontier Road is a dead end at the western most end and parallels Route 22. The arrest team pursued [redacted] vehicle. The first vehicle out of the BSA parking lot was a vehicle driven by Sgt. [redacted] with Det. [redacted] Sgt. [redacted] asked over the radio who fired the shot; however, no one answered him. Sgt. [redacted] activated his red police light on the dashboard of his vehicle. SA [redacted] vehicle was being driven by SA [redacted] with SAs [redacted] and SA [redacted] as passengers. SA [redacted] turned right out of the BSA parking lot and headed west behind Sgt. [redacted] vehicle.

At the end of Frontier Road, [redacted] turned his vehicle around and headed back east towards the vehicle being driven by Sgt. [redacted] Sgt. [redacted] advised that when [redacted] vehicle passed him in the opposite direction, [redacted] raised both of his hands and shook his head as if he was asking what was going on. Sgt. [redacted] turned his vehicle around and started to follow [redacted] vehicle which was travelling east at a high rate of speed.

b6
b7C

Realizing that [redacted] was coming east after turning around at the dead end, SA [redacted] turned left through the median from the west bound lane into the east bound lane to partially block [redacted] vehicle. SA [redacted] travelling west in the east bound lane, observed SA [redacted] vehicle in front of her attempting to block [redacted] vehicle. SA [redacted] positioned her vehicle to also partially block the path of [redacted] vehicle.

Travelling at a high rate of speed, [redacted] vehicle did not slow down and went around the SA [redacted] and SA [redacted] vehicle's. SA [redacted] notified the Bridgewater Police by radio of the situation and gave a description of [redacted] vehicle, license plate, and direction of travel. [redacted] vehicle continued eastbound to the end of Frontier Road. [redacted] began to turn left at the end of Frontier Road so that he would be going east on Route 22 in the westbound lanes. However, [redacted] vehicle turned sharply to the right and went west on Route 22. [redacted] vehicle continued for a short distance on Route 22 then made a right onto Route 287 North. After travelling about one-half mile, [redacted] vehicle pulled over to the right shoulder. [redacted] put his hands outside the driver's window. Sgt. [redacted] vehicle pulled next to [redacted] vehicle while in the right travel lane. Det. [redacted] got out of Sgt. [redacted] vehicle as Sgt. [redacted] pulled the car in front of [redacted] vehicle to block him in and prevent [redacted] from going forward. Sgt. [redacted] got out of his vehicle and along with Det. [redacted] ordered [redacted] out of his vehicle. [redacted] got out of his vehicle, was searched, and handcuffed by other members of the arrest team who had arrived at the scene. [redacted] was placed in a Bridgewater Police Department vehicle and taken to Bridgewater Police Headquarters, where he was subsequently processed and interviewed.

b6
b7C

Details:

The following represents the investigation conducted by the FBI relative to the shooting incident occurring at the Bridgewater Sports Arena on 2/28/99:

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Assistant Director, Inspection Division
Shooting Incident Review Group (SIRG)

Report of: SSA [redacted]/SSA [redacted] Office: Salt Lake City
Date: 03/26/1999

Case ID #: 66F-SU-A50456
89B-SU-50443

Title: SHOOTING INQUIRY;
REPORT OF SHOOTING INCIDENT;
SALT LAKE CITY DIVISION
3/8/1999

Character: ADMINISTRATIVE INQUIRY
AFO/KFO

Synopsis: To report to the Inspection Division, Shooting Incident Review Group (SIRG), a shooting incident which took place on 3/8/1999, in Salt Lake City, Utah, during a surveillance to apprehend a bank robbery suspect.

- P -

b6
b7C

As reported in referenced EC dated 3/10/1999, on the evening of 3/8/1999, police officers and FBI Special Agents, all members of the Violent Crimes Task Force (VCTF), set up surveillance on a residence located at 1204 South 400 West, Salt Lake City, Utah, where bank robbery subject, [redacted] had been observed. A federal arrest warrant had been issued for [redacted] on 3/5/1999. While agents and officers were establishing a perimeter around subject [redacted] residence [redacted] shots were reportedly fired out of the back door of a residence directly to the north of [redacted] location. These shots were allegedly fired at Detectives [redacted] and [redacted] Salt Lake City Police Department (SLCPD), who were assigned to the rear perimeter of the target location. It was also reported that numerous rounds were fired out of the front door of this residence at SA [redacted] FBI, and Department of Corrections (DOC) Agent [redacted] Agent [redacted] was struck twice, once in the head and once in the chest. Agent [redacted] was wearing a protective vest and a kevlar helmet and his only injury was a bruise to his chest. Agent [redacted] helmet deflected the shot to his head. No other law enforcement

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

officers were injured in this incident. SA [redacted] and Agent [redacted] were the only law enforcement officers to return fire at the subjects in the residence. No subjects were injured. Subjects [redacted] and [redacted] were taken into custody. There is no apparent connection between [redacted] and the other two subjects. [redacted] did not shoot at any law enforcement officers. SAC David M. Tubbs, ASAC James F. Jarboe, and SSA [redacted] the VCMO squad supervisor, responded to the scene subsequent to the shooting incident and directed the investigation. The Salt Lake City Division Evidence Response Team (ERT) conducted searches of pertinent locations. b6 b7C

In a telephone conversation between ASAC Jarboe and Chief Inspector Mershon, on 3/9/1999, Chief Inspector Mershon concurred with the Salt Lake City Division's request to conduct a shooting inquiry under the direction of SAC Tubbs. Therefore, the Salt Lake City Division conducted a shooting inquiry per the Manual of Investigative Operations and Guidelines (MIOG) and the Manual of Administrative Operations and Procedures (MAOP) regarding this matter. On 3/10/1999, the Salt Lake City Division initiated a shooting inquiry into this matter.

On 3/16/1999, the Salt Lake City Division forwarded to the Firearms Training Unit (FTU), Training Division, the necessary FD-418s as required per MIOG.

SA [redacted] FBI, was interviewed regarding this matter on 3/11/1999. SA [redacted] was the case agent on the bank robbery investigations in which [redacted] was suspected of robbing the banks. SA [redacted] stated that on 3/5/1999, he obtained a federal arrest warrant for [redacted] and on 3/8/1999, he prepared an "Arrest Plan Form" detailing an arrest scenario for the apprehension of [redacted] This arrest plan was approved by ASAC Jarboe and SSA [redacted] SA [redacted] stated that the scenario outlined in the arrest plan was not successful in that [redacted] did not want to meet with his girlfriend for fear of being arrested. [redacted] According to SA [redacted] even though [redacted] would not meet with his girlfriend, he did continue to keep in telephonic contact with her. SA [redacted] stated that a trap and trace resulted in identifying the location of the telephone which [redacted] was utilizing to keep in contact with his girlfriend. SA [redacted] stated that he and Deputy U.S. Marshal [redacted] with SSA [redacted] concurrence, called out members of the VCTF and set up a surveillance on the location identified by the trap and trace [redacted]. During the surveillance of this location, [redacted] was positively identified as being present in a brick house which was two houses to the south of a commercial business on 400 b6 b7C b7D

West. According to SA [redacted] the positive identification of [redacted] was made by SA [redacted] and Agent [redacted] who had an eye on the house occupied by [redacted] SA [redacted] stated that he and Deputy [redacted] called the other perimeter officers/agents back to a briefing point in a parking lot off of 1300 South. In addition to SA [redacted] and Agent [redacted] who were in the same vehicle, Detectives [redacted] and [redacted] had an eye on the rear of the house occupied by [redacted] SA [redacted] stated that while at the briefing point, he and the other agents/officers heard gunfire then heard someone on the Bureau radio say that shots had been fired. SA [redacted] stated that he and the other officers/agents responded to near the location of the shooting on 400 West.

b6
b7C

SA [redacted] and Agent [redacted] were interviewed separately, however, both provided information that was similar and corroborative. According to SA [redacted] and Agent [redacted] both were sitting in Agent [redacted] brown Chevrolet Blazer keeping an eye on a brick house in which they positively identified [redacted] This brick house was located two houses to the south of a commercial business on 400 West. While watching this house, SA [redacted] and Agent [redacted] heard two gunshots that were fired from the rear of the subject's location. SA [redacted] broadcast on the Bureau radio that shots had been fired. Subsequently, both SA [redacted] and Agent [redacted] heard gunfire and saw muzzle flashes coming from the yellow/white house that was just north of the subject's location. Both SA [redacted] and Agent [redacted] quickly realized that they were being shot at by an unknown individual in the yellow/white house. Agent [redacted] quickly exited the vehicle from the driver's seat and began returning fire taking cover behind the left front of his vehicle. SA [redacted] exited the vehicle from the passenger seat and took cover behind the rear of the vehicle behind the right rear wheel. SA [redacted] also returned fire at the front door of the white/yellow house. Agent [redacted] called out to SA [redacted] that he had been hit in the chest. Subsequently, Agent [redacted] said that he had been hit in the head. Both SA [redacted] and Agent [redacted] left their position behind Agent [redacted] vehicle and retreated to a position of cover at a warehouse to the east of their location. SA [redacted] believes that he fired a total of two, and possibly three rounds. Agent [redacted] believes that he fired approximately thirteen (13) rounds. SA [redacted] and Agent [redacted] believe that approximately fifteen (15) rounds were fired at them. SA [redacted] and Agent [redacted] exited their vehicle so quickly that they did not have the time necessary to take a hand held radio with them which prevented them from communicating with the other agents/officers.

b6
b7C

SA [redacted] was interviewed and he stated that he and two SLCPD officers were the first ones to reach the location of SA [redacted] and Agent [redacted] SA [redacted] had a hand held radio with him and was able to provide information to the other agents/officers about the situation and the condition of SA [redacted] and Agent [redacted] SA [redacted] and the two SLCPD officers arranged for Agent [redacted] to be transported from the scene and to a hospital. SA [redacted] SA [redacted] and the two SLCPD officers briefed SLCPD SWAT Team members on the location from where the shots were being fired. Thereafter, the SLCPD SWAT Team assumed tactical control of the situation. At approximately 7:00 a.m., on 3/9/1999, [redacted] and the two subjects that occupied the house next to [redacted] were taken into custody and transported to the FBI Office.

b6
b7C

Also interviewed during this shooting inquiry were: SSA [redacted] SA [redacted] SA [redacted] SA [redacted] and SA [redacted] all of the FBI, and Deputy [redacted] United States Marshals Service (USMS). Detectives [redacted] and [redacted] were interviewed by the SLCPD. All of these individuals provided similar and corroborative information.

The FBI's Evidence Response Team (ERT), responded to the location of the shooting incident and conducted the necessary and relevant searches in support of the AFO/KFO investigation.

[redacted] who was present in the brick house during the shooting incident, was not involved in shooting at SA [redacted] Agent [redacted] and Detectives [redacted] and [redacted] The investigation determined that two individuals, [redacted] and [redacted] were present in the white/yellow house from where the shots were being fired.

b6
b7C

On 3/17/1999, [redacted] was indicted by a Federal Grand Jury for violating Title 18, United States Code Section 1114(3) - Protection of officers and employees of the United States, and Section 922(g)(5) - Illegal alien in possession of a handgun. [redacted] is being held indefinitely on a material witness warrant.

SAC'S COMMENTS:

SAC Tubbs has thoroughly reviewed the facts and circumstances surrounding the shooting incident which occurred on 3/8/1999. The members of the Salt Lake City Division's VCTF had a written arrest plan for the apprehension of [redacted] which had been reviewed and approved by ASAC Jarboe and SSA

[redacted] This written plan was verbally modified upon credible information obtained from a trap and trace which placed [redacted] at a residence located at [redacted] Salt Lake City, Utah. A federal arrest warrant was issued for [redacted] on 3/5/1999. The members of the VCTF that were present at or near the location of [redacted] at the time of the shooting, were lawfully present. The members of the VCTF did nothing to provoke the actions of the subjects in the residence next to the residence occupied by [redacted]. The members of the VCTF were fired upon without warning or notice by [redacted] SA [redacted] and Agent [redacted] responded appropriately when they discharged their weapons in an attempt to eliminate the threat against their lives and the lives of others. In this incident, there is no issue of questionable judgement by SA [redacted] or Agent [redacted] under the deadly force policy. SA [redacted] and Agent [redacted] acted courageously and should be commended for their quick actions and bravery during this incident.

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: ADIC, WFO

Report of: SAC-A ELLEN B. KNOWLTON Office: WASHINGTON FIELD
Date: May 26, 1999

Case ID #: 66F-WF-214969

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
WASHINGTON FIELD OFFICE
MARCH 17, 1999

Character: ADMINISTRATIVE INQUIRY

Synopsis:

- P -

DETAILS:

On 6/26/98 SA [redacted] was assigned 88A-WF-212471 captioned, [redacted] FUGITIVE (A); UFAP - HOMICIDE/MURDER 1 WHILE ARMED; OO:WFO. SA [redacted] is assigned to the Squad C-10 Joint Fugitive Task Force (JFTF) Baker Team which is headed by MPD Sergeant [redacted] had a lengthy criminal history which included charges for weapons, drugs, assault, explosives, robbery and murder offenses. SA [redacted] also had information that [redacted] may have been involved in a car dealer shooting as well as shooting at MPD and Montgomery County Police Department officers. SA [redacted] conducted numerous surveillances and turn-up operations from June, 1998 to March 14, 1999 in an effort to locate and apprehend [redacted] During this period, SA [redacted] provided oral briefings and handed out photographs with [redacted] criminal history to members of the Baker Team as well as to representatives of the Montgomery County Police Department (MCPD) Repeat Offenders Unit with which he was working cooperatively to locate [redacted] During the course of his fugitive investigation, SA [redacted] advised he generally kept the Baltimore Division apprised of his efforts.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

On 3/14/1999 MCPD executed a search warrant on an apartment of an associate of [redacted] which led to the issuance of an arrest warrant for [redacted] On [redacted] SA [redacted] arrested [redacted] in Washington, D.C. under a Maryland Fugitive From Justice warrant. [redacted] provided information to SA [redacted] which identified the apartment of [redacted] girlfriend, [redacted] at [redacted] Greenbelt, Maryland. On 3/16/1999 a surveillance involving the MCPD Repeat Offenders Unit and SA [redacted] was conducted with no success. b6 b7C b7D

On 3/17/1999 SA [redacted] and DUSM [redacted] conducted investigation at the apartment complex which resulted in obtaining a positive identification of [redacted] and an associate [redacted] by two neighbors. SA [redacted] subsequently arranged for a maintenance man at the apartment complex to perform a maintenance check at both the Breezewood Court Apartment and a close by apartment occupied by a [redacted] who had been making numerous telephone calls to [redacted] The maintenance man positively identified [redacted] as being located in [redacted] apartment at that time.

Based on the above two identifications and exigent circumstances, SA [redacted] led a team which entered [redacted] apartment and determined no one was present. After checking out three leads which were obtained from the caller ID located in the apartment, SA [redacted] reinstituted surveillance at [redacted] apartment. Shortly thereafter, [redacted] was observed in the parking lot driving a gray Oldsmobile sedan. SA [redacted] (driver) and DUSM [redacted] (passenger) followed [redacted] out of the parking lot at which time [redacted] realized he was being followed. SA [redacted] activated his emergency equipment and pursued [redacted] for approximately twenty miles. No effective communication method, other than two cellular telephones, existed during the pursuit. The pursuit began in Prince George's County, proceeded onto the Capital Beltway (495W) and ended in Montgomery County. During the pursuit, both SA [redacted] and DUSM [redacted] advised that [redacted] fired at them. Two witnesses were located at the Woodmoor Plaza Shopping Center which corroborate to some degree that [redacted] fired at SA [redacted] and DUSM [redacted] also drove on two occasions against the flow of traffic in an effort to elude his pursuers. After approximately fifteen minutes, [redacted] arrived at the intersection of Knowles Avenue and Parkwood Drive, Kensington, Maryland. To elude capture, [redacted] turned left on the left side of a school bus, struck the right side of the school bus and then struck the right front of a Volvo being driven by [redacted] with SA [redacted] close by, then passed the Volvo. SA [redacted] stated that [redacted] then fired one round which he believed may have struck [redacted] At this time, SA [redacted] decided to use deadly force because [redacted] had just shot at him, he believed [redacted] may have shot [redacted] b6 b7C

and for the first time, he had a clear shot. SA [redacted] three rounds struck the Oldsmobile without injuring [redacted] then pulled away and struck a telephone pole which disabled his vehicle. [redacted] was then arrested without further incident. The crash into the telephone pole caused smoke and a small fire in the engine compartment of the Oldsmobile. After the arrest SA [redacted] heard crying sounds in the rear of the vehicle and discovered two young children in the passenger compartment. While removing both children to safety, SA [redacted] cut his thumb which required surgery. b6 b7C

Interviews of the principal witnesses provided the following information:

[redacted] - school bus driver - heard approximately four (4) gunshots.

[redacted] - school bus attendant - saw [redacted] use his left hand to steer and had a dark object in his right hand in a raised position.

[redacted] - Volvo driver - FBI interview: stated she saw SA [redacted] extend his leg out of the driver's side door and point a pistol at the gray sedan, heard one gunshot, then heard several more shots. Believes she heard more than three (3) gunshots. MCPD statement: saw SA [redacted] put his leg out of car and raise a gun which seamed to be pointed at her but was actually pointed at gray car. SA [redacted] fired more than twice and she put her head down.

Nine other witnesses recalled hearing from two to five gunshots, with the majority hearing from three to four.

A crime scene examination conducted by the Montgomery County Police Department located two shell casings from SA [redacted] weapon, one at the intersection of Knowles Avenue and Parkwood Drive and the other on the bottom area of SA [redacted] vehicle windshield. No shell casings from [redacted] weapon were located. b6 b7C

Details of this incident are reported as delineated in the table of contents.

# FBI
# Shooting Incident Report Summaries

# 1999

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to: States Attorney Jonathan C. Benedict
1061 Main St., Bridgeport, CT. 06604

Report of: IIP [redacted] Office: FBIHQ
Date: 10/21/1999

Case ID #: 297-HQ-A1271786-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
NEW HAVEN DIVISION
BRIDGEPORT RESIDENT AGENCY
OCTOBER 6, 1999

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was a result of an attempted arrest of HECTOR COLON. A federal warrant issued January 28, 1998, in White Plains, New York, Southern District of New York, was outstanding; charging Colon in violation of Title 18, USC, Section 1959, Interstate Transportation in Aide of Racketeering-Murder. The Connecticut Violent Crimes Fugitive Task Force (CVCFTF), under the auspices of the New Haven Division had been coordinating efforts with the New York Division to locate and apprehend Colon.

b6
b7C

DETAILS: As early as April, 1999, information was obtained indicating that Hector Colon might be frequenting locations within the New Haven Division's territory. SSA [redacted] initiated contact with SSRA [redacted] of the New York Division, to coordinate efforts to locate and apprehend Colon. Several attempts to conduct surveillance of Colon, or his wife, were made with limited results. On 09/28/99 SA [redacted] displayed an identification order (I.O.) to a source who recognized Colon as someone known to the source as "Jose". The following day, 09/29/99, the source observed "Jose" with a black .38 six-shot revolver. Thereafter, the source provided information that establish the basis to conduct a surveillance on potential locations frequented by Colon.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

On Monday afternoon, 10/04/99, SSA [redacted] met with SAs [redacted], and [redacted] Det. [redacted] Trpr. Pavlik, and other task force members to discuss the developments in the Colon case. SSA [redacted] instructed SAs [redacted] and [redacted] to prepare an operational plan utilizing an FD-888 form (Arrest Plan Form). They were to conduct a surveillance to corroborate the source information and determine the whereabouts of Colon in order to formulate an arrest plan and affect an arrest of Colon. The FD-888 was used to document the plans for the surveillance. b6 b7C

On Tuesday, 10/05/99, at 6:30 a.m. a briefing was conducted at the Bridgeport Police Department for all the individuals assigned to participate in that day's surveillance activity. Present at the meeting were SAs [redacted] Det [redacted] DUSM [redacted] Det [redacted] Det. [redacted] and Trpr. [redacted] Det. [redacted] Det. [redacted] and Offr. [redacted] All of these individuals attended the briefing the following day with the exception of Offr. [redacted] who was replaced by Offr. [redacted] on that day. Each attendee was given a copy of the I.O. and a photograph of Colon. They were briefed on the fact that Colon was considered armed and dangerous; he was extremely surveillance conscious; and provided specific information to emphasize that Colon was considered extremely dangerous. Thereafter, a surveillance was conducted until noon at which time it was terminated. The participants were instructed to be at the Bridgeport Police Department at 9:00 a.m. the next morning to be briefed on that days surveillance plans.

On Wednesday, 10/06/99, at 9:00 a.m. they reconvened, some cautionary statements were reiterated for the benefit of Offr. [redacted] who had not attended the day before. The primary purpose was to ensure everyone knew their assignments. The plan was to have two stationary surveillance locations and two roving vehicles. The teams were assigned as follows:

b6
b7C

Teams:

Roving:

| | | |
|---|---|---|
| SA [redacted] | FBI | (TF Member) |
| SA [redacted] | FBI | (TF Member) |
| Det. [redacted] | BPD | (non-TF Member) |

72 Maple Street

| | | |
|---|---|---|
| Det. [redacted] | NPD | (non-TF Member) |
| Offr. [redacted] | NPD* | (non-TF Member) |
| Det. [redacted] | BPD | (non-TF Member) |

* replaced Offr. [redacted] NPD

1491 Central Avenue

| | | |
|---|---|---|
| Det. [redacted] | BPD | (non-TF Member) |
| DUSM [redacted] | USM | (TF Member) |
| SA [redacted] | FBI | (TF Member) |

Roving

| | | |
|---|---|---|
| Trpr. [redacted] | CSP | (TF Member) |
| Det. [redacted] | BPD | (TF Member) |

b6
b7C

At approximately 10:20 a.m. the units were in their assigned locations. At approximately 10:45 a.m. DUSM [redacted] and SA [redacted] observe an individual, thought to be Colon, exit 1491 Central Avenue and depart the area in a blue Honda Prelude. SA [redacted] radioed a description of the clothing worn by the individual, believed to be Colon, and a vehicle description. At approximately 11:02 a.m. an individual, wearing clothing fitting the description reported by SA [redacted] was sighted on foot at 72 Maple Street. At approximately 11:15 a.m. Detective [redacted] relays over the radio that the person believed to be Colon had a gun. Shortly thereafter, Det. [redacted] qualifies that statement advising they can't be certain. (Note: a copy of the surveillance video tape depicting what the officers saw is included with this report. There are four segments wherein a black object, on the waist of the subject, is visible.) Thereafter, the source is visited by Colon. Upon Colon's departure; the source advised that the subject left the location in a blue, two door, Honda.

During this time frame, Det. [redacted] had been sent into the Tower II apartment building to get the lay-out and to locate apartment #213. She was in the building at the time of the shooting incident. The surveillance team now believed they had a positive identification of the subject based on eight of the team member's observations and corroboration by the source. SA [redacted] contacted SAs [redacted] and [redacted] and proposed attempting an arrest should the subject return and park adjacent to them as before and they concurred. At 12:25 p.m. SA [redacted] advises that the subject has returned to 1491 Central Avenue. SA [redacted] and DUSM [redacted] had formulated a plan, in the interim, and attempted the arrest. At 12:32 p.m. SA [redacted] radioed that shots had been fired and someone was down.

b6
b7C

SA [redacted] exited the right side of the van utilizing the left hinged door. In order to do this he had switched his weapon to his weak hand (right hand). He was wearing body armor with his identification visibly suspended from a chain around his neck. He had his weapon drawn from the time he exited the van until after the subject was down and he and DUSM [redacted]

proceeded to handcuff him. He had waited to exit the van until after the subject cleared his vehicle. Upon exiting the van, he commanded "FBI, stop" and other words he could not specifically recall. SA [redacted] stated that Colon moved his left hand quickly toward his waist area in a grabbing motion, which caused SA [redacted] to fire one shot at the subject. SA [redacted] stated the subject pivoted and ran in front of the van in the direction of Central Avenue, causing him to temporarily loose sight of the subject. SA [redacted] stated he moved forward and re-established visual contact with the subject. He stated the subject was about a car length away moving toward Central Avenue with his upper torso twisted back toward SA [redacted]. SA [redacted] stated the subjects left arm was cocked, with his elbow bent and his left hand in the area of his waist, not visible to SA [redacted] at that time. Further, the subject's left arm/elbow was moving back and forth. SA [redacted] stated he saw the subject's left arm and body tense which caused him to believe the subject had a gun in his waistband and that he was reaching for the gun. SA [redacted] stated he then dropped low and fired two rounds at the subject using his left hand. The subject moved toward Central Avenue a little further, then turned toward SA [redacted] and raised both of his hands over his head. SA [redacted] stated he told the subject to stop and get down at that time.

b6
b7C

DUSM [redacted] stated that upon exiting the rear of the van he heard the warning given by SA [redacted] and at least two shots, more than likely three shots. DUSM [redacted] stated he did not see who fired the shots or if anyone had been hit, because he was still behind the van. He briefly looked around the right side of the van and saw SA [redacted] and the subject moving toward the front of the van, with the subject in front of SA [redacted]. He then went to the left rear corner (drivers side) and looked around before moving up the left side of the van. DUSM [redacted] stated at that time he saw the subject moving toward the street. He then ran up the left side of the van toward the subject ordering "police, get down" The subject looked at him and then dropped to the pavement spreading himself out, face down. DUSM [redacted] stated he held him down in that position while SA [redacted] handcuffed the subject. DUSM [redacted] then began a search for weapons or contraband. DUSM [redacted] advised that, in the interim, SA [redacted] had radioed the others that shots were fired. DUSM [redacted] stated that Det. [redacted] arrived on the scene and assisted him in rolling the subject over onto his back in order to continue the search. That is when DUSM [redacted] noticed blood on his hands and then told SA [redacted] to call for paramedics.

b6
b7C

DUSM [redacted] stated he was also in body armor with his badge displayed on a chain around his neck. Further, that he had his weapon drawn from the time of exiting the van until kneeling to handcuff the subject. Within minutes the remainder of the surveillance team arrived on scene, as did the paramedics. Colon was taken to the hospital where he underwent surgery unsuccessfully and was pronounced dead at 2:17 p.m.

Members of the surveillance team and the paramedics observed one cell phone and two pagers on the subject's waist immediately after the shooting. As a result of the autopsy it was determined that one bullet entered the subjects body from the rear approximately three inches to the left of the spine and exited the front of the torso at center sternum. The coroner stated this indicated an upward angle of travel from entry to exit. No weapon was recovered from the crime scene. With the concurrence of SAC Michael J. Wolf, the crime scene was turned over to the Bridgeport Police Department for processing with assistance from the New Haven ERT and the State Crime Laboratory. The Bridgeport Police Department took custody of all evidence, to include SA [redacted] weapon. All subsequent laboratory examinations and analysis are being done at the request of the Bridgeport Police Department through the State Crime Laboratory. b6 b7C

The police, assisted by FBI personnel, conducted a neighborhood search for potential witnesses to the shooting incident. All identified individuals representing to have information concerning the shooting incident were interviewed either by them and/or subsequently by members of the SIRT. The Lacey Manufacturing Corporation was having a picnic in the lot adjacent to 1491 Central Avenue at the time of the shooting which resulted in identifying several civilian witnesses to the event. As would be expected, their attention was drawn after hearing a shot or loud noise coming from the parking lot. The day was clear and in the 60's at the time of the shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/28/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271970-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/08/1999
WASHINGTON FIELD OFFICE

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Washington Field Office on 11/08/1999. Special Agent (SA [redacted]) discharged his FBI issued shotgun to kill a severely injured deer. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

Reference: Reference report of Supervisory Special Agent [redacted] dated 12/20/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted], Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm.5155)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
2 - Ms. Ginsburg, DOJ
(1 - Ms. [redacted])
2 - Mr. Biehl, DOJ
(1 - Mr. [redacted])
1 - Mr. [redacted] Rm. 6646

1 - Mr. [redacted] Rm. 4042
2 - Mr. [redacted] Quantico
(1 - Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 3787
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Rm. 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 03/28/2000

Details of the Shooting Incident

On 11/08/1999, at approximately 9:10 p.m., after completing his shift and en route to his residence, SA [redacted] observed two individuals in the center grass median of Route 610. SA [redacted] thinking there might be an accident or some type of altercation, stopped his bureau vehicle and activated his emergency lights.

SA [redacted] exited his vehicle and was approached by the individuals in the median who advised him that a deer had been struck by a vehicle and was laying in the center of the median. Based on the fact that the large "eight point" buck was violently struggling to regain it's footing and the heavy volume of traffic in the area, SA [redacted] believed that the deer posed an imminent danger to the public safety if it was allowed to stray into traffic. SA [redacted] contacted the Stafford County Sheriff's Office, however, due to his concern that the deer would regain it's footing or struggle into traffic, he believed his only safe alternative was to euthanize the deer. b6 b7C

Once SA [redacted] decided to kill the deer, he directed an off duty Prince William County Officer to stop eastbound traffic. After addressing all safety concerns, SA [redacted] illuminated the deer with a weapon mounted flashlight and fired one slug round into the rear of the deer's skull. After observing the deer move, he fired a second round of buck shot into the deer's head, successfully killing the deer.

On 02/08/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; William R. Falls, Section Chief, Operational Support Section, Administrative Services Division; Charles H. Middleton, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division; SSA [redacted] Practical Applications Unit, Training Division; and, SSA [redacted] Washington Field Office. Two nonvoting members present were Unit Chief

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 03/28/2000

[redacted] Practical Applications Unit, Training Division, and [redacted] Management/Program Analyst, Office of Inspections, Inspection Division.

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

SIRG members briefly discussed this shooting incident and unanimously agreed that SA [redacted] actions were in accordance with the current deadly force policy. Members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 03/28/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/15/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

b6
b7C

Case ID #: 297-HQ-A1271970-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/16/1999
WASHINGTON FIELD OFFICE

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Washington Field Office on 10/16/1999. Special Agent (SA) [redacted] fired three rounds from his Bureau issued weapon, killing an injured deer. SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

Reference: Reference report of Assistant Special Agent in Charge Leslie G. Wiser, Jr., dated 03/16/2000.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm.5155)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
2 - Ms. Ginsburg, DOJ
(1 - Mr. [redacted]
2 - Mr. Bieh[redacted] DOJ
(1 - Mr [redacted]
1 - Mr. Barthik, Rm. 6646

1 - Mr. Middleton, Rm. 4042
2 - Mr [redacted] Quantico
1 - Mr [redacted] Rm. 3787
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

## Details of the Shooting Incident

On 10/16/1999, SA [redacted] and his wife attended a party at a residence in Stafford, Virginia. While driving to their residence in Spotsylvania, SA [redacted] observed a vehicle on the side of the road with its hazard lights flashing. As SA [redacted] approached the vehicle, the vehicle left the scene and SA [redacted] observed an injured deer on the side of the road. As the deer was attempting to regain its footing, SA [redacted] determined that the animal posed an immediate danger to the traffic on the road. Due to this fact, and the absence of any nearby pedestrians, vehicles, or dwellings, SA [redacted] fired one round from his Bureau issued Sig Sauer P-228 nine millimeter pistol into the deer's neck as well as two additional shots into the animal's chest. The deer died a short time later.

b6
b7C

On 05/09/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Kenneth W. Kaiser, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; Charles H. Middleton, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit Scientific Analysis Section, Laboratory Division; [redacted], Unit Chief, Firearms Training Unit, Training Division; and, SSA [redacted] Washington Field Office. The only nonvoting member present was [redacted] Management/Program Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 05/15/2000

b6
b7C

SIRG members briefly discussed this incident and unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Members recommended that no administrative action be taken against him as a result of his involvement in this shooting incident.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 05/15/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

b6
b7C

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 04/07/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] R:lrr

Case ID #: 297-HQ-A1271285-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/04/1999
CHICAGO DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Chicago Division on 12/04/1999. Special Agent (SA) [redacted] shot and killed an unleashed charging pitbull dog during the execution of a gang/drug-related search warrant. SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

Reference: Reference report of Supervisory Special Agent [redacted] dated 12/14/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted], Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm.5155)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
2 - Ms. Ginsburg, DOJ
(1 - Ms. [redacted]
2 - Mr. Biehl, DOJ
(1 - Mr. [redacted]
1 - Mr. [redacted] Rm. 5646

1 - Mr. Middleton, Rm. 4042
2 - Mr. [redacted] Quantico
(1 - Mr. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 3787
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271285-D, 04/07/2000

Details of the Shooting Incident

On 12/04/1999, Agents of the Rockford Resident Agency (RA), along with Drug Enforcement Administration and local officers attached to the Metro Narcotics Unit, were executing a gang/drug-related search warrant at a residence in Rockford, Illinois. During the execution of the warrant, a pitbull dog repeatedly charged the officers resulting in SA [redacted] firing two rounds from a Remington 870 shotgun, killing the dog.

It should be noted that a completed, approved operations plan contained information regarding the presence of dogs at the residence. Participants had discussed the use of pepper spray to discourage the dogs from attacking. However, due to the inclement weather, a decision was made that a pepper fogger would be used by the entry team for use inside the house and that SA [redacted] would use his shotgun loaded with 00 buck to protect the entry team while outside the house. b6 b7C

The search team arrived at the residence and executed the search warrant at approximately 6:50 p.m. The front of the residence was well-lit with flood lights and according to one Agent on the scene, a dog charged him as he exited his van. The Agent attempted to subdue the dog by swinging his flashlight.

As they approached the house, SA [redacted] heard dogs barking and observed two dogs charge him. SA [redacted] charged toward the dogs to place himself between the dogs and the entry team. Both dogs were identified as pitbulls with one being chained and one not chained. According to SA [redacted] he pointed his shotgun at the dog and attempted to scare the dog by yelling loudly. The dog initially backed off a few feet but continued to face SA [redacted] in an aggressive manner. Within a short period, the dog charged again with SA [redacted] successfully making the dog retreat for a second time by yelling. The dog continued to bark and growl and subsequently charged at SA [redacted] a third time. SA [redacted] believing that the dog was going to bite him, fired two shots. The first round hit the dog in the face and the second round entered the chest. The dog was removed from the scene by members of the Animal Control Center.

On 02/08/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271285-D, 04/07/2000

in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; William R. Falls, Section Chief, Operational Support Section, Administrative Services Division; Charles H. Middleton, Section Chief, Global Section - NS-2, National Security Division; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Firearms Training Unit, Training Division; [redacted] Practical Applications Unit, Training Division; and, SSA [redacted] Washington Field Office. Two nonvoting members present were Unit Chief [redacted] Practical Applications Unit, Training Division, and [redacted], Management/Program Analyst, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271285-D, 04/07/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 10/26/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III
Cordier Robert J

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1270914-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
08/13/1999
ALBUQUERQUE DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Albuquerque Division on 08/13/1999. Special Agents (SAs) [redacted] and [redacted] returned gunfire after a bank robbery suspect fired shots at them inside of an apartment. SIRG members recommended that no administrative action be taken against these SAs as a result of their involvement in this shooting incident.

b6
b7C

Reference: Reference report of Assistant Special Agent in Charge William Lueckenhoff, dated 08/27/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm.5155)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Cordier, Rm. 7837
2 - Ms. Ginsburg, DOJ
(1 - Ms. [redacted])
2 - Mr. Biehl, DOJ
(1 - Mr. [redacted])
2 - Mr. Foran, Rm. 6646
(Attention: Mr. [redacted])

2 - Mr. Middleton, Rm. 4042
(1 - Ms. [redacted])
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

Details of the Shooting Incident

Albuquerque Division's Violent Crimes and Major Offenders Squad had been investigating a series of bank robberies occurring in the Albuquerque area. These robberies had been committed, for the most part, by a lone, unidentified male who implied to victims that he possessed a firearm. Evidence had also been developed indicating an accomplice or accomplices assisted him outside of these banks with his getaway. It was also determined that in two of the robberies, the subject was assisted by another unidentified accomplice inside the victim banks. The local media and Albuquerque Police Department (APD) personnel had dubbed the unidentified bank robber as "Robin the Hood." This was a reference to the robber's politeness and his usual apology to victims where he attempted to excuse his actions by advising that the proceeds from the robbery were to help poor, hungry kids. b6 b7C b7D

During the two days prior to the shooting incident, SAs [redacted] and [redacted] were developing independent information indicating that an individual identified as [redacted] was possibly identical with the bank robber. Information was developed indicating that [redacted] was en route to the St. Louis, Missouri, area. It had also been determined that [redacted] had not been at his Albuquerque residence since 08/10/1999.

On 08/13/1999, SAs [redacted] and [redacted] after ensuring that [redacted] was not at his residence, initiated a pre-arranged interview with [redacted] inside the apartment. During the interview, [redacted] positively identified [redacted] in a number of bank surveillance photographs as "Robin the Hood". [redacted] that [redacted] possessed firearms and that he was a heavy drug user, using crack, heroin, cocaine and marijuana. While the interview was being conducted, all three of the individuals heard a vehicle parking at the residence. [redacted] looked outside and advised the Agents that [redacted] had arrived. [redacted] quickly walked behind the apartment, leaving the engine of his vehicle running, and entered the apartment's back door. SAs [redacted] and [redacted] gathered their materials and went into the bedroom to attempt to be outside of [redacted] vision should he enter the apartment. Immediately after entering the apartment, [redacted] initiated gunfire by shooting into the apartment bedroom where the Agents had concealed themselves. b6 b7C

According to SA [redacted], SA [redacted] had entered the bedroom, and prior to his [redacted] entering the bedroom, he observed [redacted] in a discussion with [redacted] after he entered the rear entrance of the apartment. SA [redacted] observed her gesturing with her head to the part of the apartment where the Agents had relocated. At that point, SA [redacted] observed a stainless steel revolver being pointed at him around the open door frame. As SA [redacted] deflected the weapon away from his body, a round discharged. He also observed rounds entering through the wall dividing the bedroom from the kitchen. b6 b7C

Both Agents returned fire, firing their weapons through an interior wall of the apartment. Immediately after [redacted] and SA [redacted] had fired shots, SA [redacted] barely missed shooting [redacted] with a single gunshot, when she suddenly appeared around the open bedroom door frame from the area of the apartment where the subject had been firing.

Based on radio calls for assistance by the Agents on the scene, law enforcement personnel from the Albuquerque Division, as well as the APD responded to the scene. [redacted] was arrested approximately two and one half hours later, as he tried to escape from a nearby apartment where he had hid from responding Special Weapons and Tactics Teams and other law enforcement officers.

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division. b6 b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1270914-D, 10/26/1999

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SAs [redacted] and [redacted] was justified and in conformance with the current deadly force policy. SIRG members unanimously agreed that [redacted] repeated gunfire constituted a direct threat upon their lives, and provided adequate justification for their employment of deadly force throughout this instance. b6 b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1270914-D, 10/26/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION (INSD)

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC SUSAN R. CHAINER Office: Los Angeles Field Office
Date: April 5, 1999

Case ID #: 66F-LA-218119
66F-LA-218119

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT;
LOS ANGELES DIVISION
MARCH 29, 1999

Character: ADMINISTRATIVE INQUIRY

Synopsis:

On March 29, 1999, Special Agents of the Federal Bureau of Investigation (FBI) assigned to the Los Angeles Division responded to a call for assistance from Federal Agents with the Defense Criminal Investigative Service (DCIS). DCIS Federal Agents [redacted] and [redacted] were surveilling a residence in Studio City, California where they had source information that federal fugitive [redacted] was currently located. Subject [redacted] had a federal warrant issued from the District of Arizona charging him with False Identification Cards, Falsely Pretending to be an employee of the United States, Fraud and Related Activity in Connection with Access Devices, Mail Fraud, Wire Fraud, and False Statements in Application for a Passport. Subject [redacted] had a criminal history which included receiving stolen property, carrying a concealed weapon, resisting arrest, forgery, and burglary.

b6
b7C

On March 29, 1999, at approximately 5:04 pm, DCIS agent [redacted] using a hand held FBI radio which he was issued while working on an FBI task force, contacted Los Angeles FBI radio control. He requested assistance in the arrest of a fugitive "ASAP" from FBI agents who were in the area of Moorpark and Coldwater Canyon in Studio City, California. He also asked FBI control to contact the Los Angeles Police Department (LAPD) to respond to the area for backup. Special Agent (SA) [redacted] advised control he would be responding as did Special Agents [redacted] and [redacted] who were in a two man unit. Both SA [redacted] and the two man unit were fifteen to twenty minutes away from agent [redacted] location when he first called for assistance. The area was still in daylight, the weather was clear, and there were no wind conditions.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

When SA [redacted] arrived at the intersection he requested a specific location where he could find the DCIS agent. Agent [redacted] advised SA [redacted] he was in the northwest corner of the intersection in a parking lot next to a market. SA [redacted] was able to see Agent [redacted] who was near a vehicle in the parking lot. He drove to Agent [redacted] vehicle and the two of them began discussing subject [redacted] SA [redacted] had never met Agent [redacted] prior to this incident. He told SA [redacted] he worked with a couple of FBI squads and at this time he thought Agent [redacted] was an FBI agent since he had been using an FBI radio. b6 b7C

Agent [redacted] advised SA [redacted] that subject [redacted] was a fugitive who was wanted for mail fraud, false identification and impersonating a DOD agent. He also told SA [redacted] he wanted him, along with the other FBI agents who would be arriving soon, to watch the rear of an apartment where he believed subject [redacted] was now located. He added when LAPD units he had requested arrived, he would have them assist him in making contact with the subject at the apartment. He told SA [redacted] that subject [redacted] had a black Jeep Cherokee that was now parked about thirty feet north of where they were now parked.

While the two of them were discussing Agent [redacted] plan, SA [redacted] noticed a white male wearing a T-shirt and slacks walking south in the alley behind the apartment. The male was walking towards them as SA [redacted] was sitting in his vehicle in the parking lot. Agent [redacted] was crouched down by SA [redacted] driver's door in the parking lot. Agent [redacted] did not initially see the male and had observed an LAPD patrol unit drive by their location. Agent [redacted] notified FBI control to contact the LAPD officers and give his exact location.

Once he was finished on the radio, SA [redacted] asked Agent [redacted] if the male walking towards them was his subject. At first Agent [redacted] advised him that it could be but he was not certain. Once the male had walked a few feet closer, Agent [redacted] told SA [redacted] that it was definitely his fugitive. SA [redacted] asked Agent [redacted] what he wanted to do. He asked if Agent [redacted] was going to arrest the subject or wait for backup. Agent [redacted] suddenly stated he was going to arrest him now. He stood up and started walking to the rear of the black Jeep Cherokee which is where the subject appeared to be walking. b6 b7C

SA [redacted] immediately exited his vehicle and began approaching the Jeep Cherokee from the south. He was not aware if any other FBI units or LAPD units were in the parking lot yet. Since Agent [redacted] had decided to approach the subject he realized he needed to assist him without delay. He had observed Agent [redacted] going towards the driver's side rear of the Jeep with his handgun already drawn. SA [redacted] also drew his handgun as he moved to a position of cover behind a vehicle's engine block which was parked adjacent to and just south of the Jeep. SA [redacted] weapon was a personally owned Bureau approved .40 Caliber semi-automatic, Glock Model 27, serial number CNF655.

SA [redacted] was able to observe the subject who had already opened the door of the Jeep and was standing outside in the "V" of the door of the vehicle. Through the glass of the passenger side window he could see the subject's head down to his mid-pelvic area. At this time he was about five to ten yards from the subject. He could see Agent [redacted] with his weapon pointed at subject [redacted] while he was standing to the rear of the Jeep's driver's side.

Once he was in position behind the cover vehicle, SA [redacted] could hear Agent [redacted] identify himself as a federal agent to subject [redacted] and advise him he was under arrest. He recalls hearing Agent [redacted] repeat this more than once. He observed subject [redacted] put his hands up to the height of his shoulders, and then place them down to his waistline. SA [redacted] heard Agent [redacted] yelling for subject [redacted] to show him his hands. He also observed Agent [redacted] speaking on his hand held radio and asking for FBI control to have the LAPD units respond to assist them.

b6
b7C

SA [redacted] was able to see subject [redacted] turn his head in his direction and look towards him. Subject [redacted] had on a pair of sunglasses but they were down on the bridge of his nose and SA [redacted] could see his eyes. SA [redacted] yelled at the subject to get his hands up. When he did not respond, he yelled that he was with the police and that he wanted him to put up his hands. Rather than comply with his commands, the subject placed his right hand into his right front pocket area. At this point, SA [redacted] believed the male might be going for some type of weapon. He continued to yell at subject [redacted] to put up his hands. The subject removed his hand and SA [redacted] could see it was empty.

SA [redacted] observed subject [redacted] then lean into the interior of his vehicle and reach towards the center console area. He believed at this time the subject may again be reaching for a weapon. The male then returned his hands to his side and once again they were empty. The subject then sat down in the driver's seat, shut the door, and locked it. SA [redacted] could see Agent [redacted] go to the driver's side door and attempt to open the locked door. He could hear Agent [redacted] giving subject [redacted] commands but again the subject was non-compliant.

b6
b7C

With his weapon still pointed at the subject, SA [redacted] pounded on the passenger side window of the Jeep with his left hand and yelled at subject [redacted] to open the locked door. Subject [redacted] placed his right hand into his right front pocket of his pants. SA [redacted] once again thought the subject was reaching for some type of weapon. When the subject removed his hand the male had an open pack of cigarettes in his hand. Subject [redacted] then placed his left hand in his left pocket and yet again SA [redacted] believed the subject may be going for a weapon. When subject [redacted] s hand came into view it appeared to be holding a lighter.

SA [redacted] noticed at this time that Agent [redacted] had now moved into a position directly in front of the black Jeep. He also realized at this time the Jeep was now running. His immediate concern was the subject driving forward and striking Agent [redacted] who was in the vehicle's path. Once again SA [redacted] pounded on the passenger side window and yelled to the subject that if he drove forward he would shoot. He repeated this command once again as loud as he could to ensure the subject could hear him. He also confirmed at this time that Agent [redacted] was still in the vehicle's pathway.

An LAPD officer had come along side the passenger side of the vehicle next to SA [redacted] position. He told SA [redacted] he had a baton and told SA [redacted] to take a step back. At this time the LAPD officer struck the passenger side window causing a portion of it to break out.

b6
b7C

As the glass broke, SA [redacted] blinked for a moment. He then observed subject [redacted] take his right hand and grab the vehicle's steering wheel. The vehicle then proceeded forward towards Agent [redacted] who SA [redacted] knew was still in the path of the vehicle. SA [redacted] believed subject [redacted] posed an imminent danger of death or serious physical injury to Agent [redacted] by using the vehicle as a deadly weapon. SA [redacted] did not feel there were any safe alternatives to the use of deadly force. He did not shoot to disable the moving vehicle or to prevent the escape of the subject. His intent was to stop the threat posed by the subject driving the vehicle towards Agent [redacted]

SA [redacted] fired two shots in rapid succession at the subject. Immediately after the second shot, the vehicle came to a momentary halt and then immediately accelerated at a high rate of speed north through the alley. As subject [redacted] left the parking lot area towards the alley he sped towards DCIS Agent [redacted] who was standing outside of his vehicle. The vehicle had its driver's side door open as subject [redacted] vehicle approached. The subject's vehicle struck the open door of Agent [redacted] vehicle causing it to slam shut. As subject [redacted] vehicle continued north it narrowly missed striking Agent [redacted] who had to throw himself up against his own vehicle to avoid being struck.

Subject [redacted] then led FBI and LAPD units on an approximately twenty-five minute pursuit through the Los Angeles area. SAs [redacted] and [redacted] who were witnesses to the shooting, were involved in the pursuit of the subject. During the pursuit, the subject on two separate occasions attempted to strike LAPD units who were in pursuit of him. Subject [redacted] eventually was stopped when he rammed the Jeep into an unoccupied LAPD unit which was parked at the end of an alley way in a storage facility.

b6
b7C

Subject [redacted] was taken into custody at this point and medical aid was requested at the site where the pursuit ended. Paramedics arrived at the scene within a few minutes of being called. They provided subject [redacted] initial first aid and then transported him to Valley Presbyterian Hospital in Van Nuys, California for further medical care. It was determined the subject received a through and through bullet wound in his right arm, just above his elbow in his humerus bone. The second round was found in the vehicle pillar next to the passenger side window. All rounds fired were accounted for following the incident.

Subject [redacted] is further identified as [redacted] and [redacted] He uses several dates of birth and social security numbers. His FBI number is [redacted] He was found to also have a no bail warrant for felony forgery in Los Angeles County.

b6
b7C

Neither SA [redacted] or Agent [redacted] were injured during the incident. In addition, no one else was injured to include all law enforcement personnel and citizens.

It was determined the vehicle being driven by subject [redacted] was stolen. The theft of the vehicle was reported on January 4, 1999.

The Los Angeles FBI Agent Involved Shooting Team and the LAPD North Hollywood Shooting Team both responded to the scene. A joint investigation was conducted.

Neighborhood investigations were conducted at the shooting scene, along with witness interviews.

Photographs were taken of the crime scene area by the Los Angeles FBI photographers as well as the Los Angeles FBI Evidence Response Team (ERT).

The LAPD furnished the FBI their written reports regarding the shooting incident and the pursuit which followed.

Recovered at the shooting scene were two expended shell casings from SA [redacted] weapon. Recovered from the subject's vehicle were two expended rounds, one of which appears to have been the one which struck subject [redacted]

b6
b7C

On April 5, 1999, a Federal Complaint was filed against subject [redacted] charging him with one count of Title 18, U.S. Code, Section 111, Assaulting a Federal Officer.

Subject [redacted] had been incarcerated at the Los Angeles County University of Southern California Medical Jail Ward. His patient file number was [redacted] is medical records were subpoenaed as of April 5, 1999. The subpoenaed medical records were obtained on April 12, 1999. They will be maintained at Los Angeles pending the prosecution of subject [redacted] concerning the Assault on a Federal Officer (AFO) charge.

Subject [redacted] was released from the Los Angeles County USC Medical Center's Jail ward on April 7, 1999. He is currently in the custody of the U.S. Marshals pending his prosecution for the AFO charge.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/22/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III
Cordier Robert J

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271908-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
06/03/1999
SALT LAKE CITY DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Salt Lake City Division on 06/03/1999. Special Agent (SA) [redacted] fired one round from his Bureau-issued Remington Model 870 shotgun at a charging dog. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. The discharge of his weapon was determined to be appropriate and justified, and in conformance with the FBI's deadly force policy.

Reference: Report of Supervisory Special Agent (SSA) [redacted] dated 06/28/1999. b6 b7C

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] m. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Cordier, Room 7837
2 - Ms. Ginsburg, DOJ
(1 - Ms. [redacted]
2 - Mr. Biehl, DOJ
(1 - Mr. D[redacted]
2 - Mr. Foran, Room 5646
(Attention: Mr. [redacted]

2 - Mr. Middleton, Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 09/22/1999

Details of the Shooting Incident

In the late afternoon of 06/03/1999, members of the Salt Lake City Division's Violent Crimes Task Force (VCTF) and police officers of the Salt Lake City metropolitan area were engaged in search and apprehension attempts of subjects who were being sought in connection with the shooting of a police officer from the Murray City (Utah) Police Department who had been investigating allegations of a forgery at a local bank.

Information was developed that the subject of the shooting, [redacted] who was apprehended at the rear of a local restaurant on the afternoon of 06/03/1999, had been accompanied by an unknown female when he engaged in the shooting of the aforementioned police officer. The information also indicated that the female may be located at a specific duplex residence in Salt Lake City.

A briefing was held to provide available information to involved law enforcement personnel on the scene. A perimeter was established at the target residence and SA [redacted] along with other law enforcement officers, was tasked with securing the rear and the south side areas of this residence. As investigators entered the rear yard of this duplex residence, a large canine exited a rear door and charged in the direction of SA [redacted] SA [redacted] discharged his Bureau-issued shotgun in the direction of the canine, striking the ground near the dog. The dog retreated to the residence and no longer posed a threat to investigative personnel.

b6
b7C

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 09/22/1999

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy. b6 b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 09/22/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: ASAC Kevin L. Perkins Office: Philadelphia
Date: June 22, 1999

Case ID #: 66F-PH-86520

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHILADELPHIA DIVISION
JUNE 4, 1999

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident involved a Special Agent (SA) of the FBI assigned to the Philadelphia Division. The incident occurred during the successful apprehension of a wanted federal fugitive by members of Philadelphia Division Squad 2.

DETAILS:

This shooting incident came about when FBI SAs, acting in a surveillance role, came in contact with [redacted] a known violent fugitive with a history of using high speed chases as a mode of escape.

The FBI SAs involved in this incident were all assigned to the Philadelphia Division's Violent Traffickers Project (VTP), Squad 2. The VTP is tasked with developing investigations focusing on the communities most violent drug trafficking organizations. b6 b7C

[redacted] was originally known to the VTP as a subject of an OCDETF matter (245F-PH-81831). This particular OCDETF investigation was divided between FBI and ATF contingents with [redacted] falling under the ATF portion of the case.

As a result of the intelligence base developed

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

by the VTP, information was obtained on 6/2/99 concerning the whereabouts of [redacted] described as a black male, date of birth [redacted] FBI [redacted] was believed to be a wanted fugitive. The initial information received noted that [redacted] boasted he was wanted by the "feds" and that he had no intention of being captured. [redacted] told associates that with his prior felony convictions he would most likely receive a life sentence should he ever be caught.

The intelligence information indicated that [redacted] had been recently known to frequent the 4600 block of Westminster Avenue, Philadelphia, Pennsylvania. Acting upon the information, members of the VTP began to conduct various records checks to determine the validity of the intelligence. It was determined that [redacted] was indeed a federal fugitive wanted by ATF based upon an arrest warrant issued in the Eastern District of Pennsylvania. [redacted] was charged in a complaint with being a felon in possession of a firearm. Criminal record checks revealed [redacted] had an extensive arrest record for drug distribution, aggravated assault, murder, and carrying a firearm without a license. The record checks also noted that [redacted] had twice been convicted on felony drug charges within the city of Philadelphia. The criminal checks were confirmed with both the U.S. Marshals Service and ATF. The ATF case Agent was identified and contact was established.

b6
b7C

The ATF case Agent confirmed that the warrant was active and that ATF was seeking [redacted] He noted that a December 1998, attempted car stop of [redacted] by the Philadelphia Police Department resulted in [redacted] successfully avoiding capture following a high speed car chase through the streets of west Philadelphia. The ATF SA also warned that [redacted] was wanted for felon in possession of a firearm and that [redacted] was known to carry a gun.

On 6/3/99 Supervisory Special Agent (SSA) [redacted] Squad 2-VTP SSA, was briefed by SA [redacted] regarding the information concerning [redacted] SSA [redacted] directed SA [redacted] to develop and prepare an operations plan for the arrest of [redacted]

b6
b7C

On 6/4/99 at approximately 1:00 p.m. SA [redacted] received additional information that indicated [redacted] had just been seen entering a residence in the 4600 block of Westminster Avenue. SA [redacted] learned that [redacted] had driven to the area in a late model red Pontiac Grand Am with New Jersey license plates. SA [redacted] immediately notified both SSA [redacted] and the ATF case Agent of the sighting. The ATF case Agent told SA [redacted] that he was on leave but would attempt to respond to the location. With the ability of ATF to respond in a timely manner in question, SSA [redacted] decided Squad 2-VTP should prepare for and make the arrest.

SSA [redacted] gathered members of Squad 2-VTP for a briefing. Utilizing the operations plan prepared the previous day SA [redacted] briefed members of the squad. Each person present was provided a copy of the operations plan which included a color photograph of [redacted] At the conclusion of the briefing, members of the squad departed the office in route to the 4600 block of Westminster Avenue.

SSA [redacted] and SA [redacted] were the first to arrive in the vicinity of 4600 Westminster. Upon arriving in the area they immediately observed a red late model Pontiac Grand Am with New Jersey license plates. The subject vehicle was parked facing east on the south side of Westminster Avenue. SSA [redacted] broadcasted the information over the Bureau radio to other responding units. A second Bureau car containing SAs [redacted] and [redacted] was second to arrive in the area. SSA [redacted] directed them not to pass the Grand Am and to take a surveillance position east of the subject vehicle. SSA [redacted] and SA [redacted] took a surveillance position approximately one block to the west of the subject's vehicle.

b6
b7C

Immediately upon initiating the surveillance SA [redacted] contacted the ATF case Agent by cell phone. The ATF Agent advised he was approximately five blocks from the surveillance location and had approximately six ATF SAs in route to the scene. Upon receiving this information SSA [redacted] determined that upon ATF's arrival the FBI would assume an outer perimeter position and ATF would effect the arrest of [redacted]

While speaking to the ATF Agent on the cell phone, SA [redacted] observed additional VTP members, Detective [redacted] and Narcotics Agent [redacted] arrive on the scene and circle the block while attempting to obtain a surveillance position.

As SA [redacted] was completing his conversation with the ATF case Agent, FBI SA [redacted] radioed that he observed [redacted] exit a residence on Westminster Avenue and move toward the red Grand Am as if to enter the vehicle. With this information, and based upon the subjects history of high speed chases, SSA [redacted] gave the order to execute the arrest. SSA [redacted] directed SA [redacted] to move his vehicle into a blocking position to the rear of the subjects vehicle. He further directed SAs [redacted] and [redacted] to block the subject's vehicle from the front.

b6
b7C

SA [redacted] immediately moved his vehicle toward the red Grand Am stopping at the left rear of the car in a blocking position. At this point, [redacted] was already in the driver's seat of the Grand Am. SA [redacted] noted that the Grand Am's reverse lights were on. The Grand Am was positioned between two other legally parked vehicles. Having brought his vehicle to a stop, SA [redacted] exited his vehicle, drew his 9mm semi-automatic pistol, moved to the left of his car, and shouted several times "FBI,

hands up." looked directly at SA through the open driver's side window but did not comply with his commands. Instead, the Grand Am quickly accelerate forward out of the parking spot. As he entered the driving lane went straight toward SAs and who had positioned their vehicle in such a way as to block escape route to the east. made an hard left turn to avoid the blocking vehicle. continued his hard left turn and, with tires screeching, drove his vehicle across Westminster Avenue (a two lane street) and onto the sidewalk. He continued driving the car on the sidewalk passing between a utility pole and a hedge. SA continued to shout "FBI, stop the car, hands up". continued around the utility pole until he was facing southwest and, with the car's tires still screeching, drove off the sidewalk back onto the street and accelerated directly toward SA SA fearing was going to run over him, aimed his pistol at and fired. car passed by SA on its driver's side missing him by one or two feet.

b6
b7C

After passing SA vehicle glanced off another car parked at the curb on Westminster Avenue and continued onto the sidewalk until finally colliding with a building. The impact of the collision was such that car bounced backwards before it came to a stop. Although the car had stopped, the engine was still racing. At this point, SA ran to the passenger side of car while SAs and approached from the driver's side. SSA immediately radioed the office, reported the shooting and requested medical assistance. Within moments, other SAs, both FBI and ATF, as well as the Philadelphia Police began to arrive on the scene.

was transported to the Hospital of the University of Pennsylvania (HUP) via Philadelphia Fire/Rescue ambulance where he was treated for a bullet wound to the upper left portion of his back. Following treatment of the wound, was released from HUP and immediately detained based upon his fugitive status.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 01/12/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III
Cordier Robert J

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271984-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
06/19/1999
TRAINING DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Training Division on 06/19/1999. Supervisory Special Agent (SSA) [redacted] fired three shots from his Bureau-issued Glock Model 22 pistol injuring a dog which threatened him and his wife while outside their residence in Virginia. SIRG members opined that the use of deadly force by SSA [redacted] was appropriate and in conformance with the deadly force policy. The SIRG recommended that no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Reference: Reference report of SSA [redacted] dated 09/01/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. [redacted] Rm. 4944)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Cordier, Rm. 7837
2 - Ms. Ginsburg, DOJ
(1 - Mr. [redacted])
1 - Mr. Falls, Rm. 6646
1 - Mr. Middleton, Rm. 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Rm. 3787
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271984-D, 01/12/2000

Details of the Shooting Incident

On 06/16/1999, at approximately 8:30 p.m., SSA [redacted] heard his wife screaming for help from the garage area of their home located in Fredericksburg, Virginia. Upon hearing the screams, SSA [redacted] retrieved his weapon and exited the house into the garage area. His wife advised that a vicious dog had attempted to attack her and SSA [redacted] proceeded to the area where the dog was last seen. Upon seeing two dogs, SSA [redacted] yelled and one dog immediately ran from the area. The second dog noticed SSA [redacted] and turned toward him growling and began moving toward him at a fast pace. SSA [redacted] fired his weapon three times and the dog fell to the ground. The dog subsequently got up and retreated into the woods.

SSA [redacted] contacted the police who responded to the residence to take a report of the incident. b6 b7C

On 11/04/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector Robert J. Cordier, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Division, USDOJ; William R. Falls, Section Chief, Operational Support Section, Administrative Services Division; Charles H. Middleton, Section Chief, Global Section - NS-2, National Security Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Asset Forfeiture Unit, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an

operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SSA [redacted] was justified.

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271984-D, 01/12/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SSA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC Kenneth W. Kaiser Office: Indianapolis
Date: July 23, 1999

Case ID #: 66F-IP-A84352

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
INDIANAPOLIS DIVISION
JULY 12, 1999

Character: ADMINISTRATIVE INQUIRY

Synopsis: On July 12, 1999, at approximately 12:15 p.m., SA [redacted] Indianapolis Division, was involved in a shooting incident that occurred in a parking garage near 20 North Pennsylvania Street, Indianapolis Indiana. While driving in downtown Indianapolis on official business, SA [redacted] heard shots in near proximity to his vehicle. SA [redacted] observed an individual apparently fleeing the scene of the shooting, after which SA [redacted] immediately gave chase, following the individual into a nearby parking garage. SA [redacted] observed the individual point a weapon at him, and he then identified himself as a police officer, and ordered the individual to drop the weapon. The individual turned away and then again pointed the weapon at SA [redacted] after which SA [redacted] fired one shot, striking the individual in the upper left leg. The individual was shortly thereafter taken into custody. The individual's wound was not life threatening, and he has been charged locally with Attempted Murder, Criminal Recklessness and Theft, and federally with Assaulting a Federal Officer.

b6
b7C

- P -

DETAILS:

At approximately 12:15 p.m. on July 12, 1999, Loss Prevention Officer [redacted] employed by the Parisian department store located at East Washington and

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Meridian Streets, Indianapolis, Indiana, observed an individual, later determined to be [redacted] placing a pair of "Johnston and Murphy" shoes in a bag, and then attempt to leave the store without paying for them. Security personnel at Parisian attempted to lock the doors to prevent [redacted] departure, but he broke through the doors and began running northbound on Meridian Street. He was confronted outside the store by Loss Prevention Officer [redacted] and a scuffle ensued with both falling to the ground. [redacted] subsequently drew a weapon, according to Martin, and fired several shots at him, striking him once in the upper left shoulder. [redacted] disengaged himself from [redacted] began to walk or run away, and then turned back toward [redacted] firing one more shot. This shot struck passerby [redacted] in the leg. At approximately the same time, SA [redacted] who was traveling in his FBI vehicle, westbound on Washington Street, a one-way westbound street, heard several gunshots and saw an individual later determined to be [redacted], running from the vicinity of the shots fired. At least six witnesses observed the scuffle and subsequent shooting of [redacted] by [redacted] and his attempted escape into a nearby parking garage. Most stated they observed [redacted] carrying a pair of shoes and what appeared to be a gun tucked under one of his arms. These witnesses also observed an individual they later learned to be SA [redacted] exit his car and follow the escaping [redacted] into a nearby parking garage. No witnesses saw the shooting inside the parking garage, although some heard SA [redacted] yell at the escaping [redacted] to "Stop."

b6
b7C

Upon voluntary interview, SA [redacted] advised that at approximately 12:15 p.m., on Monday July 12, 1999, he was traveling westbound on East Washington Street stopped in traffic between Pennsylvania and Meridian Streets. He heard what he believed to be two or three gunshots, which immediately focused his attention. He observed several people diving for cover with the appearance that those individuals were being threatened. He then observed a young, medium built, black male hurriedly crossing Washington Street in the middle of the block, past parked vehicles. This individual, according to [redacted] was moving rapidly away from the area of what he believed was the shooting scene, and [redacted] further stated he believed this individual was involved in that shooting. SA [redacted] advised that he did notice the individual carrying something tightly to his chest, although he did not see a weapon at this point. SA [redacted] immediately placed the Bureau vehicle in park, obtained his Bureau weapon, and gave chase. SA [redacted] followed the individual northbound in an alley located between Pennsylvania and Meridian Streets. SA [redacted] followed the individual, who was still carrying several items in his arms, into a parking garage entrance. As he

approached the doorway entrance, he observed this individual crouched near a corner of that parking garage facility approximately 10 yards from his position. At this time, the individual began placing the items he was carrying on the ground. The individual turned and looked at SA [redacted] SA [redacted] immediately observed a weapon in his hand, and that the weapon was pointed at him. SA [redacted] advised that he instantaneously stated, "Police. Drop the gun." The individual did not drop the gun, turned away from SA [redacted] and then began to turn and leave his crouched position, again pointing the weapon directly at SA [redacted] SA [redacted] fired one round at the individual, which he believed hit him, because the individual stopped and dropped to one knee, still holding on to the weapon. SA [redacted] again ordered the individual to drop the gun, which the individual did, after which SA [redacted] ordered him to slide the weapon away from him. Again, the subject complied. SA [redacted] approached the individual, did a cursory pat down search, and noticed that in fact the individual had been shot in the upper left leg. SA [redacted] yelled to witnesses and a garage attendant to notify the police and send an ambulance. One arrived shortly thereafter and a police officer placed [redacted] in handcuffs. SA [redacted] then returned to his vehicle to move it nearer the shooting scene and radioed the Indianapolis Office advising them of the incident. Indianapolis personnel then responded to the scene.

[redacted] was interviewed by Indianapolis Police Department officers and voluntarily waived his right to remain silent. [redacted] 22 page statement is largely incoherent and contradictory. He states that he was shopping in the Parisian department store, and as he left, two men jumped on him as he left the building. He alleges the individuals that jumped him were attempting to rob him and that they fired several shots at him. [redacted] stated that it was after these individuals began to shoot at him, that he fired a shot at them, believing they were going to kill him. He advised he then tried to escape the scene in an attempt to locate his vehicle and leave. He advised as he left the scene he heard several more shots, including some fired by individuals in a van coming down the street. As he turned into the parking lot where his "ride" was located, a guy stepped around the corner, "pulled out his arm but he said drop it," "drop it," "drop it." He stated SA [redacted] shot him at least two times, after which SA [redacted] came up to him and said, "Give me what you got man, give me what you got," implying that he believed that SA [redacted] was attempting to rob him. [redacted] denied shoplifting any items from the Parisian department store.

b6
b7C

Investigation by FBI Indianapolis ERT personnel and IPD officers revealed no other shells recovered from any weapon other

than [redacted] .40 caliber semi-automatic pistol, and no other witnesses observed any other individuals carrying or firing weapons during the initial scuffle.

SA [redacted] gun was recovered and determined to have one round chambered and eight rounds in the magazine. ERT's crime scene search and examination of SA [redacted] weapon determined that he fired only one round. [redacted] weapon was recovered at the scene and was determined to have one round in the chamber and one round in the magazine.

On July 16, 1999, Marion County, Indiana Prosecutor [redacted] advised that his office would not empanel a Grand Jury investigation into the police action shooting, inasmuch as it was apparent that SA [redacted] actions in shooting [redacted] were justified. b6 b7C

On July 14, 1999, [redacted] was charged on a Complaint issued out of the Southern District of Indiana with Assaulting a Federal Officer. [redacted] continues to be held in the Marion County Jail on these charges.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Indianapolis b6 b7C
Date: August 2, 1999

Case ID #: 297-HQ-A1271908-D

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
SALT LAKE CITY DIVISION
JULY 15, 1999

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was a result of the escape by Foster from the Promontory Correctional Facility and two subsequent bank robberies at First Security Bank of Murray, 4730 South 900 East, Salt Lake City, Utah, and the Zions Bank at 4500 South 845 East, Salt Lake City, Utah, on July 8, 1999.

DETAILS:

On the morning of July 8, 1999, Foster walked away from a work release program at the Promontory Correctional Facility. An arrest warrant was issued by the State of Utah the next day. Between the hours of 9:00 a.m. and 11:00 a.m., a white 1998 Lincoln was stolen in Murray, Utah. At approximately 12:10 p.m., a lone white male entered the First Security Bank of Murray, Utah, displayed a handgun and robbed the bank. Upon entering the bank, the robber said, "Everybody down. This is a robbery." The robber then exited the bank and fled in a stolen vehicle, which was recovered later in the day. Total loss to the bank was $11,850. The bank surveillance cameras were activated during the robbery. Later that day the Zions Bank in Salt Lake City was robbed by a lone white male who entered the bank and stated he had a gun. Although a gun was not shown, he kept his hand in his pocket and indicated that he had a gun. Total loss to the bank in this robbery was $7,480. Physical description and modus operandi were similar in both robberies. Stanley

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Foster was later identified through a photo spread by the victim teller in the First Security Bank of Murray robbery where the weapon was displayed. Foster's name had come up through a Department of Corrections source who identified Foster as performing the robbery.

On 07/15/1999, the FBI Violent Crime Task Force (VCTF) was working a separate fugitive case in addition to the Stanley Foster investigation. The VCTF was surveilling a location where a fugitive was believed to be residing. Earlier in the day, the VCTF had developed information through [redacted] that indicated that Foster was using drugs and frequented gay bars in Salt Lake City. Specifically, he had been in a bar called "Bricks" the night before. Additionally, a possible vehicle for Foster had been determined. b6 b7C b7D

At approximately 9:00 p.m., the surveillance on the other fugitive investigation was terminated due to the fact that the VCTF believed they had been compromised. All surveillance personnel returned to a staging area near the surveillance scene. At that time volunteers were asked to stay to assist on the Foster investigation. SA [redacted] then provided a briefing to the individuals who were staging about Foster. Present at this briefing were SA [redacted] SA [redacted] SA [redacted] and Deputy U. S. Marshal (DUSM) [redacted] SA [redacted] detailed that Foster was a prison escapee who had been identified in at least one bank robbery. Additionally, SA [redacted] relayed that a weapon had been displayed in one robbery and Foster should be considered Armed and Dangerous. [redacted] showed both the bank robbery surveillance photo and an arrest photo of Foster. The briefing started about 9:15 p.m. and lasted approximately 10 to 15 minutes. b6 b7C

The personnel involved in the briefing departed with the objective of locating Foster's vehicle and possibly making contact with "Bricks" management to determine whether Foster frequented there in the past.

SA [redacted] departed the briefing location to begin spot checks. SA [redacted] drove past "Bricks" and spotted an individual he believed to be Foster next to a pickup truck. SA [redacted] turned around and made a second pass by the vehicle to obtain the license plate number. SA [redacted] called the plate number into the FBI office for a license check. The license plate came back negative and [redacted] made a third pass by "Bricks" and observed the same individual. SA [redacted] notified the other surveillance units by radio that this might be Foster. SA [redacted] then proceeded down the street from "Bricks" where he

observed Police Officer [redacted] who was making issuing a ticket to an individual. At this point SA [redacted] exited his vehicle and began talking to Police Officer [redacted] He advised that several Agents would be responding to the "Bricks Bar" to arrest an Armed and Dangerous bank robbery suspect and prison escapee. While SA [redacted] was out of his car, DUSM [redacted] and SA [redacted] arrived at "Bricks." DUSM [redacted] had attempted to contact [redacted] via the radio on two occasions, but received no response. b6 b7C

At this point, DUSM [redacted] who was designated the task force coordinator, believed that there were good circumstances to effect the arrest. DUSM [redacted] assessed the fact that there were few bystanders, the area was well lit, and Foster was out of his vehicle. Other considerations were the fact that he had been unable to raise other task force members via the radio and the concern that the subject might have recognized or "made" law enforcement passes by "Bricks Bar" and flee.

DUSM [redacted] and SA [redacted] parked their vehicles south of the subject's vehicle and began walking towards him. DUSM [redacted] and SA [redacted] approached Foster from the back of the vehicles that were parked facing "Bricks." As they approached, Foster opened his driver's side door, possibly with his left hand. DUSM [redacted] took a position of cover near the passenger side rear wheel of Foster's truck. SA [redacted] went to a position of cover at the back of the vehicle parked north of Foster's truck. DUSM [redacted] drew his weapon, pointed it at Foster, and yelled, "Police. Get your hands up." SA [redacted] also drew his weapon, pointed it at Foster, and yelled, "FBI. Get your hands up." Foster looked at SA [redacted] and put his hands in the air. As Foster was looking at SA [redacted] SA [redacted] commanded Foster to "go down on the ground." Foster, without receiving a command, turned away from DUSM [redacted] and SA [redacted] At this point, Foster's back was facing SA [redacted] and DUSM [redacted] Foster then, slowly and deliberately, lowered his right hand toward his waist. Both SA [redacted] and DUSM [redacted] began yelling, "Get your hands up." This command was repeated at least three times. At this point DUSM [redacted] repositioned himself toward the driver's side of the rear of Foster's pickup truck in order to obtain a better angle from which to fire on Foster if necessary. DUSM [redacted] was concerned about possible angles of fire and possible stray shots or ricochets. DUSM [redacted] believed at this time that Foster was not responding normally to law enforcement commands. Foster was standing next to his open vehicle door and DUSM [redacted] believed that he and SA [redacted] were in imminent danger from a clear potential threat posed by the furtive movement of Foster's hand. SA [redacted] then fired two rounds from his handgun and b6 b7C

struck Foster twice, once in the wrist and once in the left chest area.

Emergency Medical Services responded to the scene and attempted to revive Foster. Foster was transported to a hospital and pronounced DOA.

Non-law enforcement witness interviews at the scene verify the statement given by DUSM [redacted] relative to the attempted arrest and shooting of Foster. Autopsy results also indicate that Foster's posture was probably moderately bent at the time of the bullet's entry. A crime scene search at the shooting scene produced the following items. In Foster's left hand was a plastic baggie filled with a white powder. This substance was field tested and found to be cocaine. Additionally, inside Foster's pickup truck were eight syringes filled with an unknown liquid. These syringes have been sent to the State of Utah Labs for testing. Once SSA [redacted] (Squad Supervisor) arrived on the scene, he coordinated with the Salt Lake City Police Department relative to the collection of evidence. SSA [redacted] also located SA [redacted] and DUSM [redacted] to assess their situation and to separate them from the others at the shooting scene. Additionally, he brought a second weapon to SA [redacted] whose weapon was provided to the Salt Lake City Police Department for ballistic testing. Upon the arrival of ASAC James Jarboe, J. Stephen Tidwell, and SAC David Tubbs, the crime scene investigation was coordinated with Salt Lake City officials on the scene. Appropriate Employee Assistance Program (EAP) counseling was provided to SA [redacted] and DUSM [redacted]

b6
b7C

# 1999

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/20/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III [redacted]

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271781-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
02/28/1999
NEWARK DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Newark Division on 02/28/1999. Special Agent (SA) [redacted] fired one round from her Glock pistol, Model 27, 40 caliber Smith and Wesson, at a subject during an attempted arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

Reference: Reference report of Inspector-in-Place (IIP) [redacted] dated 03/26/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. [redacted] Room 7837
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted]
2 - Mr. [redacted] DOJ
(1 - Mr. [redacted]
2 - Mr. Foran, Room 6646
(Attention: Mr. [redacted]

2 - Mr. [redacted] Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271781-D, 09/20/1999

Details of the Shooting Incident

SA [redacted] acting in an undercover capacity for the INNOCENT IMAGES Task Force, logged onto America Online as a 14 year old girl from New Jersey. While in the chat room, an individual using the screen name of [redacted] initiated a chat with her. [redacted] who later identified himself as [redacted] indicated an interest in meeting the 14-year old for the purpose of engaging in sexual activities. During subsequent chat sessions [redacted] described in detail events that would take place between the female and himself. [redacted] agreed to meet the 14-year old female on Sunday 02/28/1999, at the Bridgewater Sports Arena (BSA). b6 b7C

In anticipation of the meeting with the subject, as well as to prepare for his arrest, SA [redacted] prepared an operation order which was approved by a supervisor and an Assistant Special Agent in Charge of the Newark Division. On 02/28/1999, a meeting was held with all participants of the proposed arrest and individual assignments were made in conjunction with the execution of the arrest.

At approximately 10:15 a.m., the arrest team arrived at the BSA and assumed positions in their vehicles. [redacted] arrived, entering the one-way drive entrance, at the proposed meeting place driving a van fitting the description that he had previously provided. SA [redacted] notified the other units by radio that the van was approaching the BSA. As [redacted] vehicle approached the BSA, vehicles with arrest team members moved in to block his vehicle from escape. SA [redacted] with SA [redacted] as a passenger, drove her Bureau vehicle toward [redacted] and positioned it perpendicularly in front of his vehicle. Other arrest participants placed their vehicles in designated areas in an attempt to block any escape route. b6 b7C

Investigator [redacted] who was alone in his vehicle, exited and approached the subject at the driver's side window of the van. [redacted] displayed his Middlesex County Prosecutor's Office badge to [redacted] who had both hands on the steering wheel and was looking out the windshield toward the right side of the vehicle. Investigator [redacted] knocked on the window and opened the driver's door, placing one foot on the running board of the vehicle. As [redacted] said [redacted] grabbed the gear shift while he was being told to "put it in park, put it in park." [redacted] vehicle lunged backwards, then forward. The forward motion forced the driver's door to close and Investigator [redacted] fell off the running board and away from

the vehicle. As this was happening, other members of the arrest team exited their vehicles to take positions around the subject's vehicle. SA [redacted] who had observed the actions between the subject and Investigator [redacted] had to move out of the way to avoid being hit by the subject's vehicle.

SA [redacted] positioned herself to the rear passenger side of [redacted] vehicle. Upon exiting her vehicle on the passenger side, SA [redacted] went to the passenger side rear and moved up the side of [redacted] vehicle to determine if there were any passengers inside. As [redacted] vehicle gained traction and moved forward rapidly, SA [redacted] had to jump backward to keep from being hit by the side of the vehicle. Knowing that SA [redacted] was in front of the subject's vehicle, SA [redacted] was concerned that [redacted] vehicle was going to hit and kill SA [redacted]

b6
b7C

As the arrest participants watched the movement of the subject's van, and knowing the positions of the law enforcement personnel around the subject, SA [redacted] drew her weapon as she was moving from the van's path. Believing that the rapidly moving vehicle was going to hit her, she took aim at [redacted] and fired a shot through the vehicle's passenger side window. The subject's vehicle veered left and around the blockade of cars before him. [redacted] continued toward a jug handle turn in the roadway which provided a means of escape.

[redacted] exited the driveway to the BSA making a right turn onto Frontier Road, with the arrest team in pursuit. As he reached the dead end of the road, [redacted] turned his vehicle around and headed back towards an arrest team member's vehicle. Realizing that the subject was coming in their direction, SAs [redacted] and [redacted] positioned their vehicles in an attempt to block the subject's vehicle as it approached. Traveling at a high rate of speed, [redacted] vehicle went around the Agents' vehicles continuing eastbound. After traveling approximately one-half mile, [redacted] pulled his vehicle over to the right shoulder of the road ending his escape attempt. Arrest team personnel blocked the vehicle and ordered [redacted] to exit the van. The subject was searched and handcuffed and taken to the Bridgewater Police Headquarters where he was processed and interviewed.

b6
b7C

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG

in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst,. Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

Based on their review of this incident, SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy.

b6
b7C

Several observations were made by SIRG members regarding this arrest situation. The first observation pertained to the difficulty of employing vehicle stops. Members opined that vehicle stops are usually difficult and in this particular incident, the positioning of the Bureau vehicles did not preclude the subject's escape.

The SIRG recommended that the Special Agent in Charge (SAC), Newark, ensure that felony vehicle stops be emphasized within the firearms training curriculum for the division. In particular, it was suggested that this INNOCENT IMAGES investigative team receive specific training together in this discipline to provide for their effective engagement in this technique should similar circumstances arise in future arrest situations. Members agreed that although acceptable, the arrest plan did not assign specific duties for the law enforcement

individuals on the scene. In addition, the plan did not address potential contingencies such as the subject's noncompliance or an eventual vehicle pursuit. Emphasis was placed on the fact that there is always a need for contingency planning in the event that the proposed arrest plan does not materialize due to unforeseen circumstances. It was further noted that no investigative personnel remained at the scene of the shooting to preserve that location or to verify that no personal injuries had been sustained to arrest team members.

The final criticism made about this incident pertained to the contents of the shooting report. Members noted that this report contained information that was not pertinent for the SIRG's review, specifically an entire Group I Undercover Operation proposal for the Newark Division's INNOCENT IMAGES initiative. SIRG members noted that the inclusion of these documents into shooting reports could result in their being subject to discovery if these incidents move to the prosecutive realm. It was determined that this issue would be addressed with the SAC, Newark, and that it would be also addressed in the future training of IIPs regarding shooting incident investigations.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271781-D, 09/20/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of her involvement in this shooting incident.

b6
b7C



Savage-1693

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/20/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III [redacted] WJ

b6
b7C

Drafted By: [redacted] :lrr

Case ID #: 297-HQ-A1271908-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
03/08/1999
SALT LAKE CITY DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Salt Lake City Division on 03/08/1999. During a surveillance at the location of a suspected bank robber, Special Agent (SA) [redacted] fired his weapon in response to shots being fired from unknown individuals. SA [redacted] was accompanied by another officer who had been hit twice by gunfire. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. His discharge of his weapon was determined to be appropriate and justified, and in conformance with the FBI's deadly force policy.

Reference: Report of Supervisory Special Agents (SSAs) [redacted] and [redacted] dated 03/26/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr [redacted] Room 7837
2 - Ms [redacted] DOJ
(1 - Ms. [redacted]
2 - Mr. [redacted] DOJ
(1 - Mr. [redacted]
2 - Mr. Foran, Room 6646
(Attention: Mr. [redacted]

2 - Mr. [redacted] Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted], Room 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 09/20/1999

Details of the Shooting Incident

On the evening of 03/08/1999, police officers and FBI SAs, assigned to the Violent Crimes Task Force (VCTF), set up surveillance on a residence in Salt Lake City, where bank robbery subject, [redacted] had been observed. SA [redacted] and Department of Corrections Agent [redacted] maintained a location where they could view the front of the house while Detectives [redacted] and [redacted] of the Salt Lake City Police Department (SLCPD) were located at the rear of the residence.

According to SA [redacted] while sitting in Agent [redacted] car, he heard two gun shots which sounded as if they came from the rear of the residence. He broadcast "shots fired" over the Bureau radio and then saw four to five muzzle flashes to his right. SA [redacted] ducked down in the car, quickly realizing that he and Agent [redacted] were being fired on. b6 b7C

SA [redacted] exited the vehicle from the passenger side while Agent [redacted] exited from the driver's side. As he was exiting the vehicle, SA [redacted] saw three or four muzzle flashes coming from a house just north of the residence under surveillance. As SA [redacted] ran from the vehicle, he fired one shot in the direction of the muzzle flashes and took a position at the rear of the vehicle behind the right rear wheel. Agent [redacted] was also returning fire in the direction of the muzzle flashes. Neither SA [redacted] or Agent [redacted] possessed a hand held radio which resulted in other officers losing radio contact with them when they exited the vehicle.

Agent [redacted] yelled that he had been hit which SA [redacted] understood to mean that he had been shot. Thinking that Agent [redacted] was seriously injured, SA [redacted] reached into [redacted] vehicle and grabbed the Bureau radio mike and broadcast that they were under heavy fire and needed help. SA [redacted] heard a bullet hit something and saw Agent [redacted] go down again. [redacted] stated that he had been hit in the head. It was subsequently determined that Agent [redacted] was struck twice, once in the head and once in the chest. His helmet deflected the shot to his head and due to the fact that he was wearing a protective vest, his only injury was a bruise to his chest. b6 b7C

SA [redacted] and Agent [redacted] left their positions behind the vehicle and retreated to a position of cover at a warehouse to the east of their location. Shortly thereafter, another FBI SA and two SLCPD officers came to assist SA [redacted] and Agent

[redacted] wounds were checked and he was subsequently transported from the scene in the back seat of a police vehicle.

A subsequent investigation determined that subject [redacted] who was present in the brick house originally being surveilled, was not involved in shooting at the law enforcement officers on the scene. Two individuals, identified as [redacted] and [redacted] were present in the house from where the shots were being fired. [redacted] was indicted by a Federal Grand Jury and [redacted] is being held indefinitely on a material witness warrant. b6 b7C

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary. b6 b7C

The SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 09/20/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/21/1999

**To:** Inspection Division **Attn:** Wiley D. Thompson III

**From:** Inspection Division
Contact: [redacted] Extension 1837

**Approved By:** Thompson Wiley D III [redacted]

**Drafted By:** [redacted]

**Case ID #:** 297-HQ-A1271970-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
03/17/1999
WASHINGTON FIELD OFFICE

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in Kensington, Maryland, on 03/17/1999. Special Agent (SA) [redacted] fired three rounds from his Sig Sauer P220 pistol at a fugitive who attempted to evade being captured by shooting at Agents during a 20 mile chase which ended with his arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. His discharge of his weapon was determined to be appropriate and justified, and in conformance with the FBI's deadly force policy.

**Reference:** Report of WFO Special Agent in Charge (SAC) Ellen B. Knowlton, dated 05/26/1999.

**Details:** This communication was prepared to furnish the analysis, comments and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
3 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Rm. 5155)
(1 - Mr. [redacted] Rm. 5012)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. [redacted] Rm. 7837
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted]
2 - Mr. [redacted] DOJ
(1 - Mr. [redacted]

2 - Mr. Foran, Rm. 6646
(1 - Mr. [redacted]
2 - Mr [redacted] n, Rm. 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted], Rm. 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 09/21/1999

Details of the Shooting Incident

On 06/26/1998, SA [redacted] was assigned an investigation pertaining to [redacted] who was wanted for Unlawful Flight to Avoid Prosecution for an armed murder. SA [redacted] was a member of the WFO's Joint Fugitive Task Force (JFTF) which was headed by Metropolitan Police Department (MPD) Sergeant [redacted]

[redacted] had a lengthy criminal history including charges involving weapons, drugs, assault, explosives, robbery, and murder. SA [redacted] had information that [redacted] may have been involved in the shooting of a car dealer, as well as shooting at MPD and Montgomery County Police Department (MCPD) officers. SA [redacted] conducted numerous surveillances and "turn-up" operations from June 1998 to 03/14/1999, in an effort to locate and apprehend the subject. Throughout his fugitive investigation, SA [redacted] kept his fellow task force members apprised of his information regarding [redacted] and he had passed out photographs of this fugitive as they became available to him. SA [redacted] also maintained appropriate liaison with the Baltimore Office of the FBI and representatives of the MCPD who were also actively looking for [redacted]

b6
b7C

On 03/14/1999, MCPD executed a search warrant on the apartment of an associate of [redacted] which led to the issuance of an arrest warrant for [redacted] for drug possession. On [redacted] arrested [redacted] in the District of Columbia (DC). [redacted]

b6
b7C
b7D

Surveillance began on the apartment of [redacted] on 03/16/1999, with no success. On 03/17/1999, SA [redacted] and Deputy United States Marshal (DUSM) [redacted] conducted an investigation at [redacted] apartment complex which resulted in a positive identification of [redacted] and an associate identified as [redacted] SA [redacted] arranged for a maintenance man at the apartment complex to perform a maintenance check on [redacted] apartment, as well as a close-by apartment occupied by [redacted] who had been making numerous telephone calls to the [redacted] apartment. The maintenance worker positively identified [redacted] as being located in [redacted] apartment and advised that the subject was hiding in the bathroom.

At approximately 12:00 noon, SA [redacted] called SA [redacted] and asked her to mobilize all available task force members and alerted her to advise Sergeant [redacted] not to use MPD radios because [redacted] had a police scanner in the apartment. SA [redacted] also called on his Bureau radio for any units in the area and received a response from SA [redacted] who positioned herself at the front of [redacted] apartment complex. SA [redacted] and DUSM [redacted] stayed at the side of the complex and at approximately 12:05 p.m., individuals fitting the description of [redacted] and [redacted] exited the building and departed the area. SA [redacted] had responding task force members check several known locations where [redacted] may have gone but without success. Not being able to surface [redacted] at any of these locations, SA [redacted] called off the search for [redacted] and most task force members returned to the WFO. SA [redacted] and DUSM [redacted] however, returned to the [redacted] apartment complex where they established a surveillance with the assistance of SA [redacted]

Shortly thereafter, [redacted] was observed in the parking lot of [redacted] apartment building, driving a gray Oldsmobile. The vehicle made a U-turn and drove out of the complex with SA [redacted] and DUSM [redacted] following. Realizing that [redacted] had made their surveillance, DUSM [redacted] called 911 and reported that [redacted] was engaging in a high-speed effort to elude capture. SA [redacted] called the WFO radio dispatcher and advised of the situation. SA [redacted] was advised that the U.S. Park Police helicopter would call them to assist. Within a few moments, the helicopter called and DUSM [redacted] advised them of their status. As they were leaving the apartment complex behind [redacted] SA [redacted] activated his siren and wig-wag headlights, and the blue flashing lights inside his Bureau vehicle, all of which [redacted] ignored.

[redacted] began driving erratically in an attempt to elude SA [redacted] and DUSM [redacted] firing three or four shots at them during the pursuit. [redacted] crossed the center median and drove against the traffic twice during the pursuit, which continued on the Capitol Beltway with [redacted] exiting at Route 193. [redacted] arrived at the intersection of Knowles Avenue and Parkwood Drive in Kensington, Maryland. Several vehicles were stopped at this intersection causing [redacted] to slow down. SA [redacted] attempted to trap [redacted] vehicle at this intersection; however, [redacted] immediately turned left on Parkwood Drive. [redacted] wound up escaping to the left side of a Volvo sedan while SA [redacted] and DUSM [redacted] paralleled him on the opposite side of this same vehicle. [redacted] fired across the Volvo sedan at SA [redacted] vehicle whereupon SA [redacted] saw the

b6
b7C

b6
b7C

driver of this sedan bend down on the front seat of her vehicle. Believing that [redacted] had shot the driver of the Volvo, and realizing that he had a clear shot for the first time, SA [redacted] fired three rounds at the subject, one of which shattered [redacted] rear windshield. [redacted] was seen to crouch down in the vehicle at this point as it crashed into a utility pole, causing flames to erupt from this automobile. Observing [redacted] hit this pole, SA [redacted] and DUSM [redacted] exited their vehicle and they immediately extricated a now groggy [redacted] through the passenger door, upon which he was handcuffed and arrested. SA [redacted] then heard several cries from inside the vehicle and upon checking therein, he located two young children who were not previously noticed in the vehicle. SA [redacted] pulled both children from the burning vehicle. He severely injured his thumb upon cutting the one child out of its infant car seat to avoid the flames which consumed [redacted] vehicle.

b6
b7C

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

The SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Members opined that SA [redacted] actions were most commendable, noting that his actions not only prevented the escape of a dangerous fugitive, but that he also risked serious injury upon his successful efforts to free the children from the flaming automobile. b6 b7C

SIRG members also addressed two additional issues. The first pertained to the need for a standard general operations plan by which WFO's various task forces should operate in the absence of a case-specific operational plan for each arrest situation. It was determined that the Violent Crimes Section, Criminal Investigative Division, should discuss this issue directly with the Criminal SAC at WFO to ensure that appropriate planning and safeguards were built into the numerous potentially violent arrest situations in which this division's task forces engage.

It was further decided that the Chief Division Counsel in the WFO would be contacted to ensure that these task forces were provided additional legal training in the area of third-party search warrants to preclude any future concerns in this regard. The Office of General Counsel's representative to the SIRG agreed to address this issue with WFO.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271970-D, 09/21/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Set Lead 2:

b6
b7C

CRIMINAL INVESTIGATIVE DIVISION

AT WASHINGTON, DC

That an appropriate official of the Violent Crimes Section contact the Criminal SAC, WFO, and ensure that standard general operations plans are crafted for employment where exigent circumstances preclude the drafting of case-specific operations plans by WFO Task Forces which are frequently engaged in high risk arrest situations.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/22/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III [redacted]

Drafted By: [redacted] lrr

b6
b7C

Case ID #: 297-HQ-A1271741-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
03/29/1999
LOS ANGELES DIVISION

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Los Angeles Division on 03/29/1999. Special Agent (SA) [redacted] fired two rounds from his Bureau-approved .40 Caliber semi-automatic, Glock Model 27 pistol, injuring a subject who attempted to evade arrest by menacingly driving his vehicle at a Federal Agent. SIRG members determined that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. It was recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Reference: Reference report of Assistant Special Agent in Charge (ASAC) Susan R. Chainer, dated 04/15/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] oom 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. [redacted] Room 7837
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted]
2 - Mr. [redacted] DOJ
(1 - Mr. [redacted]

2 - Mr. Foran, Room 6646
(1 - Mr. [redacted]
2 - Mr. [redacted] Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted], Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271741-D, 09/22/1999

Details of the Shooting Incident

On 03/29/1999, SAs assigned to the Los Angeles Division responded to a call for assistance from Agents of the Defense Criminal Investigative Service (DCIS). DCIS Agents were surveilling a residence in Studio City, California, where they had source information that a federal fugitive, identified as [redacted] was located. [redacted] had a federal warrant issued from the District of Arizona charging him with numerous fraud violations. SAs [redacted] and [redacted] alerted the division's radio operator that they would respond to assist the DCIS Agents. b6 b7C

The first Agent to arrive at the scene was [redacted] who was advised by DCIS Agent [redacted] that he and the other FBI Agents would be assigned to watch the rear of an apartment where it was believed the subject was located.

While the two Agents were discussing the arrest plan, SA [redacted] saw a white male wearing a T-shirt and slacks walking in the alley behind the apartment towards them. SA [redacted] asked Agent [redacted] if the male walking towards them was his subject. As this individual came closer, Agent [redacted] identified the male as his fugitive and advised SA [redacted] that he was going to arrest him before additional backup units arrived. SA [redacted] walked to the rear of a black Jeep Cherokee into which [redacted] was about to enter. SA [redacted] exited his vehicle and began approaching the Jeep from another direction with his personally owned and Bureau-approved .40 caliber semi-automatic, Glock Model 27, weapon drawn.

SA [redacted] observed the subject who had opened the driver's side door of the Jeep as SA [redacted] identified himself as a Federal Agent and ordered his compliance. The subject put his hands up to the height of his shoulders and subsequently placed them down to his waistline. SA [redacted] heard SA [redacted] yell for the subject to show his hands and also observed SA [redacted] speaking on his hand held radio asking for the FBI Office to have additional police units respond to assist. b6 b7C

SA [redacted] saw the subject turn his head toward him and look as he advised [redacted] to get his hands up. The subject did not respond to the command and SA [redacted] advised the subject that he was with the police and he should put his hands up. Rather than comply with SA [redacted] commands, the subject placed his

right hand into his right front pocket area. SA believed that the subject was reaching for some type of weapon and continued to tell the subject to put his hands in the air. eventually removed his hand from his pocket area and leaned into the interior of his vehicle. He then reached towards the center console area and returned his hands to his side. suddenly sat down in the driver's seat of the Jeep, shut the door and locked it. SA went to the driver's side of the Jeep attempting to open the door and giving verbal commands to who continued to be noncompliant and remained somewhat stoic and seated therein. b6 b7C

With his weapon pointed at the subject, SA pounded on the passenger side window of the Jeep yelling at to open the locked door. placed his right hand into the right front pocket of his pants retrieving a cigarette and a lighter. At that point, SA noticed that Agent had moved into a position directly in front of the Jeep and also realized that the Jeep was running. Concerned that the subject would drive forward and strike Agent SA pounded on the passenger side window and yelled to the subject that if he drove forward he would shoot. A Los Angeles Police Department (LAPD) Officer arrived on the scene and with his baton smashed the Jeep's rear passenger window in an attempt to reach In response to this action immediately placed the vehicle in gear, and fully cognizant that SA was standing immediately in front of him, accelerated the vehicle forward in an effort to escape. Fearing for SA life, SA fired two shots at through the passenger side windows, however, continued his escape without striking SA He crashed into the driver's side door of another DCIS Agent as he successfully eluded investigators at this location.

thereafter led the FBI and LAPD units on a pursuit lasting approximately 25 minutes, attempting several times to strike units who were in pursuit. was eventually arrested when he rammed his Jeep into an unoccupied LAPD unit parked at the end of an alley near a storage facility. was taken into custody and provided initial medical treatment at the scene. He was subsequently transported to the Valley Presbyterian Hospital in Van Nuys where it was determined that he had received a through and through bullet wound in his right arm from the shot fired by SA b6 b7C

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271741-D, 09/22/1999

[redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy.



Savage-1707

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271741-D, 09/22/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995).

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/23/1999

**To:** Inspection Division **Attn:** Wiley D. Thompson III

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Thompson Wiley D III [redacted]

**Drafted By:** [redacted]:lrr

**Case ID #:** 297-HQ-A1271895-D b6 b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
06/04/1999
PHILADELPHIA DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Philadelphia Division on 06/04/1999. Special Agent (SA) [redacted] fired seven rounds from his nine millimeter semi-automatic pistol, injuring a fugitive attempting to evade arrest. SIRG members recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. The discharge of his weapon was determined to be appropriate and justified, and in conformance with the FBI's deadly force policy.

**Reference:** Report of Assistant Special Agent in Charge Kevin L. Perkins, dated 07/09/1999.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. [redacted] Room 7837
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted]
2 - Mr. [redacted] DOJ
(1 - Mr. [redacted]
2 - Mr. Foran, Room 6646
(Attention: Mr. [redacted]

2 - Mr [redacted] Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861

b6 b7C

**Details of the Shooting Incident**

SA [redacted] a member of the Philadelphia Division's Violent Traffickers Project (VTP), received information on 06/02/1999, concerning the location of a subject identified as [redacted] and the fact that he was believed to be a wanted fugitive. [redacted] boasted to associates that he was wanted by the "feds" and that he had no intention of being captured. Information also indicated that [redacted] had been recently known to frequent Westminster Avenue in Philadelphia. Acting upon the information, members of the VTP began to conduct various records checks to determine the validity of the intelligence. It was determined that [redacted] was a federal fugitive, wanted by the Bureau of Alcohol, Tobacco and Firearms (BATF) based on an arrest warrant issued in the Eastern District of Pennsylvania. A BATF Agent confirmed that the warrant was active and advised that [redacted] was wanted for the possession of a firearm by a convicted felon and that [redacted] was known to carry a gun. b6 b7C

On 06/04/1999, at approximately 1:00 p.m., SA [redacted] received information indicating that [redacted] had just been seen entering a residence on Westminster Avenue. After learning that [redacted] had driven to the area in a late-model, red Pontiac Grand Am with New Jersey license plates, SA [redacted] immediately notified his supervisor and the BATF case Agent of the sighting. After being advised by the BATF Agent that he was on leave but would attempt to respond to the location, SA [redacted] supervisor decided the VTP Squad should prepare for and make the arrest. Supervisory Special Agent (SSA) [redacted] gathered members of the VTP Squad for a briefing regarding the operations plan and they were provided a photograph of the subject. At the conclusion of the meeting, members of the squad departed the office en route to Westminster Avenue. b6 b7C

SSA [redacted] and SA [redacted] were the first to arrive in the vicinity of the location. They immediately observed a red, late-model Pontiac Grand Am with New Jersey license plates parked facing east. SSA [redacted] advised other responding units of this information via his Bureau radio and directed a second car arriving in the area to take a surveillance position east of the subject vehicle.

Immediately upon initiating the surveillance of [redacted] vehicle, SA [redacted] again contacted the BATF case Agent and he advised that he was approximately five blocks from the surveillance location and that six other BATF Agents were en route to the scene. SSA [redacted] advised participants that upon

the arrival of the BATF Agents, the FBI would assume an outer perimeter position and the BATF would effect the arrest of [redacted] inasmuch as he was the subject of a BATF-led investigation.

As SA [redacted] completed his conversation with the BATF case Agent, another SA radioed that he observed [redacted] exit a residence on Westminster Avenue and move toward the red Grand Am as if he was going to enter the vehicle. With this information, and based on the subject's history of high-speed chases, SSA [redacted] gave the order to execute the arrest. SSA [redacted] directed SA [redacted] to move his vehicle into a blocking position to the rear of the subject's vehicle and directed two other SAs to block the subject's vehicle from the front. b6 b7C

SA [redacted] immediately moved his vehicle toward the subject's vehicle, stopping at the left rear of the car in a blocking position. He noted that [redacted] was already in the driver's seat and the reverse lights were on. SA [redacted] exited his vehicle, drew his nine millimeter semi-automatic pistol, moved to the left of his car, and shouted several times, "FBI, hands up." [redacted] looked directly at SA [redacted] through the open driver's side window but did not comply with the commands. The subject's vehicle quickly accelerated forward out of the parking space. As he entered the driving lane, [redacted] drove directly toward SAs [redacted] and [redacted] made a hard left turn to avoid their attempt to block his escape, driving his vehicle across Westminster Avenue and onto the sidewalk. He continued driving his car on the sidewalk, passing between a utility pole and a hedge. SA [redacted] continued to shout "FBI, stop the car, hands up." [redacted] continued around the utility pole until he was facing southwest and drove off the sidewalk back into the middle of the street where he accelerated directly at SA [redacted] who was still standing in that location. SA [redacted] fearing for his safety, aimed his pistol at the subject and fired seven shots as [redacted] car sped past him. b6 b7C

After passing SA [redacted] vehicle glanced off another car parked at the curb and continued onto the sidewalk where he collided into a building. The impact of the collision was such that [redacted] car bounced backwards before it came to a stop. [redacted] was transported to the University of Pennsylvania Hospital where he was treated for a bullet wound to the upper left portion of his back. Following treatment for this wound, [redacted] was immediately detained based upon his fugitive status.

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector

[redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

The SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the FBI's deadly force policy.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271895-D, 09/23/1999

**LEAD (s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 09/24/1999

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Thompson Wiley D III [redacted] WT

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271510-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/12/1999
INDIANAPOLIS DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Indianapolis Division on 07/12/1999. Special Agent (SA) [redacted] fired one round from his Smith and Wesson, ten millimeter pistol, injuring a subject who was pointing a gun at him as he was attempting to evade arrest. Subsequent investigation determined that the subject had shot and injured two other individuals prior to his encounter with SA [redacted] SIRG members determined that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. It was recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Reference: Reference report of Assistant Special Agent in Charge Kenneth W. Kaiser, dated 07/23/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Cousins, Room 5155)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] oom 7326)
1 - Mr. [redacted] oom 7837
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted]
2 - Mr. [redacted] DOJ
(1 - Mr. [redacted]
2 - Mr. Foran, Room 6646
(1 - Mr [redacted]
2 - Mr. [redacted] Room 4042
(1 - Ms. [redacted]
1 - Mr. [redacted] uantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271510-D, 09/24/1999

Details of the Shooting Incident

On 07/12/1999, while on official duty in his Bureau vehicle, SA [redacted] was traveling westbound on East Washington Street in Indianapolis, when he heard several gunshots. SA [redacted] observed several individuals running for cover near an intersection at the location of a major shopping mall. He observed a young Black male, later identified as [redacted] running from the vicinity. Believing that [redacted] was fleeing from the scene of a crime, SA [redacted] immediately began a foot pursuit, chasing [redacted] through an alley into a nearby parking garage. b6 b7C

Upon entering the parking garage, SA [redacted] observed [redacted] crouched down approximately ten yards from him. He observed [redacted] placing several items on the ground, and as the subject turned and saw SA [redacted] he was holding a weapon in his hand. [redacted] pointed the weapon at SA [redacted] who stated, "Police, drop the gun." The subject did not comply with SA [redacted] commands, turned away from him and then began to turn his body toward SA [redacted] leaving his crouched position again pointing his weapon in the direction of the Agent. SA [redacted] fired one round at [redacted], hitting him in the upper left leg. Commands were repeated to [redacted] advising him to drop the gun and he did so by placing the gun on the concrete floor. After obeying SA [redacted] order to slide the weapon away from him, SA [redacted] approached the subject, conducted a cursory pat down for other weapons and noticed that [redacted] had been shot in the leg. SA [redacted] advised witnesses and a garage attendant to notify the police and send for an ambulance, which arrived approximately two minutes later. [redacted] was handcuffed and subsequently charged by local authorities with attempted murder, criminal recklessness, and theft, and by Federal authorities with Assaulting a Federal Officer. b6 b7C

A subsequent investigation determined that the subject had shoplifted a pair of shoes and as he attempted to leave the store, he was confronted by store employees. [redacted] fired several shots at Loss Prevention Officer [redacted] who suffered a gunshot wound in the upper left shoulder. After disengaging himself from the officer [redacted] began to walk away, turned back toward [redacted] and fired another shot which struck a passerby in the leg.

On 09/14/1999, the SIRG met to discuss the above-captioned shooting incident. Acting Chief Inspector

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271510-D, 09/24/1999

[redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Herbert Cousins, Jr., Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, NS-2A Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. The only nonvoting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously commended the actions of SA [redacted] agreeing that his use of deadly force was justified and in conformance with the FBI's deadly force policy.



Savage-1716

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271510-D, 09/24/1999

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/14/2000

**To:** Inspection Division **Attn:** Wiley D. Thompson III

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Locke Thomas Bernard

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 297-HQ-A1271908-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
07/15/1999
SALT LAKE CITY DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Salt Lake City Division on 07/15/1999. Special Agent (SA) [redacted] shot and killed a noncompliant suspected bank robber during an attempted apprehension. SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Reference:** Reference report of Inspector-in-Place [redacted] dated 08/03/1999.

**Details:** This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. [redacted], Rm.5155)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
1 - Mr. [redacted] Rm. 7837
2 - Ms. [redacted] DOJ
(1 - Ms. [redacted])

2 - Mr. [redacted] DOJ
(1 - Mr. [redacted])
1 - Mr. Bartnik, Rm. 6646
1 - Mr. Middleton, Rm. 4042
1 - Mr [redacted], Rm. 3787
1 - Mr [redacted] WFO
1 - Mr [redacted] Quantico
1 - Mrs. [redacted] Rm. 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 06/14/2000

**Details of the Shooting Incident**

On 07/08/1999, Stan Lee foster walked away from a work release program at the Promontory Correctional Facility, resulting in an arrest warrant being issued the following day by the State of Utah. On the day of his escape, two banks in the Salt Lake City area were robbed by a lone white male subject.

SA [redacted] received information from a confidential informant that Stan Foster committed at least one of the bank robberies on 07/08/1999. The informant advised SA [redacted] that Foster was armed and routinely carried a weapon. SA [redacted] also received information from a Murray Police Department Detective that a teller at the First Security Bank of Murray had positively identified Foster from a photo spread as the bank robber.

b6
b7C

Subsequent information revealed that Foster was using drugs and frequented gay bars in the Salt Lake City area. Specific information had been received that Foster had been in a bar called "Bricks" the previous night and also identified a vehicle that Foster may be using.

On 07/15/1999, the FBI Violent Crimes Task Force (VCTF) was working an unrelated fugitive case in addition to the Foster investigation. At approximately 9:00 p.m., surveillance on the unrelated fugitive investigation was terminated due to the fact that members of the VCTF believed they had been compromised. Surveillance personnel returned to a staging area near the surveillance scene and volunteers were requested to stay to assist on the Foster investigation. SA [redacted] provided the volunteers a briefing regarding Foster detailing that the subject was a prison escapee who had been identified in at least one bank robbery. SA [redacted] advised that Foster had displayed a weapon in one robbery and that VCTF members should consider him "Armed and Dangerous." Bank robbery surveillance photographs and arrest photographs of Foster were shown to the VCTF members.

At the conclusion of the briefing, personnel departed with the objective of locating Foster's vehicle and possibly

making contact with the "Bricks" bar management to determine if Foster had patronized the bar.

SA [redacted] departed the briefing location and as he drove past "Bricks", spotted an individual he believed to be Foster next to a pickup truck. As he passed the bar a second time, SA [redacted] obtained the license plate number of the truck and called for a license check. Receiving a negative response on the license plate, [redacted] drove by the bar a third time observing the same individual. He radioed other surveillance units and advised that the subject in the area of the bar might be Foster.

b6
b7C

Upon the arrival of SA [redacted] and Deputy United States Marshal (DUSM [redacted] at the scene, a determination was made that the individual was indeed Foster and his arrest should be effected. This determination was based on the fact that there were few bystanders, the area was well lit, and Foster was out of his vehicle. Additionally, a concern existed that Foster may have recognized the law enforcement officials and would attempt to flee.

DUSM [redacted] and SA [redacted] parked their vehicles south of the subject's vehicle and began approaching Foster. As they approached, Foster opened his driver's side door. DUSM [redacted] took a position of cover near the passenger side rear wheel of Foster's truck while SA [redacted] took cover at the back of a vehicle parked north of the subject's truck. DUSM [redacted] drew his weapon, pointed it at Foster, and yelled, "Police. Get your hands up." SA [redacted] drew his weapon, pointed it at Foster, and yelled, "FBI. Get your hands up." Foster looked at SA [redacted] and put his hands in the air. SA [redacted] also commanded Foster to "go down on the ground." Foster turned away from both officers with his back facing them. Foster slowly and deliberately lowered his right hand toward his waist. DUSM [redacted] and SA [redacted] yelled at Foster to, "Get your hands up." Both officers repeated the command at least three times, however,

b6
b7C

Foster ignored all commands. Believing that he and DUSM [redacted] were in imminent danger, SA [redacted] fired two rounds from his handgun.

Emergency Medical Services were requested and attempted to revive Foster at the scene. He was transported to a local hospital where he was pronounced dead on arrival.

b6
b7C

Several witnesses to the incident verified the actions of SA [redacted] and DUSM [redacted] commenting that the law enforcement officers had no other alternative but to shoot due to the noncompliance of the subject to law enforcement commands.

Declinations of prosecution were received from the Salt Lake County District Attorney's Office and the USDOJ, Civil Rights Division, by letters dated 11/26/1999 and 03/13/2000, respectively.

On 06/13/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; Charles H. Middleton, Section Chief, East Asia Section - NS-3, National Security Division; [redacted] Unit Chief, Undercover Safeguard Unit, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; Supervisory Special Agent (SSA) [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; SSA [redacted] Program Manager, Practical Applications Unit, Training Division; and, SSA [redacted] Washington Field Office. The only

b6
b7C

nonvoting member present was [redacted]
Management/Program Analyst, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

SIRG members thoroughly discussed this shooting incident and unanimously agreed that the use of deadly force by SA [redacted] was justified and in conformance with the current deadly force policy. Members recommended that no administrative action be taken against him as a result of his involvement in this shooting incident.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271908-D, 06/14/2000

**LEAD (s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, DC

b6
b7C

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 04/28/2000

To: Inspection Division Attn: Wiley D. Thompson III

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Locke Thomas Bernard

Drafted By: [redacted] lrr

Case ID #: 297-HQ-A1271786-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/06/1999
NEW HAVEN DIVISION

b6
b7C

Synopsis: The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the New Haven Division on 10/06/1999. Special Agent (SA) [redacted] shot and killed a fugitive who was wanted for Interstate Transportation in Aide of Racketerring-Murder. SIRG members unanimously agreed that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

Reference: Reference report of Inspector-in-Place [redacted] dated 10/20/1999.

Details: This communication was prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] m. 7116
(1 - Mr. [redacted] Rm. 4944)
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Locke, Rm. 7825
2 - Ms [redacted] DOJ
(1 - Ms. [redacted])
1 - Mr. Bartnik, Rm. 6646

1 - Mr. [redacted], Rm. 4042
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Rm. 3787
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Rm. 7861

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271786-D, 04/28/2000

Details of the Shooting Incident

A Federal warrant was issued on 01/28/1999, in the Southern District of New York, charging Hector Colon with Interstate Transportation in Aide of Racketeering-Murder. The Connecticut Violent Crimes Fugitive Task Force (CVCFTF), under the auspices of the New Haven Division, had been coordinating efforts with the New York Division to locate and apprehend Colon.

On 09/28/1999, SA [redacted] displayed an identification order (IO) to a source who recognized Colon as someone known as "Jose". On 09/29/1999, the source observed "Jose" with a black .38 six-shot revolver and subsequently provided information that established the basis to conduct a surveillance on potential locations frequented by Colon. b6 b7C

On 10/04/1999, Supervisory Special Agent (SSA) [redacted] met with SAs as well as other task force members to discuss the developments in the Colon case. SSA [redacted] instructed the SAs to prepare an operational plan. The task force members were instructed to conduct a surveillance to corroborate the source information and determine the location of Colon in order to formulate an arrest plan and affect his arrest.

On 10/05/1999, a briefing was conducted at the Bridgeport Police Department for all the individuals assigned to participate in that day's surveillance activity. Each individual attending the briefing was provided with a copy of the IO and a photograph of the subject. They were advised that the subject was considered armed and dangerous; he was extremely surveillance conscious; and provided specific information to emphasize that Colon was considered extremely dangerous. A surveillance was conducted until 12:00 p.m., at which time it was terminated for the day.

On 10/06/1999, members reconvened at the Bridgeport Police Department where statements were reiterated for the benefit of one officer who had not attended the briefing the previous day. At approximately 10:20 a.m., the units were in their assigned locations, and at approximately 10:45 a.m., SA [redacted] and Deputy United States Marshal (DUSM) [redacted] observed an individual, thought to be Colon, exit a Central Avenue address and depart the area in a blue Honda Prelude. SA [redacted] radioed a description of the clothing worn by the individual as well as a vehicle description. A radio transmission indicated that the individual believed to be Colon had been seen and it was believed that he was in possession of a b6 b7C

gun. During this time, the source was visited by Colon and upon his departure, the source advised that Colon left the location in a blue, two door, Honda.

The surveillance team, believing they had a positive identification of the subject, discussed attempting an arrest should the subject return and park adjacent to them as he had before. At 12:25 p.m., SA [redacted] advised that the subject had returned to the Central Avenue location. SA [redacted] and DUSM [redacted] decided to attempt the arrest. SA [redacted] waited to exit the van until the subject cleared his vehicle. Upon exiting the van, SA [redacted] commanded "FBI, stop" and other words that he could not recall. According to SA [redacted] the subject moved his left hand quickly toward his waist area in a grabbing motion, causing SA [redacted] to fire one shot. The subject pivoted and ran in front of the van toward Central Avenue, causing [redacted] to temporarily lose sight of him. As the Agent reestablished visual contact with [redacted] the subject was about a car length away moving toward Central Avenue with his upper torso twisted toward SA [redacted] The subject's left arm was cocked, with his elbow bent and his left hand in the area of his waist, not visible to SA [redacted] The subject's left arm/elbow was moving back and forth and SA [redacted] observed the subject's left arm and body tense causing him to believe the subject had a gun in his waistband and that he was reaching for the gun. At that point, SA [redacted] fired two additional rounds at the subject. Colon moved toward Central Avenue a little further, then turned toward SA [redacted] and raised both of his hands over his head. SA [redacted] advised the subject to stop and get down. DUSM [redacted] exited the van, ran towards the subject, and issued the command of "police, get down". The subject looked at DUSM [redacted] and dropped to the pavement spreading himself face down. The subject was handcuffed and searched for weapons or contraband while still face down on the pavement. Based on a radio transmission from SA [redacted] additional units had arrived on the scene and assisted in rolling the subject onto his back in order to complete the search. Law enforcement officers noticed blood and called paramedics. Paramedics transported the subject to the hospital where he underwent surgery; however, Colon was pronounced dead at 2:17 p.m. Members of the surveillance team and the paramedics observed a cell phone and two pagers on the subject's waist immediately after the shooting. No weapon was recovered from the crime scene.

b6
b7C

b6
b7C

An autopsy determined that one bullet entered the subject's body from the rear, approximately three inches to the left of the spine and exited the front of the torso at center sternum.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271786-D, 04/28/2000

On 04/11/2000, the SIRG met to discuss the above-captioned shooting incident. Deputy Assistant Director Thomas Bernard Locke, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Trial Attorney, Civil Rights Division, USDOJ; Donald J. Bartnik, Section Chief, Personnel Assistance Section, Administrative Services Division; William Q. Doherty, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Legal Advice and Training, Legal Policy, Office of the General Counsel; SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Asset Forfeiture Unit, Operational Support Section, Criminal Investigative Division; SSA [redacted] Practical Applications Unit, Training Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above-synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues; and (4) provide recommendations for administrative action if deemed necessary.

During the discussion of this shooting incident, SIRG members unanimously opined that the use of deadly force by SA [redacted] was justified and in conformance with the deadly force policy. By letter dated 12/27/1999, a declination of prosecution was issued by [redacted] State's Attorney, Office of the State's Attorney, Bridgeport, Connecticut. Additionally, by letter dated 03/02/2000, the U.S. Department of Justice, Civil Rights Division, provided a declination of prosecution regarding SA [redacted] shooting incident. b6 b7C

The only observation made regarding the shooting incident pertained to the fact that SA [redacted] created a one-on-one arrest situation when he exited the van alone, leaving DUSM [redacted] inside the van. Members emphasized that this action was not conducive to the Agent's safety.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271786-D, 04/28/2000

LEAD (s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

# FBI
# Shooting Incident Report Summaries

# 1998

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/06/1999

**To:** Inspection Division **Attn:** Wiley D. Thompson, III

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Thompson Wiley D III
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271788-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/16/98
NEW YORK DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the New York Division on 11/16/98. Special Agent (SA) [redacted] shot and injured a pit bull dog who was attacking a ten year old child and his Rottweiler. The SIRG recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**Details:** Reference report of Special Agent in Charge (SAC) Carson J. Dunbar, Jr., dated 1/5/99.

This communication is prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Richardson, Rm. 5155)
2 - Mr. [redacted] m. 7427
(1 - Ms. [redacted] Rm. 7326)
1 - Mr. Thompson, Rm. 7825 (Enc.)
1 - Mr. Lusby, Rm. 7825
1 - Mr. Biehl, DOJ
1 - Mr. Foran, Rm. 6646
1 - Mr. Middleton, Rm. 4042
1 - Mr [redacted] WFO
1 - Mr [redacted], Rm. 3787F
1 - Mr [redacted] Quantico
1 - Mrs [redacted] Rm. 7861

**Details of the Shooting Incident**

On 11/16/98, SAs [redacted] and [redacted] were conducting an investigation in Brooklyn. After contacting an individual regarding the investigation, both agents exited an apartment building and entered a Bureau vehicle that was parked across the street. SA [redacted] saw a woman standing with a pit bull on a leash with a collar. He also noticed a young male walking a Rottweiler on a leash with a collar. The young male walked past the pit bull and stopped further down the block. At that time, SA [redacted] saw the pit bull get out of his collar and run toward the child. The pit bull jumped up in an extremely aggressive manner and pinned the child against a brick wall and the two dogs began to fight. At that point, SA [redacted] exited his Bureau vehicle and proceeded toward the child and the dogs. In an attempt to stop the attack, SA [redacted] sprayed both dogs several times with a can of pepper spray. Neither dog was affected by the pepper spray and continued to fight while SA [redacted] ordered the owner of the pit bull to get her dog under control; however, the owner refused. SA [redacted] turned his attention back to the dogs and saw the child attempting to control the pit bull by hitting it with a leash. As the pit bull knocked the child to the ground and began attacking him, the Rottweiler attempted to aid his owner. This caused the pit bull to again attack the Rottweiler. Concerned that the pit bull was controlling the attack and fearing for the safety of himself and others watching the event, SA [redacted] drew his pistol and fired one round into the upper chest area of the pit bull. Upon being shot, the pit bull immediately ceased the attack and retreated toward the front of an apartment building. SA [redacted] then convinced the owner of the pit bull to leash the dog and return him to the sidewalk area.

b6
b7C

A determination was made that, although he was in good condition, the young male had incurred wounds to his hands and was taken to the hospital by his mother.

b6
b7C

On 3/9/99, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas Lusby, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Assistance Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Thomas W. Richardson, Section Chief, Administrative Section, Criminal Investigative Division;

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271788-D, 05/06/1999

[redacted] Unit Chief, Firearms Training Unit, Training Division (TD); Charles H. Middleton, Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Program and Management Analyst, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

SIRG members unanimously concurred that SA [redacted] use of deadly force was justified and in conformance with the current deadly force policy. This resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this incident.

♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Little Rock
Date: November 30, 1998

Case-ID #: 66F-HQ-19157-28

b6
b7C

Title: SHOOTING INQUIRY;
REPORT OF SHOOTING INCIDENT;
MEMPHIS DIVISION;
NOVEMBER 6, 1998;

Character: ADMINISTRATIVE INQUIRY

Synopsis:

During March 1998, the cities of Memphis and Nashville, Tennessee, began to experience a series of bank robberies. By September 1998, it became apparent to the Violent Crimes Task Force (VCTF) in Nashville that the robberies were being perpetrated by the same individuals since the modus operandi (MO) was very similar in all the incidents. Prior to September, six banks in Memphis and two banks in Nashville had been robbed. The MO involved two black males driving to the banks, usually in a vehicle which was stolen within 24 hours prior to the robberies. The subjects wore ski masks and flannel shirts and were armed with handguns. One subject entered the banks and the other acted as the getaway driver. The VCTF decided to initiate fixed surveillances at two area banks, both of which were located near the SunTrust Bank, 4604 Charlotte Avenue, which had been robbed in July and August 1998. A surveillance/arrest plan was prepared prior to the operation. These surveillances were conducted over several days in late September but were discontinued. On October 15, 1998, the same SunTrust Bank was once again robbed. During two of the three SunTrust robberies, the subject fired shots into the ceiling and briefly took a bank guard hostage during the October robbery. In addition, on some occasions the subjects assaulted employees and customers.

Due to the continuing pattern of robberies and escalating violence during the incidents, the Nashville

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

and Memphis VCTFs began another series of surveillances on October 19, 1998. Unlike the September surveillances in Nashville, these surveillances involved officers from the Nashville Metropolitan Police Department (NMPD) as well as members of the VCTF. Again, a surveillance/arrest plan was prepared prior to the operation. At approximately 8:30 a.m. on Friday, November 6, 1998, a morning briefing was held at the Pep Boys parking lot, located in the general area in which the surveillances were to take place. This briefing was led by Task Force Officer [redacted] who provided pertinent information and made assignments for the surveillances. It was noted during the briefing that the previous day NMPD Officer [redacted] was working at NationsBank, 6616 Charlotte Avenue, as a security guard. Officer [redacted] reported seeing two suspicious black males drive through the parking lot in a gold automobile. The briefing ended at approximately 8:45 a.m. and team members were dispatched to their respective locations. The surveillance was scheduled to terminate around 11:00 a.m. since the previous robberies were before this time.

b6
b7C

Eleven law enforcement officers participated in the surveillances on November 6. Two are FBI Agents not assigned to the VCTF (Special Agents [SAs] [redacted] and [redacted]). Two are deputized VCTF members (Tennessee Highway Patrol Officer [redacted] and NMPD Officer [redacted]). The remaining seven are assigned to the NMPD's Armed Robbery Division (Detectives [redacted] and [redacted] Sergeant [redacted] and Officer [redacted]). It is noted that each FBI SA is a member of the Memphis Division's SWAT Team and SA [redacted] is a Bureau Firearms Instructor.

One of the banks under surveillance on November 6 was the NationsBank noted above. SAs [redacted] and [redacted] were in a Bureau vehicle located in a parking lot just east of the bank. SA [redacted] was the driver. Each SA was equipped with a bullet proof vest, a handgun and an MP-5 submachine gun (10 millimeter). Detective [redacted] was in his NMPD car in the parking lot near the FBI vehicle. He was armed with a .40 caliber Glock pistol. Detective [redacted] was parked behind the McDonald's, located immediately to the west of the bank. He had a .40 caliber Glock pistol and also had a shotgun in his car. In addition to these SAs and detectives who were participating in the NationsBank surveillance, an off-duty NMPD officer, [redacted] was working as a security officer inside the bank. Officer [redacted] was also armed with a .40 caliber Glock pistol. It is noted that Officer [redacted] was aware of the series of robberies

b6
b7C

in Memphis and Nashville and was specifically aware of the surveillance outside the bank that morning.

At just before 10:00 a.m., members of the NationsBank surveillance team observed a blue Oldsmobile with a broken rear vent window pull into the bank parking lot and pass between the bank and the FBI vehicle located just to the east. A check of the license plate by the surveillance team revealed that the vehicle was one of the stolen cars team members had been briefed about earlier that morning. SA [redacted] determined the driver was a black male. The Oldsmobile took a circuitous route through an adjacent parking lot and eventually reentered the bank parking lot from Charlotte Avenue. The vehicle pulled up directly in front of the bank and faced toward the front door. A black male wearing a ski mask and flannel shirt was observed exiting the passenger door of the car and running into the bank. SA [redacted] and Detective [redacted] also noticed that the man was carrying a handgun. This subject was later identified as Raymond Augustine Hawkins. At this point SA [redacted] and Detective [redacted] notified the other units that a bank robbery was in progress. b6 b7C

As noted above, Officer [redacted] was inside the bank. He saw Hawkins run into the bank through the front door. He observed him with a gun in his left hand. As he was moving away from a desk to confront Hawkins, he tripped and fell on his back facing the front door. While Officer [redacted] was still on the ground, Hawkins grabbed the front of his shirt, placed the gun to his chest/shoulder area, and fired. Officer [redacted], who drew his own weapon as he was falling, then shot Hawkins three times in the chest area. The subject ran back toward the front door and Officer [redacted], thinking he might reach the parking lot and hurt someone else, fired at him again. Hawkins ran out of the bank and SA [redacted] observed him collapse "like a sack of bricks" on the walkway leading to the front door. As the car windows were up in the Bureau vehicle, neither SA [redacted] nor SA [redacted] heard the gunshots inside the bank. However, Detective [redacted] did hear the gunshots.

When Hawkins collapsed in front of the bank, Detective [redacted] who had already taken cover behind a light pole, turned his attention toward the driver of the Oldsmobile. As the car was backing away from the bank, Detective [redacted] left his position of cover and moved toward the vehicle, shouting "police, police, freeze, show me your hands, police." It is noted that several witnesses heard the detective giving similar commands. The driver continued to back up, ducked down in his seat and raised up. Detective [redacted] who heard the gunshots inside b6 b7C

the bank and knew of the escalating violence in the previous robberies, believed the driver had a weapon and was going to shoot him as he raised up. He therefore fired one round through the driver's window at the subject, later identified as [redacted] The Oldsmobile was then moving forward toward McDonald's. Detective [redacted] again shouted "police" but [redacted] instead of stopping, ducked back down inside the vehicle. He then fired several more shots into the car. He also noticed the FBI car behind [redacted] vehicle and heard one of the SAs fire a shot.

b6
b7C

After SA [redacted] saw Hawkins fall down in front of the bank, he observed [redacted] car backing up. He saw Detective [redacted] running to intercept the vehicle and heard him issue a series of commands to the driver. He then saw the car go slowly forward toward McDonald's with the detective still chasing it. At this point the FBI vehicle moved into position directly behind [redacted] car. SA [redacted] observed [redacted] "twisting in his seat" and felt he was doing something "out of the ordinary." He heard gunfire and knew Detective [redacted] was shooting at the driver. He also thought [redacted] was shooting at the detective from the way he was twisting in his seat. The fact that [redacted] car was moving slowly made him think [redacted] was trying to shoot the detective rather than get away. SA [redacted] also realized that Detective [redacted] had no cover and was totally exposed to the driver. With both cars still moving, SA [redacted] opened the passenger door and placed his MP-5 submachine gun between the door post and the door. In order to protect Detective [redacted] he fired a two-shot burst from the MP-5 at [redacted] through the rear window of the Oldsmobile. [redacted] car stopped and SA [redacted] saw SA [redacted] and Detective [redacted] securing [redacted] No weapon was found on [redacted] or in his vehicle. SA [redacted] then ran to Hawkins, who was lying face down with a gun in his hand. He pushed the gun away and handcuffed him. He noted that other officers were by then on the scene and were caring for Officer [redacted] outside the bank.

b6
b7C

Neither SA [redacted] nor Detective [redacted] fired their weapons during the incident. SA [redacted] remained in the driver's seat of the FBI vehicle until getting out to secure [redacted] following the shooting. Detective [redacted] upon learning that the robbery was occurring, drove his vehicle to a point on the west side of the bank where he could observe the parking lot in front of the bank. He placed his shotgun over the door of his car but did not shoot since Detective [redacted] was in his line of fire.

During an interview at the jail, [redacted] stated he did participate in the bank robbery with Hawkins. [redacted] advised he [redacted] stayed up all night before the robbery smoking crack cocaine and drinking gin. Upon hearing the shots inside the bank, he "freaked out" and did not know what he did inside the car. As he was driving the getaway car away from the bank, he recalled being shot at through the windows of his vehicle and being arrested after his car came to a stop. b6 b7C

Officer [redacted] was hospitalized with one gunshot wound to the shoulder from a .22 caliber revolver. He was released after a short stay in the hospital and is expected to make a full recovery. [redacted] was also hospitalized for a short time with a gunshot wound to the face. The bullet was removed and ballistics tests revealed that he was shot by a .40 caliber rather than a .10 millimeter projectile. Hawkins was pronounced dead at the scene.

Both Hawkins and [redacted] have lengthy criminal histories, including crimes of violence. For example, in 1987 Hawkins was sentenced to 15 years confinement for Robbery With a Deadly Weapon. [redacted] was convicted of Aggravated Assault and Carrying a Deadly Weapon in 1985.

[redacted] was initially arrested on local charges pertaining to the NationsBank robbery. On November 12, 1998, a federal complaint was filed and an arrest warrant was issued by U.S. Magistrate Judge William J. Haynes, Jr., Middle District of Tennessee, Nashville, Tennessee, charging [redacted] with bank robbery.

The bank robbery investigation is being conducted by the VCTF. The shooting incident is being handled at the local level by Detective [redacted] of the NMPD's Homicide Division. Memphis Division Acting Supervisory Special Agent [redacted] notified FBIHQ of the shooting incident shortly after it occurred. On November 6, 1998, the FBI's Inspection Division assembled and dispatched a Shooting Incident Review Team under the direction of Inspector-in-Place [redacted] of the Little Rock Division. b6 b7C

DETAILS:

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Las Vegas
Date: October 25, 1998

Case ID #: 66-19157-38

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHOENIX DIVISION
JULY 4, 1998

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis:

On 7/4/98, FBI agents and officers from the Phoenix Police Department (PPD) who were assigned to the Phoenix Fugitive Task Force (PFTF) shot and killed William John Sershon, DOB 2/17/67, while they were attempting to arrest him. Sershon was being sought on a warrant charging him with murder and burglary. The warrant was issued on 7/1/98 in Flagstaff, Arizona for a homicide which occurred in connection with a 6/23/98 carjacking which was being jointly investigated by the FBI's Flagstaff Resident Agency (RA) and the Flagstaff Police Department. Sershon, who had a lengthy criminal record going back to 1986, was also being sought on felony drug and weapons charges brought by Phoenix Police Department (PPD).

The PPD had recently attempted to arrest Sershon, but he had eluded them and fled to an apartment complex where he broke into an apartment and hid. When the female occupant of the apartment returned home, Sershon assaulted her at gun point, then fled the apartment and left the area in a highjacked vehicle. On 6/23/98, Sershon and an accomplice/girlfriend, [redacted] highjacked a motor home belonging to Melvin Dean Radtke in the vicinity of Flagstaff, Arizona. Radtke either was pushed or jumped from the vehicle and was run over by the vehicle and killed.

[redacted] turned herself in and on 7/2/98 was

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

debriefed by FBI agents and police officers. [redacted] advised that Sershon would return to Phoenix over the weekend. She also advised that Sershon was armed with a .357 magnum revolver and a fully automatic AK-47 style assault rifle. [redacted] also advised that Sershon told her that he would not be taken alive and would not be sent back to prison. She also advised that Sershon would shoot it out with anyone who attempted to arrest him. Interviewing agents and officers noted that it was believed that a Smith and Wesson Model 686 ,357 magnum was taken from the carjacking victim. All of the information provided by [redacted] was provided to members of the PFTF who had been asked to assist in the location and apprehension of Sershon. b6 b7C b7D

[redacted] and members of the PFTF were able to trace a telephone number. The number came back to a Glendale, Arizona trailer park. Initially, three members of the PFTF, PPD Lt. [redacted] and Detectives [redacted] and [redacted] responded to the trailer park. At some time after 4:30 AM, they saw an individual they believed to be Sershon. They were joined by FBI SAs [redacted] and [redacted] and PPD Detective [redacted] PFTF personnel blocked off the front entrance to the trailer park and called the Glendale Police Department (GPD) and requested that marked units respond to the scene. Additional FBI agents were also requested to respond.

At approximately 5:45 AM, while PFTF personnel were finalizing an arrest plan and preparing to set up, Sershon was observed exiting the trailer where he was staying and getting into a blue 1998 Pontiac Sunfire. He was observed carrying a black bag which was about the size of a shaving kit. [redacted] who was staying at the trailer, later advised that Sershon was carrying a .357 magnum revolver next to the bag. Sershon drove through the trailer park and, as he was approaching the front entrance, was cut off by vehicles driven by PFTF personnel. Vehicles driven by FBI SA [redacted] and PPD Det. [redacted] (accompanied by FBI SA [redacted] blocked Sershon's escape route from the front; a vehicle driven by PPD Det. [redacted] blocked Sershon from the rear. Sershon attempted to escape by rapidly making a U-turn to his right. He ran into a nearby trailer. He quickly backed up and attempted to ram through a fence that marked the perimeter of the trailer park. His vehicle was unable to penetrate the fence and came to rest as it struck a storage shed on the other side of the fence. b6 b7C

Several of the PFTF personnel approached Sershon's

vehicle. The PFTF members were all wearing clothing that identified them as law enforcement personnel. Several shouted surrender commands. In response to the surrender commands, Sershon stated that he would not be taken alive and crouched down as if to reach into the floorboard area of his vehicle. PFTF members also heard Sershon make a statement to the effect that if they did not kill him, he would kill himself. When PPD Det. [redacted] observed Sershon come up with a weapon in his hand, he fired his Glock .40 caliber semi-automatic pistol. FBI SA [redacted] fired his Heckler and Koch MP-5 10mm carbine and FBI SA [redacted] fired his Colt M-4 A1 .223 caliber carbine. Several rounds struck Sershon, who was pronounced dead at the scene by Glendale Emergency Response personnel.

Glendale PD and Phoenix PD responded to the scene along with Phoenix FBI personnel including Acting SAC Mark Bullock and ASAC Ray Churay. Glendale PD conducted the crime scene assisted by FBI Evidence Response Team Coordinator [redacted]. A Smith and Wesson Model 686, .357 magnum, Serial #AYY9803, was recovered form the passenger compartment of Sershon's vehicle. The weapon's serial number was run through NCIC and determined to be stolen from Melvin Dean Radtke, the victim of the 6/23/98 carjacking/homicide that Sershon was charged with.

b6
b7C

The Inspection Division assembled and dispatched a Shooting Incident Review Team under the direction of IIP [redacted] of the Las Vegas Division.

(12/31/1595)

# FEDERAL BUREAU OF INVESTIGATION

Date: 11/18/98

Precedence: ROUTINE

To: Inspection Division Attn: Thomas J. Coyle

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Coyle Thomas
Lusby Thomas

Drafted By: [redacted] rr

Case ID #: 66-19157-03

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/22/98
BALTIMORE DIVISION

Synopsis: To advise of a shooting incident in the Baltimore Division on 8/22/98. Special Agent (SA) [redacted] shot and killed a rabid raccoon in the vicinity of his residence.

Details: Reference report of SA [redacted] dated 9/3/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
1 - Mr. Coyle, Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7326)
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
2 - Ms. Ginsburg, USDOJ
(1 - Mr. [redacted]

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] NFO
1 - Mr. [redacted] Room 4094
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-03, 11/18/1998

Details of the Shooting Incident

SA [redacted] was at his residence on 8/22/98, when he noticed his neighbor, SA [redacted] of the Washington Field Office, staring into his back yard. SA [redacted] exited his residence and was advised by SA [redacted] that he had noticed a raccoon traversing his back yard and then entering SA [redacted] yard.

b6
b7C

Noting that it was midday, SAs [redacted] and [redacted] observed the raccoon stagger through SA [redacted] yard en route to the front yard where several children were playing. SA [redacted] attempted to delay the raccoon from going to the front yard while SA [redacted] placed a phone call to Anne Arundel County, Maryland, Animal Control Officers. During the phone call, SA [redacted] was advised that there was only one animal control officer on duty in the county and it would be an extended period of time before he would be able to respond to SA [redacted] residence.

SA [redacted] and SA [redacted] attempted to trap the raccoon in a box to prevent it from coming into contact with neighborhood children or domestic animals. After several failed attempts, the raccoon became more aggressive. While the Agents followed the raccoon, a neighbor placed another call to the Animal Control Officers with negative results. When containment of the raccoon proved to be impossible, SAs [redacted] and Watt forced the raccoon into a safe location. SA [redacted] shot and killed the raccoon by firing four rounds from his P228 nine millimeter pistol.

b6
b7C

SA [redacted] immediately contacted the Anne Arundel Police Department and advised the dispatcher of his identity and the purpose of the call. He was advised that no police would be dispatched to his residence and that no report would be taken.

The Agents placed the carcass of the raccoon in a box and delivered it to the Animal Control Center for rabies testing. The Baltimore Division was subsequently advised that the raccoon was infected with the rabies virus.

On 10/14/98, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas

Lusby, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Mark J. Mershon, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2B, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Unit Chief, Investigative Law Unit, Office of General Counsel, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this shooting incident involved an intentional discharge of SA [redacted] weapon. There were no issues related to this incident and SIRG members unanimously concurred that no action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-03, 11/18/1998

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC Michael E. Varnum Office: Philadelphia
Date: November 6, 1998

Case ID #: 62A-PH-84476

Title: SHOOTING INCIDENT
PHILADELPHIA DIVISION
PHILADELPHIA, PA
SEPTEMBER 1, 1998

Character: SHOOTING INCIDENT

Synopsis: Summary of shooting incident on 9/1/98 at Walt Whitman Rest Area pursuant to the arrest of [redacted] and [redacted]

- P -

DETAILS:

On 2/12/97, Camden County Parks Police Officer [redacted] was shot while in his patrol vehicle as he responded to the sound of gunfire on Fremont Street at Camden, New Jersey (NJ). Subsequent investigation by the Camden County Prosecutor's Office (CCPO) determined that [redacted] also known as (aka) [redacted] and [redacted] shot Officer [redacted] as they fled from the scene of the attempted robbery and murder of Carlos Rosario in Camden, NJ. [redacted] and [redacted] were indicted by a Camden County Grand Jury in the shooting and [redacted] was arrested by county authorities. [redacted] later admitted to being present at the scene when [redacted] shot Officer [redacted] An Unlawful Flight to Avoid Prosecution (UFAP) warrant was subsequently obtained in the District of New Jersey and an investigation initiated by the SJRA to locate and arrest [redacted] was profiled twice on "America's Most Wanted" and was Camden County's most wanted fugitive.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

During the period of 7/19/97 to 5/23/98, the SJRA initiated several investigations relating to a series of armed bank robberies committed at the CoreStates Bank, Woodlynne, NJ, the Commerce Bank, Cherry Hill, NJ and the Commerce Bank, Moorsetown, NJ. The suspects, believed to be Hispanic males, wore ski masks, gloves, and what appeared to be bulletproof vests during the robberies. They also carried automatic assault type weapons. [redacted] and [redacted] and [redacted] were identified as the primary suspects in the CoreStates Bank robbery and it is believed they are responsible for the other two robberies.

A review of the New Jersey Criminal History records for [redacted] and [redacted] and [redacted] reflect numerous arrests and charges relating to homicide, aggravated assault, possession of firearms and drug possession and distribution. Both [redacted] and [redacted] were convicted in separate felony homicide matters. In addition to the charges relating to the shooting of Camden County Parks Officer [redacted] was convicted for carrying a prohibited weapon and possession of a weapon. Further, he has numerous aggravated assault and homicide arrests. Clearly, the propensity for violence by these subjects, to include significant armed hostility directed at law enforcement officers by [redacted] has been well documented.

b6
b7C

During August 1998, a confidential source who was willing to provide information regarding the whereabouts of [redacted] was developed through law enforcement contacts by SA [redacted] Initial information provided by the source regarding [redacted] background and family members was accurate. The source was directed to contact [redacted] to develop further information regarding the location of [redacted]

Based upon information obtained during debriefings of the source, SA [redacted] learned that [redacted] was attempting to identify a target for a six figure robbery. SA [redacted]

[redacted]

b6
b7C
b7D

Further, [redacted] planned to accompany [redacted] Rodriguez stated that he had access to several fully automatic shoulder weapons to include an AK-47 and body armor.

On 8/25/98, SA [redacted] drafted an operations plan to arrest [redacted] and [redacted] and [redacted] SA [redacted] engaged in extensive coordination and planning with Philadelphia Division Management, the SJRA, SWAT, SOG, NJSP and the CHPD. The operations plan detailed the utilization of FBI SWAT to effect the apprehension of the [redacted] brothers and [redacted] On the morning of 8/27/98, SA [redacted] learned from the source that the armored car robbery was postponed by [redacted]

b6
b7C
b7D

On 8/30/98, [redacted] Pursuant to this information, SA [redacted] revised his operations plan and coordinated with the participating entities to effect the arrest.

[redacted] Within moments SWAT Team Leader [redacted] gave the command to arrest the subjects. The tow truck and pickup truck being utilized as blocking vehicles by SWAT as well as a cube van containing a SWAT arrest team began their approach to block the subject vehicle and effect the arrest. The subjects who had already become suspicious of the lack of activity in the rest area parking lot and lack of traffic on the NJTP observed the vehicles moving toward them and again ordered the [redacted] to move. As the subject vehicle began to accelerate south along the front of the rest area, the cube van swerved to the left to block its exit. At about the same moment, SA [redacted] who was driving north in the SWAT pickup passed the cube van and struck the subject vehicle on the left side and drove it up on the

b6
b7C
b7D

sidewalk of the rest area. As the collision occurred, SSA [redacted] and SAs [redacted] and [redacted] exited the cube van. The subject vehicle passed the cube van at that time and all three SWAT members reported seeing a rifle being raised by one of the subjects in the rear of the vehicle. Each member fired once at the subjects inside the vehicle as the vehicle moved south away from them.

The subject vehicle accelerated and continued south on the sidewalk in front of the rest area building. [redacted] the subject vehicle off of the sidewalk it was momentarily traveling at a high rate of speed directly at another SWAT vehicle occupied by SAs [redacted] and [redacted] SAs [redacted] and [redacted] had taken up a position at a small parking island which was located adjacent to the southern end of the rest area building. As the vehicle sped toward them, SA [redacted] reported that he heard someone yell "gun." SA [redacted] specifically recalled seeing a gun in the rear of the subject vehicle. Accordingly, SAs [redacted] and [redacted] considering the speeding vehicle moving in their direction and the weapon observed in the back seat fired their weapons at the subjects. SA [redacted] recalled firing twice before his 10 millimeter pistol jammed and he was forced to clear the weapon. SA [redacted] reported that he fired approximately three two-round bursts from his MP-5 at the subject seated in the rear on the driver's side.

As the subject vehicle reached the curve at the south end of the rest area building, it slowed down to make the corner leading to the rear employee parking lot. At that moment the subject vehicle was struck by the SWAT tow truck driven by SA [redacted] The tow truck hit the subject vehicle on the right rear side and literally drove over the trunk of the car, crushing the left rear quarter panel. The collision completely disabled the subject vehicle. [redacted] who was in the front passenger seat exited the vehicle and ran to the side entrance of the rest area building. Both SAs [redacted] and [redacted] reported that as [redacted] reached the entrance they observed him reaching for a weapon holstered on his right side. SA [redacted] reported that he fired three shots at [redacted] and SA [redacted] fired his weapon but could not recall how many times he fired. [redacted] was hit in his right hip and fell to the ground.

Additionally, as the subject vehicle came to a halt as a result of the collision with the tow truck, SA [redacted] who was positioned at the south corner of the rest area service station observed a subject in the back seat holding a weapon. SA [redacted] subsequently fired one shot from his M-4 carbine rifle at that passenger. There were no further shots fired and [redacted] and [redacted] surrendered without further incident.

The NJSP "Crime Scene Report," dated 9/1/98, reflects that a total of 31 shots were fired during the shooting incident. All 31 shots were fired by six members of the Philadelphia Division SWAT involved in the arrest of [redacted] and [redacted] and [redacted]. The NJSP "Crime Scene Report" further reflects that SSA [redacted] SAs [redacted] and [redacted] each fired one shot from the area of the cube van. Twenty-seven shots were fired from the area around the vehicle occupied by SAs [redacted] and [redacted] and a single shot was fired by SA [redacted] from the entrance area to the garage at the south end of the rest area building. b6 b7C

An accounting of the 27 shots fired from positions occupied by SAs [redacted] and Stone would indicate that SA [redacted] fired six shots while SA [redacted] fired 21 shots during the shooting incident. This reconciliation is based upon the NJSP "Crime Scene Report," the statements obtained from SAs [redacted] and [redacted] and the FD-302 report prepared by SA [redacted] acknowledging receipt of the weapons and ammunition from each Agent that fired a weapon during the shooting incident.

| NAME | WEAPON | CALIBER | NUMBER OF ROUND(S) FIRED |
|---|---|---|---|
| SSA [redacted] | Colt M-16A2 | .223 | 1 |
| SA [redacted] | Heckler & Koch M4A1 | .223 | 1 |
| SA [redacted] | Smith & Wesson 1076 | .10 | 6 |
| SA [redacted] | Heckler & Koch MP5 | .10 | 1 |
| SA [redacted] | Colt M4A1 | .223 | 1 |
| SA [redacted] | Heckler & Koch MP5 | .10 | 21 |

b6 b7C

As a result of the shots fired by the above Agents, [redacted] sustained a graze wound to his left thigh and [redacted] received two wounds to his right hip. [redacted] was treated at the Cooper Medical Center, Camden, NJ and released immediately. [redacted] was treated at the West Jersey Hospital, Voorhees, NJ and also released immediately. NJSP [redacted] received a cut on her neck by flying glass when a window in the rest area was blown out during the shooting. She was subsequently treated at the Garden State

Hospital, West Jersey Health System, Marlton, NJ and released. No FBI personnel sustained any injuries.

Dr. [redacted] West Jersey Hospital, removed a metal fragment from the right hip of [redacted] The metal fragment was subsequently given to SA [redacted] who later provided the fragment to the NJSP for forensic examination.

b6
b7C

On 9/1/98, a complaint was filed in U.S. District Court, District of New Jersey, charging the [redacted] brothers and [redacted] of violation of Title 18, Section 922G, for felony possession of a weapon.

Details of this incident will be reported as delineated in the Table of Contents.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/03/1999

**To:** Inspection Division **Attn:** Wiley D. Thompson, III

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Thompson Wiley D III
Lusby Thomas
Mershon Mark J

**Drafted By:** [redacted] xx

**Case ID #:** 297-HQ-A1271699-D

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/13/98
LAS VEGAS DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Las Vegas Division on 9/13/98, during the arrest of a fugitive. Believing that his life and the life of Sergeant [redacted] of the Las Vegas Metropolitan Police Department was in jeopardy, SA [redacted] fired four shots at a subject located in a fleeing vehicle. Members of the SIRG recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Details:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 9/30/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Thompson, Room 7825
1 - Mr. Lusby, Room 7825
2 - Mr. Foran, Room 6646
(1 - Mr. [redacted] Room 6313)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Mershon, Room 7837
1 - Mr. Biehl, USDOJ
2 - Ms. Ginsburg, USDOJ
(1 - Mr. [redacted]
1 - Mr [redacted] Quantico
1 - Mr [redacted] FO
1 - Mr [redacted] Room 4147
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 7861

**Details of the Shooting Incident**

On 9/12/98, at approximately 4:30 p.m., SSA [redacted] was telephonically contacted by Sergeant [redacted] of the Las Vegas Metropolitan Police Department. Sergeant [redacted] assigned to the Las Vegas Safe Streets Task Force, also known as the Criminal Apprehension Teams (CATS), advised that the CATS were in the process of responding to a possible location of a fugitive for which they had a warrant. b6 b7C

Pursuant to information provided by an informant, a possible location of fugitive [redacted] was determined to be an apartment located at Extended Stay America in Las Vegas. Intelligence information also indicated that [redacted] may be associating with other individuals who were suspected in ongoing robbery investigations.

At approximately 12:57 a.m., 9/13/98, CATS members observed [redacted] exit an apartment. According to a plan, three team members confronted [redacted] notified him of their identity, and placed him in custody. Throughout the arrest, the subject continued to resist and called out for help from other individuals located inside the apartment. Several subjects exited the apartment and one of them, later identified as [redacted] approached the arrest team in a threatening manner. [redacted] was ordered back into the apartment, however, exited moments later. Based on his actions, coupled with the fact that [redacted] was believed to be associated with subjects involved in robberies, SA [redacted] confronted [redacted] in an attempt to determine his identity. [redacted] immediately ran from the area with SA [redacted] and Sergeant [redacted] in pursuit.

According to SA [redacted] when he located [redacted] the subject was seated in the driver's seat of a vehicle with the driver's door open. As SA [redacted] reached inside the vehicle to detain [redacted] the subject made a remark to the effect that "I'm going to shoot you". SA [redacted] stepped backwards, drew his weapon and ordered [redacted] out of the vehicle. At that time, the vehicle suddenly backed up causing the open door to knock SA [redacted] to the ground. Sergeant [redacted] who had just arrived at the vehicle, was also knocked down by the force of the open door and the left front tire of the vehicle ran over his legs. As the vehicle continued backing to the highway, the subject stopped the vehicle, revved its engine and accelerated the car forward directly towards Sergeant [redacted] who was laying in the driveway. Sergeant [redacted] fired two shots at the vehicle as it approached and SA [redacted] fired four shots from b6 b7C

his location. The vehicle continued to the rear of the complex and exited the area from another driveway.

On 1/6/99, the SIRG met to discuss the above captioned shooting incident. Chief Inspector Mark J. Mershon, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Jim U. Oliver, Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force in this shooting incident by SA [redacted] was justified and in conformance with the current deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

The only observation made by the SIRG members evolved around the fact that this shooting incident and follow-up report involved an administrative inquiry. Members opined that interviews of the individuals involved should have been conducted by FBI personnel. SIRG members recommended that Executive Management and the Chief Division Counsel readdress established protocol with officials of the Las Vegas Metropolitan Police

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271699-D, 06/03/1999

Department to ensure that FBI interests are covered during shooting incident investigations. This issue will be addressed in a letter to the Special Agent in Charge of the Las Vegas Division.

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Buffalo Field Office
Date: March 27, 1998

Case ID #: 66F-HQ-19157-11

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CLEVELAND DIVISION
MARCH 4, 1998

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an investigation of [redacted] and [redacted] two suspected armored car robbers operating in the Cleveland, Ohio area.

[redacted] and [redacted] were identified in 1995 by the Cleveland Division as suspects in three (3) armored car robberies occurring in Cleveland, Ohio in 1993, 1994 and 1995. The Cleveland Division developed information that these robberies involved unprovoked shootings and the use of ballistic vests and armor-piercing ammunition by the subjects. In 1995 the Cleveland Division SOG began periodic surveillances and spot checks of both subjects.

On February 12, 1998, the SOG located the subjects together casing a Brinks armored car route. Based upon information developed from the surveillances, the Cleveland Division believed that the subjects were in the planning stage of another armored car robbery. SAC HARP instructed the SOG to begin daily surveillances of both [redacted] and [redacted] In addition, SAC HARP, along with other Cleveland Division management and SWAT Team Leader SA [redacted] began nightly meetings to discuss the activities of the subjects and a possible arrest plan.

b6
b7C

During the two weeks prior to March 4, 1998, the SOG was augmented by the Violent Crimes and Major Offenders (VCMO) Squad and members of the Cleveland SWAT

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Team. In addition, Title III coverage was planned. A specific operational plan was not documented at this juncture because the subjects continued to use their personally-owned vehicles and their history reflected they used stolen vehicles for the robberies, and because no specific target location for the robbery or a switch site for vehicles had been identified. In conjunction with these briefings, Assistant U. S. Attorney [redacted] was briefed and he developed a checklist of events which, when satisfied, would amount to probable cause for the Agents to arrest [redacted] and [redacted] From February 23, 1998 on, SWAT Team Leader [redacted] conducted daily briefings with SWAT members at their staging area regarding conducting a high risk car stop. The briefings also included discussions on the use of deadly force and crossfire situations.

b6
b7C

At approximately 9:00 A.M. on March 4, 1998, [redacted] and [redacted] were observed departing [redacted] residence in [redacted] personally-owned Chevrolet van. [redacted] and [redacted] were surveilled to an apartment complex on Cleveland's Southwest side. The subjects departed the apartment complex in separate vehicles with [redacted] driving a Ford minivan which was determined to be stolen. SAC HARP was advised of this information and dispatched ASAC ALLEN to the area.

The subjects were then surveilled to a gas station where they were observed transferring baggage from [redacted] van to [redacted] stolen van. SOG observed [redacted] and [redacted] travel to a K-mart parking lot where [redacted] parks his vehicle and departs with [redacted] in the stolen van. SAC HARP was advised of this information and departed the office for the scene. Sometime later [redacted] stolen van was observed in the parking lot at the Star Bank, one of several locations identified as potential armored car robbery sites due to previous surveillance. At this point SA [redacted] contacted the Brinks Armored Car Company and had the Brink's armored car intercepted in order to prevent it from making its usual stop at the bank. An operational plan had been discussed earlier whereby the Brinks armored car servicing the potential robbery site would be diverted by Bureau Agents, thus making the subjects abort the robbery and return to the switch vehicle where their guard would be at its lowest. Agents on the scene believed that at this point enough probable cause had been developed to arrest the subjects for the attempted armored car robbery.

The shooting incident occurred when the Cleveland SWAT Team effected a felony car stop at approximately 11:30 A.M. on March 4, 1998 as [redacted] and [redacted] returned to the switch site in the K-mart parking lot. [redacted] exited the stolen van and [redacted] began to turn the van around as if to exit the parking lot. At the same time, three (3) SWAT vehicles simultaneously approached [redacted] vehicle and blocked it from exiting the parking lot. Specifically, a SWAT sedan approached from the driver's side and

b6
b7C

rammed that door. The second SWAT vehicle, a Suburban, approached from the passenger side of the stolen van and rammed the passenger's door. The third SWAT vehicle, a van, blocked [redacted] vehicle from the rear. [redacted] van was facing a chain-link fence which enclosed one side of the parking lot. [redacted], who had just exited [redacted] van, was quickly apprehended near his vehicle. SWAT Agents exited their vehicles and identified themselves to [redacted] was non-compliant and immediately put his van in reverse and rammed the SWAT van blocking his rear. He then went forward at an angle, ramming the SWAT vehicle to his left. [redacted] was reversing his van again when SA [redacted] who was located at the front passenger side of [redacted] vehicle, fired a shot at [redacted] SA [redacted] who had taken up a position behind [redacted] van, stated that he also fired into the rear window of [redacted] van as it was accelerating towards him in reverse for the second time. SAs [redacted] and [redacted] stated they fired at [redacted] when he accelerated forward for the second time. SA [redacted] was located to the rear driver's side of [redacted] van and SA [redacted] was located on the driver's side of [redacted] van near the front. Each Agent stated he fired in order to protect himself and/or other Agents.

b6
b7C

[redacted] van broke through the chain link fence and came to rest a few feet from a brick wall. The van traveled approximately 100 feet. [redacted] was ordered out of the van and placed under arrest by SWAT Agents and SA [redacted] suffered multiple gunshot wounds to the face, arms, and shoulder. He was transported to the emergency room of the Metro Health Medical Center, Cleveland, Ohio by Cleveland Emergency Medical Services. He is recovering from his wounds.

SAC HARP, who had taken up a position with other Agents a few blocks from the K-mart parking lot, was monitoring the situation. He arrived as [redacted] was placed under arrest and immediately made appropriate notifications or directed Agent personnel to do so. The Cleveland Police Department, Homicide Unit, was notified and processed the scene.

b6
b7C

Search warrants were executed for all vehicles and the residences of [redacted] and [redacted] The searches recovered a large amount of weapons, ammunition, maps, detailed surveillance notes, disguises and clothing.

Both [redacted] and [redacted] were charged with one count each of Conspiracy to Obstruct Commerce by Robbery, Attempted Bank Robbery, and Using and/or Carrying Firearms during a Crime of Violence.

Details:

ISSUE NUMBER ONE: USE OF DEADLY FORCE

The issue of the use of deadly force was specifically examined during the shooting inquiry involving [redacted] an armored car robbery suspect. A review of the substantive investigation, interviews of all participants, and other facts obtained during the shooting inquiry were analyzed in order to determine if the use of deadly force was justified. The current deadly force policy, as set forth in the Electronic Reference Library, Manual of Investigative Operations and Guidelines, was used to determine deadly force justification. b6 b7C

This shooting inquiry determined that the issue of deadly force was discussed by SWAT Team Leader SA [redacted] with all SWAT team personnel on a daily basis beginning 2/23/98 until the shooting on 3/4/98. In addition, as stated previously, CDC [redacted] provided records indicating that all SAs in the Cleveland Division were provided copies of the New Deadly Force Policy and had discussed the issue of deadly force in November, 1997, at a mandatory legal training session given to all Cleveland SAs.

The Cleveland Division SWAT team was called out beginning 2/23/98 after the Cleveland SOG observed [redacted] and [redacted] casing armored car routes and possible locations for a switch car. Briefings were given to the SWAT team every morning at a staging area on the West side of Cleveland.

The SWAT briefings included review of the Deadly Force Policy and conducting vehicle stops. SA [redacted] was very familiar with the activities of [redacted] and [redacted] having participated in nightly meetings with SAC HARP and other management staff involved in the investigation. These briefings included information that the subjects were well armed with AK-47 assault rifles, with armor-piercing ammunition, and Sig Sauer semi-automatic 9MM Model 226 pistols and used ballistic vests. They had fired weapons unprovoked in two (2) of the three (3) armored car robberies they were suspected of committing, wounding a Brinks' employee. In addition, SA [redacted] specifically advised the SWAT personnel that if the driver of the subject's vehicle tried to ram his way out of containment or attempted to use his vehicle as a weapon, the immediate use of deadly force was justified. b6 b7C

During all briefings, Cleveland management ensured that the SOG, the VCMO Squad, and SWAT personnel involved in the operation

were aware of the violent nature of the subjects, the potential for them to be non-compliant, and DOJ policy regarding the use of deadly force. During interviews, the SWAT team stated they knew of the subjects' violent natures, their use of dangerous weapons, and the potential for use of deadly force. The Agents felt comfortable with the briefings. They were given all available intelligence, and it was updated on a daily basis. All SWAT personnel interviewed stated they were briefed in the use of deadly force.

Based upon the information that the subjects would be using a stolen van, SA [redacted] developed four (4) possible arrest scenarios. These will be discussed in detail in Issue Number Two: Adequacy of Planning.

Scenario number four was the preferred option and the one actually used. This plan involved allowing the subjects to go to the robbery site and have FBI Agents intercept the Brinks' truck, and then arrest the subjects when they returned to the switch car location.

On the morning of 3/4/98, the subjects are observed by the SOG meeting at [redacted] residence. The subjects leave together in [redacted] van and are surveilled to an apartment complex. [redacted] departs alone in his van and [redacted] is observed departing in a vehicle not previously known to the SOG. [redacted] license plate was run through NCIC and the vehicle is determined to be stolen. [redacted] and [redacted] are then surveilled to a gas station where they transfer baggage from [redacted] van to [redacted] stolen van. They depart the gas station separately and are observed a short time later arriving at the K-mart parking lot at 3250 W. 65th Street. [redacted] parks his van and then joins [redacted] in the stolen van and they depart. b6 b7C

SAC HARP dispatched ASAC ALLEN to the scene after being advised that [redacted] and [redacted] were together. ASAC ALLEN drove to a lot at 65th and Clark, approximately 2 to 3 blocks from the K-mart parking lot. ASAC ALLEN and other Cleveland management staff monitored the surveillance of [redacted] and [redacted] from this location and kept SAC HARP advised of the subjects' activities. When SAC HARP was advised that [redacted] and [redacted] were together in a stolen van, he realized that enough probable cause existed to arrest the subjects. He immediately proceeded to the area where ASAC ALLEN was located and proceeded to monitor the situation waiting for an opportune time to effect the arrest.

During the surveillance of [redacted] and [redacted], after they departed the K-mart parking lot, the SOG lost contact with the subjects for a period of time. SOG found the subjects in the parking lot of the Star Bank. In keeping with the plan discussed at the nightly briefings, Agents intercepted the Brinks' truck at its stop prior to the Star Bank and diverted it to a safe

location. The operational plan in effect was to arrest the subjects at the switch site in the K-mart parking lot. It was apparent from all interviews conducted with both SOG and SWAT personnel that everyone knew and understood the plan.

After waiting a short period of time, [redacted] and [redacted] left the Star Bank parking lot and were observed re-tracing the Brinks' truck route. After apparently realizing the Brinks' truck was nowhere to be found, they returned to the K-mart parking lot. The SWAT team had already traveled to the K-mart parking lot and set up at the rear of the K-mart building to effect the arrests of the subjects. The SWAT Team Leader was concerned that the subjects would make the surveillance and therefore be at a heightened state of readiness. He instructed SA [redacted] to accompany SA [redacted] in the SWAT sedan; locate themselves in the parking lot, and approach the subjects from an angle opposite the other two (2) SWAT vehicles. The SWAT Team Leader also advised all SWAT personnel not to assume that there were only two (2) subjects in the van since SOG had lost sight of the vehicle for a period of time. b6 b7C

As the subjects' van approached the K-mart parking lot, SOG called out that SWAT had control. SA [redacted] radioed that the subjects were coming into the parking lot. The other SWAT vehicles, with the SWAT Suburban in the lead, came around from the back of the building and waited on the side of the building. SA [redacted] radioed that [redacted] was out of the van and the SWAT vehicles moved in.

As the SWAT vehicles approached, [redacted] was walking to his van and [redacted] turned his van to the left, either to turn around or to park. The subjects' van was facing a chain-link fence. SA [redacted] and SA [redacted] in the SWAT sedan rammed [redacted] van at the driver's door. SA [redacted] exited the SWAT sedan and immediately took [redacted] into custody. SA [redacted] driving the SWAT Suburban with SAs [redacted] and [redacted] inside, rammed the front passenger side of the subjects' van. The SWAT van, driven by SA [redacted] with SAs [redacted] and [redacted] inside, blocked the subjects' van at the rear. SA [redacted] identified himself and gave commands not to move to [redacted] A number of the SWAT Agents were identifying themselves and giving [redacted] commands to "freeze," "stop," or "hands up." [redacted] was immediately non-compliant, threw the van into reverse and struck the SWAT van, narrowly missing SAs [redacted] and [redacted] then went forward, striking the SWAT sedan. [redacted] then reversed the van again and started backwards. At this point, SAs [redacted] fired. SA [redacted] stated he fired one shot at [redacted] head. SA [redacted] stated he fired two (2) to three (3) rounds at the driver. SA [redacted] stated he fired two (2) shots into the rear window of the van. SA [redacted] stated that black curtains hung across the side and rear of the van preventing him from seeing the driver; however, b6 b7C

he fired at a position where he knew the driver was, in order to stop him.

It appears that SA [redacted] actions are within the deadly force policy inasmuch as he fired to stop a threat to his life and not to disable a motor vehicle. Although SA [redacted] advises in his statement that he fired into a position where he believed the driver was located, SA [redacted] basis of knowledge for his belief is supportable inasmuch he knew there was a driver of the van located in the driver's seat because the vehicle was presently moving towards him and because the SWAT members at the scene were issuing commands to the drivers location. b6 b7C

[redacted] then went forward with the van, narrowly missing SA [redacted] as he went by him. SA [redacted] fired at him. SAs [redacted] and [redacted] also continued firing at the subject of the van. [redacted] van, at this point, jumped the 6-inch curbset parking stop and went through the chain-link fence. The van appeared to slide to the side, coming to a stop in front of a brick wall. SA [redacted] ordered a cease fire believing that [redacted] had been disabled and that bullets might ricochet off the brick wall behind the van and into the public street. All Agents advised they fired because the van was coming at them or other Agents and they were in fear of their lives, or feared for the lives of their fellow SWAT team members.

A review of the statements of all arrest team personnel indicates that SA [redacted] appears to have fired first, followed almost instantly by SAs [redacted] and [redacted] The passage of time from when [redacted] was given the command to put his hands up and freeze until his van came to a stop in front of the brick wall cannot be exactly determined but is estimated at only a matter of seconds.

[redacted] was then ordered to put his hands out of the van window. The Agents exhibited extreme caution in approaching the van. Some Agents had concern that there may be another suspect in the rear of the van. [redacted] was taken out of the van and handcuffed. [redacted] van was cautiously cleared. [redacted] had received a number of non-fatal wounds. He was wearing a bulletproof vest and had a fully-loaded Sig Sauer Model 226, 9 MM semi-automatic pistol on his person. Agents cleared the van and observed a blue gym bag in the van containing a 12-gauge shotgun (streetsweeper style), a fully-loaded Glock 9 MM pistol in a shoulder holster with two (2) extra magazines, an AK-47 semi-automatic rifle with a sawed-off stock, two magazines for an AK-47 taped together, a fully-loaded Glock 45 caliber pistol, a fully loaded Glock 45 caliber magazine, a barrel-drum magazine, blue bulletproof vest, a can of mace, and handcuffs. Also located in the back of the van was a 12 gauge shotgun, a fully-loaded AK-47 with two magazines, a Sig Sauer 9 MM pistol with two b6 b7C

magazines, a blue plastic bag with a Sylvester Stallone full-head rubber mask, and a black duffle bag containing a double magazine for an AK-47 rifle, a loaded barrel drum magazine, binoculars, and various clothing and masks.

All Agents participating in the arrests of [redacted] and [redacted] were wearing Bureau-issued tactical body armor SWAT vests with a shock plate inset which displayed FBI on front and back.

This investigation determined that [redacted] did not fire any weapons in his possession. There is no physical evidence that any of his weapons were fired.

Analyses of this incident leads to the conclusion that the Agents' decision to fire their weapons was precipitated by the actions of [redacted] and was justified under the Deadly Force Policy.

FBI Deadly Force Policy allows Agents to use deadly force when they "have probable cause to believe that the subject of such force poses an imminent danger of death or serious physical injury to the Agents or another person." MIOG, Part II, 12-2.1(1)(a). The series of events rapidly unfolding beginning with SA [redacted] commands to [redacted] to surrender, create the probable cause prerequisite under the Deadly Force Policy. When [redacted] failed to comply with the Agents' instructions and reversed the van directly into the location of the Agents behind him, the Agents exercised remarkable self restraint by not firing at that point. [redacted] then drove forward toward SA [redacted] who also showed admirable self control in continuing to attempt to gain [redacted] compliance through the use of verbal warnings. It wasn't until the van reversed toward the position of SA's [redacted] and [redacted] for the second time that these Agents fired, and it wasn't until the van accelerated towards SA [redacted] for the second time that he fired. The actions of [redacted] in driving his vehicle toward the Agents, provides the necessary probable cause to fire when examined alone, and certainly when combined with the information the arrest team had regarding [redacted] and [redacted] violent activities at previous robberies.

b6
b7C

The Agents were also in compliance with the section of the Deadly Force Policy concerning verbal warnings as is evidenced in the signed sworn statements of the SWAT members who advised [redacted] was repeatedly ordered to submit to the authority of the Agents. MIOG, Part II, 12-2.1(1)(c) addresses verbal warnings by dictating "VERBAL WARNINGS - IF FEASIBLE, and if to do so would not increase the danger to the Agent or others, a verbal warning to submit to the authority of the Agent shall be given prior to the use of deadly force." Agents continued to give [redacted] verbal commands to surrender until they believed to do so would place them in greater danger.

No warning shots were fired and no one shot in an attempt to disable [redacted] van. All of the rounds discharged were fired in an attempt to stop the driver from ramming the Agents at the scene. In this regard, the Agents are also in compliance with the Deadly Force Policy sections on the use of warning shots and vehicles. MIOG, Part II, 12-2.1(1)(d) states "WARNING SHOTS - No warning shots are to be fired by Agents.", and (e) states "VEHICLES - Weapons may not be fired solely to disable moving vehicles. Weapons may be fired at the driver or other occupant of a moving vehicle only when the Agents have probable cause to believe that the subject poses an imminent danger of death or serious physical injury to the Agents or others, and the use of deadly force does not create a danger to the public that outweighs the likely benefits of its use." b6 b7C

Finally, the agents were in compliance with the Deadly Force Policy when they continued to fire for a very short time as the subject drove thru the chain-link fence because the subject remained imminently dangerous during that time. In this regard, the subject was not considered a fleeing felon. As used in the Deadly Force Policy, the concept of 'imminent' "does not mean 'immediate' or 'instantaneous,' but that an action is pending." This elastic concept is defined by the circumstances, in this case the shooting inquiry disclosed no information to show that [redacted] was any less of a threat as he drove towards the chain link fence than he was seconds before. As the agents had a reasonable belief that the subject posed an imminent danger to them as he reversed his van into the agents position in an attempt to inflict death or serious physical injury, the imminent danger continued while the subject continued to maneuver his vehicle and ended up driving through the chain-link fence. This fact situation is closely analogous to Deadly Force Policy Scenario #2, in which it should be noted that the "Discussion" portion of the scenario states that "Agents would not be required to permit the suspects to escape from the vicinity of a violent confrontation in which they have just attempted to inflict death or serious physical injury on the Agents."

The absence of a safe alternative to the use of deadly force is, in addition to the presence of imminent danger, a precondition to the use of deadly force. The 12/01/1995 Instructional Outline states that response to commands, availability of cover, and time constraints are among the relevant factors to consider when making a "safe alternative" determination. In this fact situation, the subject was non-compliant to the commands of the agents. Further, the agents were not safely behind cover that would protect them from the subject's vehicle; if the subject had rammed the SWAT van and the SWAT sedan that the agents were behind, he easily could have pushed it into them with sufficient force to kill or seriously injure them. Finally, the agents were under serious time constraints to assess the nature and imminence of the threat

posed by the subject's vehicle given the short distance that the subject needed to drive to strike the agents.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: ID, Mr. Thomas Coyle, Room 7129, Attn: SIRG; FTU;
Springfield Division

Report of: IIA [redacted] Office: Kansas City
Date: April 17, 1998

Case ID #: 66F-SI-49500

Title: SHOOTING INQUIRY;
REPORT OF SHOOTING INCIDENT;
SPRINGFIELD DIVISION;
MARCH 14, 1998;
ADMINISTRATIVE INQUIRY

Character: SHOOTING INQUIRY

Synopsis: This shooting incident occurred during the executive of a federal search and seizure warrant by the Springfield, Division, Carbondale RA Safe Streets Task Force, on 3/14/98, at [redacted] Colp, Illinois. b6 b7C

- P -

DETAILS:

On 3/12/98, SA [redacted] Springfield Division, Carbondale RA, obtained a federal search warrant for the residence of [redacted] Colp, Illinois. This search warrant was for crack cocaine, U.S. currency, and other drug related materials in violation of Title 21, USC, Sections 841(a)(1) and 846. The warrant was signed by U.S. Magistrate Judge Philip M. Frazier on 3/12/98 at 2:02 pm in Benton, Illinois. The warrant also allowed a search at any time in the day or night and that the Magistrate Judge was satisfied that there was probable cause such that a no-announced entry should be authorized.

A second search warrant was issued in this matter for the residence of [redacted] Colp, Illinois. No unusual incidents occurred during the execution of this warrant on 3/14/98.

On 3/14/98, at 4:30 am, SSRA [redacted] conducted a briefing at the Carbondale RA with the members of the search

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

team. That meeting was a general meeting regarding the case and the planned searches for the morning. At approximately 5:00 am, the officers and agents broke into two separate groups based on their target search. The group of officers and agents who were to conduct the search at [redacted] Colp, Illinois, moved into SSRA [redacted] office. This group included SSRA [redacted] SA [redacted] SA [redacted] SA [redacted] Special Federal Officer (SFO) [redacted] SFO [redacted] SFO [redacted] SFO [redacted] and SFO [redacted] At that meeting, SSRA [redacted] made available a packet of information regarding the search at 200 Doctor Springs Drive. This packet included a copy of the search warrant, hand drawn map of the residence, photographs of [redacted] criminal history of [redacted] photograph of [redacted] a copy of the affidavit in support of the search warrant, and an assignment sheet. Detailed discussions were conducted regarding the fact that [redacted] was known to keep a gun in his bedroom. Detailed entry plans were discussed and assignments were made by SSRA [redacted] based on the experience level of the officers and agents. SSRA [redacted] ensured that two officers or agents were assigned to each room of the dwelling to be searched. He also planned to have uniformed officers present from the local sheriff's office outside with an additional agent.

b6
b7C

The residence to be searched was a single floor framed dwelling with the front door on the south side. Immediately inside this door, towards the north, was a room used as a bedroom with a second bedroom further to the north. To the right of the entry door into the residence was a living room and to the north of the living room was a kitchen. There were closets and a bathroom at the extreme north end of the residence. SSRA [redacted] ensured that two officers or agents were assigned to each of the rooms and affixed the officers' or agents' initials to the sketch of the floor plan, ensuring that all personnel knew the assignments of themselves and other officers searching the residence.

After conducting this briefing, the search teams staged at the Carterville PD where vests and raid jackets were donned. Williamson County SO Deputy [redacted] met with the entry team at the Carterville PD. At that time, SSRA [redacted] ensured that he was aware of his role in this matter.

At approximately 6:00 am, the search team arrived at the residence and the front door was forced open by SA [redacted] using a ram. Thereafter, officers, announcing police and FBI, began entry into the premises.

b6
b7C

Officer [redacted] was the first officer through the door, followed by Officer [redacted] These two officers proceeded to the back bedroom and forced the partially ajar door open. Upon entering the room, [redacted] was moving in an easterly direction towards the side kitchen door, holding a .22 caliber silver

[redacted] handgun in his hand. Officer [redacted] yelled gun and dropped to his knees along side the bed, just inside the back bedroom. [redacted] aimed at Officer [redacted] and fired one round. This round was retrieved from the bed mattress adjacent to where Officer [redacted] was crouched. At this time, Officer [redacted] fired four rounds at [redacted] who was near the doorway to the kitchen from the north bedroom. Officer [redacted] who entered the rear bedroom behind Officer [redacted] fired four rounds in the direction of [redacted] At this point, SSRA [redacted] was in the living room, approaching the entrance to the kitchen, and observed [redacted] backing from the bedroom into the kitchen with his gun in his right hand and a magazine in his left hand. Officers were yelling at [redacted] to drop the gun and get down. [redacted] did not obey the command and as he was backing into the kitchen, turned toward the area SSRA [redacted] was in. At this point, SSRA [redacted] fired one round at [redacted] Officer [redacted] was just to the right of SSRA [redacted] and fired one shot at [redacted] [redacted] fell to the floor and his gun slid away on the floor further into the kitchen.

b6
b7C

At this point, [redacted] was handcuffed. SA [redacted] applied pressure to the wound in [redacted] stomach with a sock he obtained from inside the residence.

An ambulance was called, which transported [redacted] to the Herrin Hospital located approximately six miles away.

At the time of the shooting, SA [redacted] was in the first bedroom, immediately inside the exterior door that was forced open. Officer [redacted] had not entered the house at the time of the shooting and took cover beneath a window on the south side of the front of the house. Det. [redacted] observed a male in a bed immediately to the left in the first room entered and ordered that individual not to move. SA [redacted] and SA [redacted] took the individual in the first bedroom into custody, who was later identified as [redacted] black male, date of birth 6/10/60.

It was determined that [redacted] was wanted by the Department of Corrections, Division of Community Correction, Wisconsin, for parole violation based on an underlying conviction for sexual assault on a child in the first degree.

b6
b7C

Other officers at the scene included SA [redacted] and Williamson County SO Deputy [redacted] who maintained a position outside the residence throughout the incident.

After the incident, Officers [redacted] and SSRA [redacted] were administered a breathalyser by Sgt. [redacted] of the Carbondale PD. The results indicated a blood alcohol content of .00 for each. The weapons and magazines of all shooters were surrendered to the Illinois State Police, Division of Forensic

Services, who conducted the crime scene investigation under Crime Scene Investigator [redacted]

SSRA [redacted] was using a 10 mm Smith & Wesson, model 1076, SN THC9929, which had eight rounds in the magazine and one in the chamber of Federal JHP ammunition after the shooting. The weapon was functional and loaded with FBI ammunition.

Officer [redacted] discharged his .40 caliber Glock, model 23, SN BBU970US. It was loaded with six rounds in the magazine and one in the chamber with Federal Hydra-shok ammunition after the shooting.

Officer [redacted] discharged his 9 mm Sig Sauer, model P229, SN AE21664. The weapon contained eight rounds in the magazine and one in the chamber of Winchester Black Talon ammunition after the shooting. b6 b7C

Officer [redacted] discharged his .40 caliber Smith & Wesson, model SW40F, SN PAM8073. The weapon had 14 rounds in the magazine and one in the chamber of Winchester Black Talon ammunition after the shooting.

The State Police Laboratory recovered cartridge casings and bullets consistent with the above-mentioned shots except that two rounds fired from the rear bedroom exited a back window in a north-easterly direction and were not recovered. Also, one round, which entered [redacted] left front abdomen area and rested in his lower pelvis near a nerve, was not removed by medical personnel. A bullet was removed from the upper buttock region of [redacted] which entered from his left side. That cartridge was matched to the weapon of Officer [redacted] who fired one round. The .22 caliber cartridge recovered from the mattress, adjacent to where Officer [redacted] had crouched, was matched to the weapon in possession of [redacted] The weapon used by [redacted] was a .22 long rifle caliber Jennings pistol, model J22, SN 1010769, which contained a magazine and six cartridges with one round partially seated in the chamber. An extra magazine was found behind the stove in the kitchen, containing six cartridges. This weapon apparently jammed after [redacted] fired the first round at Officer [redacted]. Upon test firing at the State Police Laboratory, the weapon again jammed after firing the initial chambered round.

[redacted] signed a consent to release his medical records at Herrin Hospital. A review of those records indicated that an initial drug abuse screen was positive for cocaine above the linearity of the measuring device, which was 5,000 nanograms per milliliter. The blood chemistry report indicated 217.7 milligrams per deciliter ethanol content. These results indicate [redacted] had excessive amounts of alcohol and cocaine in his system at the time he reported to the hospital.

[redacted] suffered from three gunshot wounds. The first entered his left upper arm, entering the outer side above the elbow and exiting above the tricep. The second entered the left abdomen and remained in the iliac wing. The third entered the left hip, struck bony matter and redirected to the buttock area from where it was removed. [redacted] fully recovered from these injuries.

The bullet removed from [redacted] buttock was fired from the weapon used by SFO [redacted]. It appears that one of the bullets fired by SFO [redacted] went through [redacted] upper left arm and continued out the rear window of the residence. It also appears that the bullet remaining in [redacted] hip was fired by SSRA [redacted] All other bullets recovered from the walls had no traces of blood on them. b6 b7C

Interview of [redacted] reported that prior to his weapon discharging at the officers, he observed raid jackets indicating police and FBI. [redacted] stated his weapon went off by accident as he was trying to get the gun out of his hand. [redacted] admitted to using alcohol and cocaine prior to this incident.

It is noted that immediately after the shooting of [redacted] he began making statements that the officers did not identify themselves. Interviews of several of the officers disclosed that there was an announcement of their identity upon entry into the premises. Interview of [redacted] indicated that he observed FBI and police markings on the jackets of the officers prior to the discharge of his weapon at the officers. There was ample light from the rising sun and clear weather. A television was on in the back bedroom where [redacted] was shot, providing additional lighting. Interviews of the officers indicated sufficient lighting to conduct their operation. Interview of [redacted] indicated there was sufficient light for him to observe police and FBI on the raid jackets.

On 3/18/98, [redacted] was indicted by a federal grand jury sitting in East St. Louis, Illinois, in an eight count indictment charging him with distribution of crack cocaine, use of a firearm during a drug trafficking crime, attempted murder, and assault on a federal officer. Counts one, two and three charge [redacted] with distribution of crack cocaine on 3/3/98, 3/6/98 and 3/11/98, respectfully. Count four charges [redacted] with using and carrying a firearm during a drug trafficking crime on 3/11/98. Counts five and six charge [redacted] with attempted murder for firing a gun at agents who were executing a federal search warrant at [redacted] residence on 3/14/98. Counts seven and eight charge [redacted] with assaulting federal agents for firing a gun at them during the search warrant execution on 3/14/98. All of the violations took place at [redacted], Colp, Illinois. b6 b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/22/98

To: Inspection Division Attn: Thomas J. Coyle

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Coyle Thomas
Lusby Thomas
Mershon Mark

Drafted By: [redacted]

Case ID #: 66-19157-3

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/1/98
BALTIMORE DIVISION

Synopsis: To advise of a shooting incident in the Baltimore Division during an attempted arrest of an armed and dangerous bank robber. SA [redacted] shot and wounded a small mixed breed dog who was with a German Shepherd that had lunged at members of the arrest team.

Details: Reference report of Supervisory Special Agent (SSA) [redacted] dated 5/11/98. b6 b7C

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted], Rm. 7142
1 - Mr. Coyle, Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116 (Enc.)
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. Mershon, Room 7837
1 - Mr. Biehl, USDOJ
1 - Mr. [redacted], Room 4147
2 - Ms. Ginsburg, USDOJ
(1 - Ms. [redacted]

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-3, 06/22/1998

Details of the Shooting Incident

The Baltimore Division was conducting an investigation regarding the armed robbery of the State Employees Credit Union of Maryland located in College Park. Investigation revealed that a teller employed by the Credit Union, identified as [redacted] arranged to have [redacted] and [redacted] rob the bank while [redacted] was on duty. A consensual phone call was made to [redacted] residence during the evening hours of 5/1/98, verifying that he was at his residence. b6 b7C

An arrest plan was formulated under the supervision of Assistant Special Agent in Charge (ASAC) Donald J. Bartnik and Supervisory Special Agent (SSA) [redacted] of the Maryland Metropolitan Office at Calverton, to affect the arrest of [redacted] All participants responded to 3704 Springdale Avenue in Baltimore to execute the arrest of the subject. Shortly after 10:00 p.m., arrest team participants approached the Springdale Avenue address and observed the front door open. As Agents assumed positions around the residence as well as the front door, a large German Shepherd appeared at the front door in an attack mode and lunged at them. Fearing that the arresting Agents were in imminent danger of serious bodily injury, SA [redacted] fired one round from his Bureau issued Sig Sauer, Model P226, nine millimeter pistol, injuring a second, smaller mixed breed dog that was with the German Shepherd. The dog was struck in the right foreleg which was treated and the dog recovered from the wound. No other injuries were sustained as a result of this shooting incident.

Although not taken into custody during the shooting incident, [redacted] subsequently surrendered to Agents of the Baltimore Division.

On 6/15/98, the SIRG met to discuss the above captioned shooting incident. Chief Inspector Mark J. Mershon, Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, b6 b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-3, 06/22/1998

NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this incident involved an intentional discharge of SA [redacted] weapon and that the use of deadly force was in conformance with the current deadly force policy. Members recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident.

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSRA [redacted] Office: Salt Lake City
Date: June 15, 1998

Case ID #: 66F-SU-A48789

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INQUIRY
SALT LAKE CITY DIVISION
MAY 6, 1998

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of a preliminary inquiry (PI) fugitive investigation regarding subject [redacted]

The Salt Lake City Division Violent Crimes Task Force (VCTF) became involved in the fugitive investigation of [redacted] on March 06, 1998, based upon a request for assistance from the Utah Department of Corrections (UDOC). UDOC requested assistance under the provisions of the Unlawful Flight statue. UDOC had obtained a state felony warrant charging subject with Absconding Parole Supervision and Failure to Complete Community Correctional Center Program. Subject's incarceration was for theft and his criminal record reflects an extensive arrest record including Assault on a Peace Officer charge where he was shot by a Salt Lake County Sheriff's Deputy on July 14, 1994. According to UDOC, subject was a known gang member affiliated with the Aryan Brotherhood and Skinheads. Initial information provided by UDOC was insufficient to immediately obtain a UFAC warrant; therefore, a PI was initiated.

b6
b7C

On April 30, 1998, local authorities made an arrest of [redacted] at [redacted] Salt Lake City, Utah and at this same location, a single gun shot was fired by an unknown person. Subsequent local investigation determined that subject [redacted] was the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

individual responsible for firing the gun shot. As a result of this incident and the specific request of the UDOC, efforts to locate the subject were intensified by the Salt Lake City VCTF. VCTF Supervisor [redacted] had a squad meeting on May 01, 1998, with the entire squad, including local, state and federal officers assigned to the VCTF, during which the background and known violence of [redacted] was fully discussed. SSA [redacted] instructed that the investigation concerning [redacted] be conducted utilizing two six-member teams made up of VCTF personnel and that protective body armor was to be worn during any contacts made in an effort to locate this subject. SSA [redacted] briefed AASAC BRADFORD on this investigation and provided him updates on the investigation between May 01, 1998 and May 06, 1998. Numerous leads were developed concerning subject's location which were investigated without locating subject or developing sufficient information to indicate out-of-state flight to obtain the UFAC warrant. b6 b7C

On May 01, 1998, [redacted] told the VCTF that [redacted] was staying in Magna, Utah and was in possession of a firearm. [redacted] was interviewed in Magna, Utah and told VCTF members that [redacted] was at her residence the night before (April 30, 1998) with [redacted] a.k.a. [redacted] gave the VCTF the names and addresses of [redacted] and [redacted] both in Magna, as associates of [redacted] was interviewed and advised she had not seen [redacted] for a couple of days but indicated [redacted] was with [redacted] or [redacted] in West Valley City, Utah. [redacted] also stated that [redacted] was not in a very "stable state of mind." [redacted] advised she had not seen [redacted] for about one week, but had heard he was with [redacted] or [redacted] The address given for [redacted] West Valley City, Utah was investigated with negative results. [redacted] in Magna, Utah, stated that she had heard [redacted] was with [redacted] and staying at the residence of [redacted] in West Valley City, Utah. [redacted] also said [redacted] may be staying at the residence of [redacted] also in West Valley City, Utah. [redacted] told the VCTF that she had given [redacted] and [redacted] a ride from her residence to an unknown address in an area known as the Avenues in Salt Lake City. [redacted] saw [redacted] with a handgun and he seemed very unstable. [redacted] believed that [redacted] was with [redacted] or [redacted] an associate of [redacted] stated that [redacted] and [redacted] had called him early that morning, approximately 2:00 A.M., asking [redacted] to get some clothes together for [redacted] so he could get out of town. [redacted] did not do that because he felt that [redacted] was very unstable. b6 b7C

On May 02, 1998, [redacted] stated that [redacted] was with her in Layton, Utah, in possession of a nine-millimeter handgun. [redacted] said she would call back with a location, but did not.

On May 06, 1998, [redacted] stated that her sister, [redacted] and [redacted] had slept at her house on April 01 and 02, 1998, but had not seen them since that time. [redacted] called from the residence of [redacted] advising that [redacted] was in her residence located at [redacted] Layton, Utah. [redacted] said [redacted] was asleep in a back bedroom of her trailer when she left at approximately 12:30 p.m. and [redacted] had a "silver colored handgun." [redacted] indicated that her sixteen year old son was in her trailer with another four year old child. b6 b7C

Following this receipt of positive information concerning subject's location on May 6, 1998, VCTF personnel met with Ogden Resident Agency and the Ogden Violent Crime Task Force, Northern Utah Criminal Apprehension Team (NUCAT) personnel along with LAYTON POLICE DEPARTMENT officers, during which all personnel were briefed on the subject's background, to include the April 30, 1998, shooting information. The decision was made at that time to request LAYTON POLICE DEPARTMENT SWAT for assistance. A plan was formulated for a perimeter to be established around the trailer by two, three man teams, and then occupants of nearby trailers would be evacuated to a safe location away from the scene. Following this evacuation, contact would be made with the subject, and he would be told to come out of the trailer and submit to arrest. The Agents and task force officers were appropriately dressed in either raid jackets with the words "POLICE" clearly written on the front and back or in ballistic vests which clearly identified them as either police officers or FBI Agents. Several of the ballistic vests had the letters "FBI" in large block print on the front of the vest. All on-scene personnel were wearing body armor. As the two teams of three members each were moving to their predetermined locations on opposite sides of the trailer, the subject appeared in the doorway, and looked in the direction of the team located northwest of his trailer. VCTF Officer [redacted] yelled commands to the subject that "This is the police, step out and put your hands in the air." The subject quickly disappeared back into the trailer, then immediately reappeared with a pistol in his left hand, and fired at the team members as they were continuing to position themselves. The subject then quickly ducked back into the trailer and within seconds reappeared with the gun still in his hand, and pointed it directly at VCTF Officer [redacted] VCTF Officer [redacted] fired one slug round from b6 b7C

his shotgun, and the subject appeared to fall back into the trailer. Simultaneous to this, the southeast side perimeter team was arriving at their location, observed the subject's movements, and heard VCTF Officer [redacted] shouts to the subject. VCTF Officer [redacted] and Special Agent (SA) [redacted] both observed subject with a handgun pointed in the direction of the northwest perimeter team, and observe him fire two shots in the direction of the other team. Both VCTF Officer [redacted] and SA [redacted] fired one round each, and the subject ducked back into his trailer. VCTF Officer [redacted] fired one round from his AR 15, 9 millimeter rifle, and SA [redacted] fired one round of 00 buck from a Remington 870 shotgun. Within moments, the subject threw a handgun out of the doorway which landed on the driveway in front of the trailer, and then he walked out of the trailer. The subject did not comply with commands given to him to submit to arrest, and for the next 40 plus minutes yelled obscenities and acted in an irrational fashion all the time refusing to comply with verbal commands from various officers and SAs who attempted to convince him to lie on the ground and submit to arrest. Officers and SAs who were closest to him at various times during this time period attempted unsuccessfully to convince him to comply. The subject continually moved around the area in front of his trailer, walking around and standing close to the handgun on the driveway. During the times that he stood close to and over the handgun, he made numerous movements with his body and hands as though he were going to pick up the handgun. VCTF SA [redacted] a member of the northwest perimeter team, took up a position where he had a clear view of the subject, observed his movements, and overheard his yells at the various law enforcement personnel. VCTF SA [redacted] observed the subject make several squatting motions with his hands directed to the handgun as though he were going to pick it up. SA [redacted] became concerned for the safety of everyone involved in this incident should the subject did pick up the handgun, and, as the subject made one of his movements in the direction of the handgun, he fired one slug round from a Remington 870 shotgun. This round hit the weapon causing it to spin around on the pavement. The subject reacted by jumping back from the weapon at this time; however, did not give up or comply with continued verbal commands. After an additional 10 to 15 minutes, the LAYTON POLICE DEPARTMENT SWAT Team arrived on the scene, and, as they were approaching the trailer from the north side, the accompanying police dog barked. The dog's bark immediately gained the subject's attention, and, as the SWAT Team approached utilizing a protective shield, the subject asked them not to sic the dog on him. He immediately complied with commands to lie on the ground, and was placed under arrest.

b6
b7C

b6
b7C

No law enforcement personnel or other civilians were wounded in this incident.

Subject [redacted] was transported to the University of Utah Medical Center where he received medical attention for his gunshot wound. He was treated and then taken to jail.

[redacted] is described as follows:

| | |
|---|---|
| Name: | [redacted] |
| Sex: | Male |
| Race: | White |
| Height: | 6'0" |
| Weight: | 180 pounds |
| DOB: | |
| SSAN: | [redacted] |
| FBI Number: | |

b6
b7C

Salt Lake City Acting SAC GREGORY D. MEACHAM, Acting ASAC JOHN S. BRADFORD and SSA [redacted] immediately responded to the scene upon notification of the incident at approximately 5:15 p.m. on May 6, 1998. Acting SAC MEACHAM directed that the Salt Lake City Division EAP Counselor [redacted] report to the scene.

On May 7, 1998, subject [redacted] was formally charged by complaint in U.S. District Court, District of Utah, Salt Lake City, Utah, with Attempted Homicide of a Federal Agent (Title 18, U.S. Code Section 1114) and Possession of a Firearm by a Restricted Person, (Title 18, U.S. Code Sections 922(g) and 924(a)(2). On May 13, 1998, subject [redacted] was indicted by a Federal Grand Jury, District of Utah, charging him with Attempted Homicide of a Federal Agent, Title 18, USC, Section 1114; Use of a Firearm during the course of a Felony, Title 18, USC, Section 924(c); Assaulting or Impeding Federal Officers, Title 18, USC, Section 111; and Restricted Person in Possession of a Firearm, Title 18, USC, Sections 922(g) and 924(a)(2). Subject remains incarcerated.

Two Special Agents, SA [redacted] and SA [redacted] each fired one round during this shooting incident. Two task force officers, [redacted] Salt Lake City Police Department and [redacted] Salt Lake County Sheriff's Office, each fired one round during this shooting incident. The weapons and type of round fired are:

SA [redacted] Remington 870 Shotgun slug

| | | |
|---|---|---|
| SA [redacted] | Remington 870 Shotgun | 00 Buck |
| Detective [redacted] | Colt AR-15, 9mm | hydroshock |
| Detective [redacted] | Remington 870 Shotgun | slug |

SA [redacted] and [redacted] were using Bureau weapons and Bureau ammunition, all of which functioned properly. Detectives [redacted] and [redacted] weapons and ammunition functioned properly. SA [redacted] is a member of the Salt Lake City Enhanced SWAT Team and a Firearms Instructor.

Deputy [redacted] Davis County Sheriff's Office processed the evidence collected at the scene and recovered one 9mm Hydroshock which was embedded in the storage shed. Preliminary test indicated the presence of blood. Subject [redacted] T-shirt was examined and indicated the bullet entered from the rear and exited the front. Further testing and examinations in process.

b6
b7C

ARMED AND DANGEROUS

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/11/98

To: Inspection Division Attn: Thomas J. Coyle

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Coyle Thomas
Lusby Thomas

b6
b7C

Drafted By: [redacted] R:lrr

Case ID #: 66-19157-41

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/10/98
RICHMOND DIVISION

Synopsis: To advise of a shooting incident involving Special Agents (SAs) of the Richmond Division. During the execution of search and arrest warrants, SAs [redacted] and [redacted] shot and killed a pit bull dog.

Details: Reference report of Assistant Special Agent in Charge (ASAC) William R. Falls, dated 6/5/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
1 - Mr. Coyle, Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. [redacted] Room 6646
2 - Mr. [redacted] oom 7427
(1 - [redacted] oom 7326)
1 - Mr. Lusby, Room 7825
2 - Mr. Biehl, USDOJ
(1 - Mr. [redacted])
2 - Ms. Ginsburg, USDOJ
(1 - Mr. [redacted])

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3787F
1 - Mrs [redacted] Room 7861

Details of the Shooting Incident

Based on a request for assistance from the Drug Enforcement Administration (DEA) in the investigation of an incident involving the shooting of a DEA informant, agents of the Richmond Division became involved in a shooting incident on 5/10/98. In connection with the investigation, the Richmond Division deployed Special Weapons and Tactical (SWAT) Team members for the execution of search and arrest warrants. During this exercise, two SAs were involved in a shooting incident resulting in the death of a pit bull dog.

During the execution of the search warrant, SWAT Team Agents attempted to secure two occupants of a residence. As the agents were handcuffing the second subject, a pit bull dog belonging to one of the subject's charged at the arresting agents. Although the owner made several vocal commands to control the animal, as SA [redacted] placed a hand on the subject to handcuff him, the dog lunged forward in the direction of two SAs. The agents were forced to fire upon the dog to prevent being attacked. The dog was incapacitated without harm to the agents or the subjects.

Subsequent investigation determined that approximately 17 rounds were fired at the dog by the two SAs with 16 of the rounds making contact with the animal.

On 8/11/98, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas Lusby, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Program Manager, Law Enforcement Training for Safety and

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-41, 09/11/1998

Survival, Practical Applications Unit, Training Division, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SAs [redacted] and [redacted] was justified and in accordance with the current deadly force policy.

The only observation made by SIRG members pertained to a comment in SA [redacted] signed, sworn statement. According to him, the dog was in a lying position in front of the doorway and he fired a final round into the head of the dog to prevent further suffering. Members opined that the final shot by SA [redacted] was not necessary since other authorities could have been called to handle the situation. This issue will be emphasized to the SAC of the Richmond Division.

LEAD(s): b6 b7C

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Assistant Director, Inspection Division

Report of: SAC Sheri A. Farrar
Date: June 14, 1998

Office: Cincinnati

Case ID #: 66F-CI-68432

Title: SA [redacted]
CINCINNATI DIVISION;
SHOOTING INCIDENT;
ACCIDENTAL DISCHARGE;
6/10/98

Character: ADMINISTRATIVE INQUIRY

b6
b7C

Synopsis: This shooting incident - accidental discharge occurred at 3:45 p.m. on 6/10/98 as a four member SWAT team was effecting the arrest of a [redacted] following a reverse drug transaction. Subject [redacted] had just completed the purchase of 5 kilograms of cocaine from a [redacted] in a hotel room when the SWAT team entered to make the arrest. [redacted] did not immediately comply with directions to "freeze" but instead leaned or fell back on the bed and began to slide away from Special Agent (SA) [redacted] the first team member to enter the room. As SA [redacted] exerted pressure with his left hand to move [redacted] into a position in which he could gain control of [redacted] SA [redacted] accidentally discharged his weapon which was in his right hand and the bullet struck [redacted] received a gunshot wound to his left arm.

- P -

DETAILS:

In July, 1997, the Cincinnati Division, Columbus Resident Agency (CRA) began the investigation of an international marijuana trafficking ring captioned, [redacted] MDTO; Case #281C-CI-67770. This investigation was predicated on information received from a New Haven Division investigation which had identified the two Ohio subjects as buyers. In the fall of

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

1997, a Miami Division investigation had also identified subject [redacted] as a buyer of marijuana from the subjects of the Miami case. [redacted] was arrested by CRA in May, 1998. Further investigation from Miami identified additional subjects [redacted] Delaware, Ohio (CRA territory), [redacted] aka [redacted] Akron, Ohio, [redacted] Briarcliff Manor, New York, and [redacted] all of whom were primary customers of a [redacted] was originally from Ohio and historically the majority of the transactions between [redacted] and the subjects occurred in the Columbus, Ohio area. Between 1994 and 1997, the [redacted] The largest percentage of the marijuana was sold to [redacted] and [redacted] who then distributed the marijuana to points throughout Ohio.

b6
b7C
b7D

In April, 1998, Miami Division's [redacted] in a series of consensually recorded telephone conversations with the above listed subjects. During these conversations [redacted] advised he [redacted]

By EC dated 6/2/98, Miami Division requested Cincinnati Division to assist with arranging four separate reverse undercover operations to sell 500 pounds of marijuana to [redacted] 500 pounds of marijuana and 5 kilograms of cocaine to [redacted] 10-20 kilograms of cocaine to [redacted] and 400 pounds to [redacted] who, prior to the finalization of the plan, withdrew his request. SAC, Cincinnati approved the CRA to assist Miami with this request contingent upon review and approval of specific detailed plans of how each reverse would be conducted.

By EC dated 6/5/98, Senior Supervisory Resident Agent (SSRA) [redacted] submitted a draft Operations Plan to Assistant Special Agent in Charge (ASAC) Henry E. Ragle, III for review and approval detailing how each reverse would be carried out. On 6/8/98, the Operations Plan was discussed at a meeting which included Cincinnati SAC, ASAC Ragle, SWAT Team Leader SA [redacted] and SWAT Team members SAs [redacted] and [redacted] Supervisory Special Agent (SSA) [redacted] who is the Cincinnati Drug Program Coordinator, and Technically Trained Agent (TTA) [redacted] Contingent upon certain minor changes and additions to the plan, the overall plan was orally approved by the SAC.

b6
b7C
b7D

The Miami Agents [redacted] traveled to Columbus, Ohio on 6/8/98 and [redacted]

On 6/10/98, arrangements were made for [redacted] to [redacted] sampled the cocaine and put a small amount in a small plastic bag to take with him to test. At that time [redacted] had still not completely committed to purchasing any cocaine, advising that he had just purchased cocaine in Cleveland and didn't really need anymore. [redacted] that he would test the cocaine and get back to the [redacted] was under constant surveillance from the time he left his residence for the 1:00 p.m. meeting until he returned to the hotel at approximately 3:40 p.m. to complete the transaction. b6 b7C b7D

After [redacted] departure from the hotel following the 1:00 p.m. meeting, the plan to arrest [redacted] was again reviewed and the SWAT Team members who were to participate in the arrest [redacted]

[redacted] shortly before 3:30 p.m. and advised that he would purchase five kilograms of cocaine for $110,000. [redacted] immediately left his residence and, under surveillance, returned to the Hampton Inn. [redacted] entered [redacted] room carrying a duffel bag. He handed the bag to [redacted] who was standing at the foot of the bed as he was directed to do in accordance with the plan. As [redacted] took the money out of the bag, [redacted] examined the five bricks of cocaine. He indicated he wanted to take the cocaine out in the same bag he had carried into the hotel as it had his name on it. [redacted] emptied the money from the bag and returned it to [redacted] who packed the cocaine into the bag. As he closed the bag, the arrest team entered the room with SA [redacted] the first of the four SWAT members to enter. (The aforementioned activities were all monitored and recorded by video equipment in the adjacent hotel room. The recorder was turned off as soon as the SWAT Team entered the hotel room, however the video camera continued to run enabling personnel in the adjacent room to monitor the arrest.) The first three SWAT Team members to enter the room did so with their weapons drawn. The SWAT Team announced "FBI" and [redacted] was instructed to "freeze." [redacted] did not immediately comply and backed up to the bed, leaning or falling back on it and beginning to slide away from SA [redacted] who was attempting to gain control of him. As SA [redacted] was exerting pressure with his left hand on [redacted] right shoulder to forcefully pull [redacted] toward him, SA [redacted] accidentally discharged his weapon which was in his right hand. The bullet struck [redacted] in the left arm. b6 b7C b7D

One of the SWAT Team members who is a certified Emergency Medical Technician (EMT) began rendering immediate medical attention to [redacted] and an ambulance was immediately summoned. He was transported to Riverside Hospital where he underwent surgery to remove the bullet and was subsequently listed in stable condition.

The Dublin Police Department responded to the scene and the Ohio Bureau of Criminal Identification and Investigation was summoned to conduct the crime scene investigation. At that time, neither agency expressed a desire to interview SA [redacted] or any of the other SWAT personnel. b6 b7C

On the morning of 6/11/98, after being advised by the chief trauma team doctor that [redacted] was coherent and could be interviewed [redacted] was advised of his rights utilizing an "Interrogation; Advise of Rights" form. He refused to sign the form or orally waive his rights. He expressed his desire to talk with an attorney therefore no interview was conducted.

[redacted] initial appearance took place on 6/11/98 in the hospital at which time he was charged on a criminal complaint charging him with one count of possession of cocaine with intent to distribute. He was subsequently discharged from the hospital that afternoon and placed in the Franklin County Jail. At a detention hearing on 6/16/98, U.S. Magistrate Judge Norah M. King ordered that he be held without bond.

At the request of the Department of Justice, Civil Rights Division, several follow-up interviews were conducted. These interviews did not reveal additional information concerning the shooting incident.

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: ASAC SUSAN R. CHAINER Office: Los Angeles Field Office
Date: July 22, 1998

Case ID #: 66F-LA-215349

Title:

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
LOS ANGELES DIVISION
7/3/98

Character: ADMINISTRATIVE INQUIRY

Synopsis: On July 3, 1998, Special Agents (SAs) assigned to the Santa Ana Resident Agency of the Los Angeles Division of the FBI, and a Sheriff's Deputy from the Orange County Sheriff's Department (OCSD), were assigned to conduct a "stakeout" at three banks in Orange County, California. The FBI and the OCSD had formed a bank robbery task force called B.R.A.T. (Bank Robbery Apprehension Team) to conduct investigations of bank robberies in Orange County.

On July 3, 1998, at approximately 8:00 am, SA [redacted], assigned to B.R.A.T., held a briefing in San Clemente, California attended by SAs [redacted] and Det. [redacted] OCSD. During the briefing, SA [redacted] furnished the bank robber's description, the available bank surveillance photographs of the robber and his clothing attire, normally a suit and tie, which earned him the nickname of "accountant bandit." SA [redacted] informed the involved personnel that the robber should be considered armed and dangerous. This was due to the nature of the offense and the fact that the robber in the past had carried a chrome colored handgun in his waistband. SA [redacted] made surveillance assignments for personnel at three Union Banks which were identified in his operational plan and approved by Supervisory Special Agent [redacted]

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] operational plan was to have three two man teams staked out at three Union Banks either at or near San Clemente, Califorina. SA [redacted] and Det. [redacted] were to be set up at the Union Bank located at 810 Avienda Pico in San Clemente. All three of the banks had been robbed by the same robber on prior occasions.

At approximately 9:00 am, SA [redacted] and Det. [redacted] commenced their surveillance of Union Bank. It had previously been determined that SA [redacted] would be inside the bank to observe customers. He maintained contact with Det. [redacted], who was observing the bank from a vehicle west of the building, through a hand held radio. SA [redacted] had also notified personnel at the bank of his presence. Several of the bank employees knew the description of the robber, as he had robbed that Union Bank branch three prior times. b6 b7C

At about 11:55 am, a bank employee told SA [redacted] that a person matching the description of the robber was standing in the customer service line. A moment later, the bank manager also signaled to SA [redacted] the subject was inside the bank. SA [redacted] immediately notified Det. [redacted] the subject may be in the bank.

SA [redacted] was not certain if the person in the bank was the same as the serial robber they were looking to arrest. He watched as the person walked up to a teller window carrying a small briefcase. At this time, he observed the teller take a large bundle of U.S. currency and place it on the counter. In addition, a closer look at the person convinced him this was the robber they were searching for. SA [redacted] believed he had just witnessed a bank robbery and he also believed the robber was in fact the accountant bandit.

As the robber turned to leave, SA [redacted] observed the briefcase in one of his hands and a large bundle of cash in the other. SA [redacted] decided this would be the safest time to apprehend the robber since both of his hands were occupied and he knew Det. [redacted] would be there momentairily. b6 b7C

SA [redacted] drew his hand gun and pointed it at the robber. SA [redacted] weapon was a personally owned Bureau approved .45 Caliber semi-automatic, Sig Sauer Model P220, serial number G218365. He told the robber he was with the FBI and that he was under arrest. SA [redacted] had positioned himself so his weapon was pointed at the robber and away from any bank employees or

customers. SA [redacted] used his left hand in an attempt to guide the robber to the ground. Initially the robber complied, but then suddenly stood up. The robber dropped the cash and the briefcase while SA [redacted] continued to try to control him with his left hand.

SA [redacted] attempted to pull the robber outside the bank to get assistance from Det. [redacted] who he knew to be coming towards the bank. As the two of them approached the exit door, the robber broke free from SA [redacted] grasp and turned away from him. The robber placed both of his hands near his waist and out of sight of SA [redacted]. The robber then began to quickly turn around towards him. SA [redacted] believed the robber had retrieved a weapon and was about to make an attempt to kill him. SA [redacted] fired one round towards the robber who was approximately 7 to 10 feet from him. The round missed the robber and struck the deposit/withdrawal counter inside the bank.

b6
b7C

After the shot, the robber ran back towards the center of the lobby. At that point SA [redacted] was able to see that the robber did not have a weapon in his hands. He ran to the robber and once again attempted to control him with his left hand while still holding his weapon in his right hand. As the two of them struggled, the robber once again bent over reaching for something on his person. This time he stood up holding what appeared to be a small cannister, later determined to be pepper spray. The robber began spraying SA [redacted] face to include his eyes. SA [redacted] began experiencing a burning sensation in his eyes. He once again felt threatened as he believed he may become disoriented and the robber would have an opportunity to take his gun and either shoot him or others.

SA [redacted] began to strike the robber with his right hand while still holding his weapon. He struck the robber three or four times in the area of the robber's head. During the entire time, the robber continued to spray SA [redacted] in the face with pepper spray. Using his left hand, SA [redacted] was finally able to get the robber to the exit door where they were met by Det. [redacted] The three of them exited the bank and fell on the ground near the front of the bank's door.

Once outside the bank, the robber continued to struggle with both SA [redacted] and Det [redacted] Within a few moments assistance arrived from OCSD patrol units in the area. The robber ws handcuffed and paramedics were requested. The paramedics arrived at the scene within a few minutes of being called. They provided the robber initial first aid and then transported him in custody to the Mission Hospital Regional Medical Center for further medical care. The robber sustained injuries to his head following the struggle.

b6
b7C

The robber was identified as [redacted] using the alias of [redacted] He was found to be on parole in the State of California.

SA [redacted] and Det. [redacted] also received abrasions from the struggle. They both were treated and released from Mission Hospital Regional Medical Center in Mission Viejo, California. b6 b7C

OCSD Homicide-Officer Involved Shooting Team and the Los Angeles Agent Involved Shooting Team responded to the scene. A joint investigation was conducted.

Neighborhood investigations were conducted at the shooting scene, along with witness interviews.

Photographs were taken of the crime scene area by both the FBI and OCSD. OCSD conducted the crime scene investigation.

OCSD furnished the FBI their written reports regarding the shooting incident.

Recovered at the scene was a replica of a chrome colored semi-automatic handgun which was determined to be a BB gun. Also recovered was the canister of pepper spray, along with the recovered bank money and [redacted] briefcase.

On July 15, 1998, a true bill indictment was returned by Federal Grand Jury, Los Angeles charging [redacted] with violations of Title 18, U.S. Code, Section 2113 (a) and 111; Bank Robbery and Assaulting a Federal Officer, respectively.

[redacted] is currently incarcerated in the Metropolitan Detention Center (MDC) in Los Angeles, California, pending further trial.

- P -

DETAILS:

This case is predicated upon information that SA [redacted] assigned to the Santa Ana Resident Agency of the Los Angeles Division of the Federal Bureau of Investigation (FBI), had been involved in a shooting incident at approximately 11:55 am, July 3, 1998, during the apprehension of [redacted] who had just committed a bank robbery at a Union Bank in San Clemente, California.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 11/23/98

To: Inspection Division Attn: Thomas J. Coyle

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Coyle Thomas
Lusby Thomas

Drafted By: [redacted]:lrr

Case ID #: 66-19157-22

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
2/4/98
ANCHORAGE DIVISION

Synopsis: To advise of a shooting incident in the Anchorage Division on 2/4/98, involving SA [redacted] who shot an injured moose in an effort to kill it.

Details: Reference report of Supervisory Special Agent (SSA) [redacted] dated 6/16/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. Coyle, Rm. 7825 (Enc.)
2 - Mr. [redacted], Rm. 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7326)
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. Mershon, Room 7837
2 - Ms. Ginsburg, USDOJ
(1 - Mr. [redacted]

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Room 4094
1 - Mr. [redacted] Room 3787F
1 - Mrs [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-22, 11/23/1998

Details of the Shooting Incident

On 2/4/98, SA [redacted] arrived on the scene of an accident where a motorist had collided with a moose. SA [redacted] was driving his personally owned vehicle on a paved, four lane, divided highway, with a 20 foot wide ditch separating the north and southbound lanes of traffic with moderate but sporadic traffic. It was dark with no street lights and the temperature was approximately 32 degrees with wet and icy roads.

The vehicle in front of SA [redacted] began braking rapidly and came to an almost complete stop in the roadway. SA [redacted] slowed his vehicle to a near stop. After a few seconds, the vehicle pulled into the right lane and continued southbound. SA [redacted] saw a large moose lying in the southbound passing lane. The animal's midsection was bloody and it appeared to have been hit by a car that had stopped about 90 feet further down the road.

SA [redacted] stopped his vehicle approximately 25 feet from the moose with his emergency flashers activated to alert approaching motorists. SA [redacted] did not have a phone in his possession nor did he have emergency flares or equipment. He exited his vehicle to assess the situation, identify and aid possible victims and to find a way to notify the appropriate emergency agencies.

Another motorist had stopped at the victim driver's car door to ensure the safety of everyone and SA [redacted] approached the moose. He noted that although the moose was severely injured, it was still alive and conscious. The animal's midsection was bloody and its right back leg was badly broken. Suddenly, the moose began moving its left leg and rocking back and forth in an attempt to stand. As SA [redacted] and another individual approached, the moose became agitated and increased its efforts to stand.

In the interest of public safety, SA [redacted] felt compelled to dispatch the animal before anyone was injured. SA [redacted] advised the other bystander of his identity and requested that he return to his vehicle. The motorist advised that he would leave the scene and attempt to notify the Anchorage Police Department.

SA [redacted] determined the safest course of action would be to approach the right side of the moose's head and fire several shots into the animal's right eye socket. SA [redacted] fired four rounds from his FBI issued Sig Sauer P228 nine millimeter

b6
b7C

b6
b7C

pistol into the animal's right eye socket. After waiting approximately 30 seconds to verify that the animal was immobilized and dying, SA [redacted] holstered his weapon and proceeded to the victim driver's vehicle. He determined that the driver of the vehicle was not injured.

Another motorist stopped at the scene and advised that he was an Emergency Trauma Technician and offered his help. At that time, SA [redacted] noticed that the moose was moving around and struggling to stand again. SA [redacted] returned to the moose and after ensuring that all bystanders were out of the line of fire, fired four additional rounds into the moose's left eye socket. The moose began struggling to move its head and forebody causing SA [redacted] to fire four additional rounds into the moose's forehead. After several seconds, the moose's breathing became shallow and sporadic. Although not dead, the moose made no further attempts to stand.

Once it was apparent that the moose no longer posed a danger to anyone's safety, SA [redacted] holstered his weapon and began to flag down passing motorists in an attempt to locate someone with a cellular phone.

b6
b7C

A motorist stopped and SA [redacted] used his phone to report the accident. Within a few minutes, an Anchorage Police Department squad car arrived and checked the condition of the moose. The officer advised SA [redacted] that another unit would arrive and probably shoot the animal one last time with a shotgun slug. Upon the arrival of the second squad car, an officer approached the moose and fired a single shotgun slug into the moose's head.

On 10/14/98, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas Lusby, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: Mark J. Mershon, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2B, National Security Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section,

Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Unit Chief, Investigative Law Unit, Office of General Counsel, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this shooting incident involved an intentional discharge of SA [redacted] weapon. The only issue discussed by SIRG members was the fact that SA [redacted] should have realized that a nine millimeter pistol would not kill a moose and that he should have resolved the matter by contacting animal control to secure the moose. This matter will be discussed with the SAC. Members unanimously concurred that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

# 1998

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/23/98

To: Inspection Division Attn: [redacted]

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: [redacted] b6 b7C
Lusby Thomas [redacted]

Drafted By: [redacted] lrr

Case ID #: 66-19157-11

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/4/98
CLEVELAND DIVISION

Synopsis: To advise of a shooting incident involving agents of the Cleveland Division during a felony car stop of two suspected armored car robbers..

Details: Reference report of Inspector-in-Place [redacted] dated 3/27/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116 (Enc.)
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 4147
2 - Ms. [redacted] USDOJ
(1 - Ms. [redacted])

1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-11 06/23/1998

Details of the Shooting Incident

This shooting incident was a result of an investigation of [redacted] and [redacted] two suspected armored car robbers operating in the Cleveland, Ohio, area. These individuals were identified in 1995 as suspects in three armored car robberies. Information was developed that these robberies involved unprovoked shootings and the use of ballistic vests and armor-piercing ammunition. The Cleveland Division conducted periodic surveillances and spot checks of both subjects beginning in 1995. b6 b7C

On 2/12/98, the Special Operations Group (SOG) located both subjects together casing a Brinks armored car route. Based upon information developed from the surveillances, it was believed that the subjects were in the planning stage of another armored car robbery. Executive Management of the Cleveland Division instructed the SOG to begin daily surveillance of both individuals. Additionally, Cleveland Division management and a Special Weapons and Tactics Team (SWAT) Team Leader began nightly meetings to discuss the activities of the subjects and a possible arrest plan.

At approximately 9:00 a.m., on 3/4/98, the subjects were observed departing [redacted] residence in [redacted] personally owned Chevrolet van. Both subjects were surveilled to an apartment complex on the southwest side of Cleveland. The subjects departed the apartment complex in separate vehicles with [redacted] driving a Ford minivan which was determined to be stolen. Special Agent in Charge (SAC) Van A. Harp was notified of this information and dispatched Assistant Special Agent in Charge Louis Frederick Allen to the area.

The subjects were surveilled to a gas station where they were observed transferring baggage from [redacted] van to [redacted] stolen van. The subjects were observed traveling to a K-Mart parking lot where [redacted] parked his vehicle and departed with [redacted] in the stolen van. [redacted] stolen van was later observed in the parking lot at the Star Bank which was one of several locations identified as potential armored car robbery sites based on previous surveillance. SA [redacted] contacted the Brinks Armored Car Company and had the armored car intercepted in order to prevent it from making its usual stop at the bank. An operational plan had been discussed whereby the Brinks armored car servicing the potential robbery site would be diverted by agents, making the subjects abort the robbery and return to the switch vehicle where their guard would be at its b6 b7C

lowest. Agents on the scene believed that at this point enough probable cause existed to arrest the subjects for the attempted armored car robbery.

At approximately 11:30 a.m., the Cleveland SWAT Team effected a felony car stop as [redacted] and [redacted] returned to the switch site in the K-Mart parking lot. [redacted] exited the stolen van and [redacted] began to turn the van around as if to exit the parking lot. Three SWAT vehicles simultaneously approached [redacted] vehicle from both sides and the rear blocking it from exiting the parking lot. [redacted] who had exited [redacted] van, was quickly apprehended near his own vehicle. SWAT agents exited their vehicles and identified themselves to [redacted] who was non-compliant and immediately put his van in reverse and rammed the SWAT van blocking his rear. He then went forward at an angle, ramming the SWAT vehicle to his left. He was reversing his van again when SA [redacted] who was located at the front passenger side of [redacted] vehicle, fired at the subject. SA [redacted] who had taken up a position behind the subject's van, also fired into the rear window of the van as it was accelerating toward him in reverse for the second time. SAs [redacted] and [redacted] stated that they fired at [redacted] when he accelerated forward for the second time in order to protect themselves and other agents. b6 b7C

[redacted] van broke through the chain link fence and came to rest a few feet from a brick wall. He was ordered out of the van and placed under arrest by agents on the scene. Agents discovered that the subject was wearing a bulletproof vest and carrying a fully-loaded Sig Sauer Model 226, nine millimeter semi-automatic pistol. Agents clearing the van observed a blue gym bag which contained a 12-gauge shotgun, a fully loaded Glock nine millimeter pistol with two extra magazines, an AK 47 semi-automatic rifle with a sawed-off stock, two magazines for an AK 47 taped together, a fully loaded Glock 45 caliber pistol, a fully loaded Glock 45 caliber magazine, a barrel-drum magazine, a bulletproof vest, a can of mace and handcuffs. [redacted] suffered multiple gunshot wounds to the face, arm and shoulder. He was transported to the emergency room of the Metro Health Medical Center in Cleveland by emergency medical services and is recovering from his wounds. b6 b7C

On 6/15/98, the SIRG met to discuss the above captioned shooting incident. Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Section, Criminal Division,

USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted], Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this incident involved the intentional discharge of the weapons of the four agents who fired. Members also unanimously concurred that the use of deadly force in this incident was justified and in conformance with the current deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against any employee involved in this shooting incident.

All members opined that, although not written, the Cleveland Division had developed extensive plans regarding the arrest of the subjects prior to the incident. Consideration was given to the fact that the subjects were known to use vests as well as armor piercing ammunition. Attendees commended the division for its outstanding coordination among all entities at the scene and also voiced the opinion that this task force could be used as a model for other Bureau offices. In particular, one member defined the task force as "doing the job right" and ensuring that "everything was covered."

A short discussion ensued regarding two issues raised by attendees. The first was the fact that an agent shot through

a curtained window in the van. Members discussed the fact that although the agent shot through the window, he knew no passengers were in the vehicle, therefore, third party injuries were not a concern in this instance.

The second issue related to the fact that, although thoroughly coordinated between the Cleveland Division and FBIHQ, and based on a previous agreement between the FBI and the Cleveland Police Department, members of the Police Department had conducted interviews after the incident. Although this is acceptable, members opined that SAC Harp may want to consider having an SA present when police are conducting interviews since the use of joint statements is preferable.

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident. b6 b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 06/22/98

To: Inspection Division Attn:

From: Inspection Division
Contact: Extension 1837

Approved By: Lusby Thomas

Drafted By: lrr

b6
b7C

Case ID #: 66-19157-52

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/14/98
SPRINGFIELD DIVISION

Synopsis: To advise of a shooting incident in the Springfield Division during the execution of a federal search and seizure warrant. Supervisory Senior Resident Agent (SSRA) fired one shot injuring the subject.

Details: Reference report of Inspector-in-Place dated 4/15/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. Rm. 7142
1 - Mr. Rm. 7825 (Enc.)
2 - Mr. Rm. 7116 (Enc.)
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. Room 7427
(1 - Ms. Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. Room 7837
1 - Mr. USDOJ
1 - Mr. Room 4147
2 - Ms. USDOJ
(1 - Ms.

1 - Mr. Quantico
1 - Mr. WFO
1 - Mrs. Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-52, 06/22/1998

**Details of the Shooting Incident**

On 3/12/98, SA [redacted] of the Carbondale Resident Agency (RA), Springfield Division, obtained a federal search warrant for the residence of [redacted] in Colp, Illinois. The search warrant was for crack cocaine, United States currency, and other drug related materials.

On 3/14/98, at 4:30 a.m., SSRA [redacted] b6 b7C conducted a briefing at the Carbondale RA with members of the search team regarding the case and the planned searches for the morning. At approximately 5:00 a.m., the officers and agents broke into two groups based on their target search. The individuals responsible for conducting the search of the [redacted] residence went into SSRA [redacted] office where he provided a packet of information regarding the search. The packet included a copy of the search warrant, hand drawn map of the residence, photographs of the subject as well as his criminal history, a photograph of the residence, a copy of the affidavit supporting the search warrant, and an assignment sheet. Detailed discussions were conducted regarding the fact that [redacted] was known to keep a gun in his bedroom. Additionally, the group discussed in detail entry plans and assignments were made by SSRA [redacted] based on the experience level of the officers and agents present.

At approximately 6:00 a.m., the search team arrived at the residence and the front door was forced open by SA [redacted] using a ram. Officers, announcing police and FBI, began entry into the premises.

Sergeant [redacted] was the first officer through the door, followed by Special Federal Officer [redacted] b6 [redacted] These officers proceeded to the back bedroom and forced b7C the partially ajar door open. Upon entering the room, the subject was moving in an easterly direction towards the side kitchen door, holding a .22 caliber silver [redacted] handgun in his hand. Officer [redacted] yelled gun and dropped to his knees along side of the bed. [redacted] aimed at Officer [redacted] and fired one round which was subsequently retrieved from the bed mattress adjacent to where Officer [redacted] was crouched. Officer [redacted] fired four rounds at the subject who was near the doorway to the kitchen from the north bedroom. Officer [redacted] who had entered the rear bedroom behind Officer [redacted] fired four rounds in the direction of [redacted] At this point, SSRA [redacted] was in the living room and approaching the entrance to the kitchen. He observed

the subject backing from the bedroom into the kitchen with his gun in his right hand and a magazine in his left hand. Officers were yelling at [redacted] to drop the gun and get down but [redacted] did not obey the command. As he was backing into the kitchen, [redacted] turned toward the area where SSRA [redacted] was located, resulting in SSRA [redacted] firing one round. Officer [redacted] who was to the right of SSRA [redacted] also fired one shot at [redacted] fell to the floor and his gun slid away on the floor further into the kitchen.

[redacted] was then handcuffed and SA [redacted] applied pressure to the wound in his stomach with a sock obtained from the residence. An ambulance was called and transported the subject to the Herrin Hospital. [redacted] suffered from three gunshot wounds identified as one in his left upper arm, the left abdomen and the left hip. The subject fully recovered from these injuries.

b6
b7C

After the shooting incident, all individuals firing their weapons were administered a breathalyser by a member of the Carbondale Police Department. The weapons and magazines of all shooters were surrendered to the Illinois State Police, Division of Forensic Services, who conducted the crime scene investigation.

It was subsequently determined that the weapon used by [redacted] was a .22 long rifle caliber Jennings pistol, which contained a magazine and six cartridges with one round partially seated in the chamber. An extra magazine was found behind the stove in the kitchen which contained six cartridges. The weapon apparently jammed after [redacted] fired the first round at Officer [redacted]

On 6/15/98, the SIRG met to discuss the above captioned shooting incident. Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted], Unit Chief, Firearms Training Unit, Training

b6
b7C

Division (TD); and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this incident involved an intentional discharge of the weapons of SSRA [redacted] and other law enforcement participants. Members also unanimously concurred that the use of deadly force was in conformance with the current deadly force policy and that no action should be taken against SSRA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SSRA [redacted] as a result of his involvement in this shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 09/17/98

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-44

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/6/98
SALT LAKE CITY DIVISION

b6
b7C

**Synopsis:** To advise of a shooting incident involving two agents of the Salt Lake City Division during an attempt to effect the arrest of [redacted] a known fugitive.

**Details:** Reference report of Supervisory Senior Resident Agent (SSRA) [redacted] dated 6/15/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted], Rm. 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
2 - Mr. [redacted], USDOJ
(1 - Mr. [redacted]
2 - Ms. [redacted], USDOJ
(1 - Mr. [redacted]

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] uantico
1 - Mr. [redacted], Room 3787F
1 - Mrs. [redacted] Room 7861

b6
b7C

**Details of the Shooting Incident**

The Salt Lake City Division Violent Crimes Task Force (VCTF) became involved in this investigation on 3/6/98, based on a request for assistance from the Utah Department of Corrections (UDOC). Authorities of the UDOC requested assistance under the provisions of the Unlawful Flight statute. The UDOC had obtained a state felony warrant charging the subject with Absconding Parole Supervision and Failure to Complete Community Correctional Center Program. The subject's original incarceration was for theft; however, his criminal record reflected an extensive arrest record including assault on a peace officer where he was shot by a Salt Lake County Sheriff's Deputy on 7/14/94. The subject was a known gang member affiliated with the Aryan Brotherhood and Skinheads.

On 4/30/98, local authorities arrested [redacted] in Salt Lake City. During this arrest, a single gun shot was fired by an unknown person. A subsequent local investigation determined that [redacted] was the individual responsible for firing the gun shot. As a result of this incident and the specific request from the UDOC, efforts to locate [redacted] were intensified by the VCTF. On 5/1/98, VCTF Supervisory Special Agent (SSA) [redacted] had a squad meeting which included local, state and federal officers assigned to the task force. The background and known violence of [redacted] was discussed during this meeting. SSA [redacted] instructed that the investigation concerning [redacted] be conducted utilizing two six-member teams consisting of VCTF personnel and that protective body armor was to be worn during any contacts made in an effort to locate the subject.

b6
b7C

On 5/1/98, information was developed that [redacted] was staying in Magna, Utah, and that he was in possession of a firearm. Information was also received that [redacted] had been in the area with a female companion on 4/30/98, and that he appeared not to be in a very stable state of mind. Another individual stated that she had seen [redacted] with a handgun. Information was also gathered that [redacted] had called an acquaintance asking for some clothes so he could get out of town.

Information was received on 5/6/98, that [redacted] was in a residence located in Layton, sleeping in a back bedroom of a trailer and that he was in possession of a "silver colored handgun". It was reported that a 16 year old and a four year old were also occupants of the trailer.

Following receipt of this information, personnel of the VCTF, the Ogden Resident Agency (RA), the Ogden VCTF, Northern Utah Criminal Apprehension Team and Layton Police Department (LPD) met and were briefed on the subject's background, including information about the 4/30/98 shooting.

A decision was made during the meeting to request the LPD SWAT Team for assistance. A plan was formulated for a perimeter to be established around the trailer by two three-man teams, and occupants of nearby trailers would be evacuated to a safe location away from the scene.

As members of the two teams were moving to their predetermined locations on opposite sides of the trailer, the subject appeared in the doorway, and looked in the direction of the team located northwest of the trailer. Task Force Officer [redacted] yelled commands to the subject "This is the police, step out and put your hands in the air." The subject quickly disappeared back into the trailer, immediately reappeared with a pistol in his left hand, and fired at the team members. The subject quickly ducked back into the trailer and within seconds reappeared with the gun still in his hand, and pointed it directly at Officer [redacted] Officer [redacted] fired one slug round from his shotgun, and the subject appeared to fall back into the trailer. Simultaneously, the southeast side perimeter team was arriving at their location, observed the subject's movements, and heard Officer [redacted] shouts to the subject. VCTF Officer [redacted] and SA [redacted] fired one round each and the subject ducked back into his trailer. Within moments, the subject threw a handgun out of doorway landing on the driveway in front of the trailer and exited the trailer with his hands in the air. Although officers could see that the subject was bleeding, he would not comply with commands given to him to submit to arrest and for the next 40 minutes yelled obscenities and acted in an irrational fashion. He continued to fail to comply with verbal commands from various officers and agents attempting to convince him to lie on the ground and submit to arrest. The subject continually moved around the area in front of his trailer, walking around and standing close to the handgun on the driveway. He made numerous movements with his body and hands as though he was going to retrieve the handgun. SA [redacted] who observed the subject's movements and overheard the subject's yells at the various law enforcement officers became concerned for the safety of everyone involved in this incident. As the subject made one of his movements in the direction of the handgun, SA [redacted] fired one slug round from a Remington 870 shotgun. The round hit the weapon causing it to spin around on

b6
b7C

the pavement. The subject reacted by jumping back from the weapon, however, did not give up or comply with any verbal commands. The LPD SWAT Team arrived on the scene and as they were approaching the trailer a police dog barked. The dog's bark immediately gained the subject's attention, and as the SWAT Team was approaching the trailer the subject asked them not to use the dog and immediately complied with commands to lie on the ground and was placed under arrest.

[redacted] was transported to the University of Utah Medical Center where he received medical attention for his gunshot wound.

On 8/11/98, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas Lusby, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted], Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

A lengthy discussion ensued regarding the use of deadly force by the agents involved in this shooting incident. Members

unanimously concurred that the use of deadly force in this incident was justified and that shots fired by SA [redacted] as well as the task force officers were in conformance with the current deadly force policy. However, members questioned the shot taken by SA [redacted] Participants discussed the fact that although the current deadly force policy specifically addresses warning shots and the disabling of vehicles, it does not technically address the disabling of weapons. The OGC representative verified that the "imminent danger" aspect continued to be in place during this entire incident when the subject was attempting to gain access to his weapon. Additionally, based on the subject's previous history and his actions that day, he had the intent to use the weapon if access was gained. Members emphasized the fact that the discharge of SA [redacted] weapon was not intended to neutralize the subject and, therefore, could technically be considered a violation of the current deadly force policy. This resulted in the recommendation that SA [redacted] be censured for his lack of good judgment in attempting to neutralize the subject's weapon instead of the subject. Members opined that he should have considered potential injuries to third parties before shooting at the subject's weapon and unanimously agreed that SA [redacted] should receive remedial training regarding the current deadly force policy. b6 b7C

Although no recommendations were made, members made the following observations about the shooting incident: 1) the arrest plan contained deficiencies allowing a "cross fire" situation which could have resulted in officer safety issues as well as potential danger to the public and that this could have been eliminated if SA [redacted] had advised that he was going to fire a shot; 2) there was no management, direction or control provided on the scene due to the failure of the acting supervisor to advise office management of the situation until after the shooting incident; and, 3) the acting supervisor failed to provide proper leadership. Additionally, members noted the fact that the acting supervisor deployed SWAT Teams without the required notification, concurrence and onsite presence of an SAC or ASAC. Based on this discussion, the SAC will be advised to ensure that Acting SSA [redacted] is provided guidance regarding the duties of a supervisor. b6 b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-44, 09/17/1998

**LEAD(s):**

**Set Lead 1:**

OFFICE OF PROFESSIONAL RESPONSIBILITY

AT WASHINGTON, D. C.

That SA [redacted] be censured for his lack of judgment in attempting to neutralize the subject's weapon rather than the subject. Further, SA [redacted] should be advised that his shooting at the subject's weapon could be considered a technical violation of the current deadly force policy. The SAC's copy of the letter of censure should state that SA [redacted] must receive in-depth remedial training regarding the current deadly force policy.

**Set Lead 2:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his participation in this shooting incident.

b6
b7C

FD-36 (12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Date: 09/15/98

Precedence: ROUTINE

To: Inspection Division Attn: [redacted]

From: Inspection Division
Contact: [redacted] Extension 1837

b6
b7C

Approved By: [redacted]
Lusby Thomas

Drafted By: [redacted] lrr

Case ID #: 66-19157-10

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
6/10/98
CINCINNATI DIVISION

Synopsis: To advise of an accidental discharge of Special Agent (SA) [redacted] nine millimeter Sig Sauer pistol, model P226.

Details: Reference report of Special Agent in Charge Sheri A. Farrar, dated 7/16/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
2 - Mr. [redacted] USDOJ
(1 - Mr. [redacted]
2 - Ms. [redacted] USDOJ
(1 - Mr. [redacted]

1 - Mr. [redacted] Quantico
1 - Mr [redacted] NFO
1 - Mr [redacted] Quantico
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-10, 09/15/1998

Details of the Shooting Incident

On 6/10/98, at approximately 3:45 p.m., SA [redacted] accidentally discharged his firearm as a four member Special Weapons and Tactics (SWAT) Team was effecting the arrest of a subject following a reverse drug transaction. This accidental discharge resulted in the personal injury of [redacted] a subject in the investigation. b6 b7C

In July 1997, the Cincinnati Division began the investigation of an international marijuana trafficking ring. In April 1998, the Miami Division engaged in a series of consensually recorded telephone conversations. Based on information gained from these activities, the Miami Division requested that the Cincinnati Division assist with arranging four reverse undercover operations. The SAC of the Cincinnati Division approved the request contingent upon review and approval of specific detailed plans of how each operation would be conducted. A draft copy of the Operations Plan was submitted to the Cincinnati Division management for review and approval detailing how each operation would be carried out. Contingent on certain minor changes and additions to the plan, the overall plan was orally approved by the SAC.

[redacted] b6 b7C b7D

After the subject's departure from the hotel following the 1:00 p.m., meeting, the plan to arrest the subject was again reviewed and the SWAT Team members participating in the arrest did a walk through [redacted] to ensure everyone involved was familiar with how the arrest would take place.

[redacted]

as he closed the bag, the arrest team entered the room with SA [redacted] being the first member of the SWAT Team to enter. The recorder was turned off as soon as the SWAT Team entered the hotel room, however the video camera continued to run enabling personnel in the adjacent room to monitor the arrest. The SWAT Team announced "FBI" and the subject was instructed to "freeze". The subject did not immediately comply and backed up to the bed, leaning or falling back on it and began to slide away from SA [redacted] who was attempting to gain control of him. As SA [redacted] was exerting pressure with his left hand on the subject's right shoulder to forcefully pull the subject toward him, SA [redacted] accidentally discharged his weapon striking the subject in the left arm.

A SWAT Team member who was a certified Emergency Medical Technician began rendering immediate medical attention to the subject and an ambulance was summoned. The subject was transported to Riverside Hospital where he underwent surgery to remove the bullet and was subsequently listed in stable condition.

Local and state investigative agencies were summoned to conduct the crime scene investigation.

On the morning of 6/11/98, after the subject was coherent and could be interviewed according to the doctors, he was advised of his rights. The subject refused to sign the form or orally waive his rights expressing his desire to talk with an attorney therefore no interview was conducted. The subject was subsequently discharged from the hospital that afternoon and placed in the Franklin County Jail.

On 8/11/98, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas Lusby, Inspection Division, chaired the meeting with the following [redacted] Trial voting members of the SIRG in attendance:

Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The only issue discussed by SIRG members involving SA [redacted] regarded the fact that during the arrest of [redacted] he began to reach for the subject with his left hand, still holding his weapon in his right hand. Members reiterated the fact that proper training dictates that weapons should be secured prior to physically handling subjects. Participants unanimously concurred that SA [redacted] violated a second safety rule by having his finger inside the trigger guard. Members opined that SA [redacted] disregarded both of these rules which resulted in the accidental discharge of his weapon. This discussion resulted in the recommendation that SA [redacted] be censured and suspended from duty for a period of three days.

b6
b7C

The last issue in this shooting incident involved the weapon being used by SA [redacted] According to his signed sworn statement, SA [redacted] was carrying his Les Baer 45 caliber pistol, which is a Hostage Rescue Team (HRT) exclusive "program" weapon which non-HRT SAs have no authority to carry. The TD representative advised that since the TD is the sole

approving authority for weapons used by the general agent population, this issue will be handled by TD management.

LEAD(s):

Set Lead 1:

OFFICE OF PROFESSIONAL RESPONSIBILITY

AT WASHINGTON, D. C.

That SA [redacted] be censured and suspended from duty for a period of three days for his failure to follow proper firearm safety procedures.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 11/23/98

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 66-19157-26

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/3/98
LOS ANGELES DIVISION

**Synopsis:** To advise of a shooting incident in the Los Angeles Division on 7/3/98, involving an intentional discharge of Special Agent (SA) [redacted] weapon during the arrest of a bank robber.

**Details:** Reference report of Assistant Special Agent in Charge (ASAC) Susan R. Chainer, dated 7/29/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116
(1 - Mr. [redacted] Room 5155)
1 - Mr. Foran, Room 6646
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted], Room 7326)
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
2 - Ms. [redacted] USDOJ
(1 - Mr. [redacted])

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Room 4094
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-26, 11/23/1998

**Details of the Shooting Incident**

On 7/3/98, SAs assigned to the Santa Ana Resident Agency and a Sheriff's Deputy from the Orange County Sheriff's Department (OCSD) were assigned to conduct a "stakeout" at three banks in the Orange County area. These individuals were assigned to the Bank Robbery Apprehension Team (BRAT) Task Force to conduct investigations of bank robberies in Orange County. b6 b7C

At approximately 8:00 a.m., on 7/3/98, SA [redacted] held a briefing in San Clemente with other agents and local officers. During the briefing, SA [redacted] furnished a description of the bank robber, the available bank surveillance photographs of the robber and his clothing attire, normally a suit and tie. This attire earned him the nickname of "accountant bandit". SA [redacted] informed the participants of the meeting that the robber should be considered armed and dangerous due to the nature of the offense and the fact that the robber had previously carried a chrome colored handgun in his waistband. SA [redacted] made surveillance assignments for personnel at three Union Banks which were identified in his operational plan and approved by Supervisory Special Agent (SSA) [redacted] The plan called for three two-man teams staked out at three banks in the San Clemente area. SA [redacted] and Detective [redacted] were to be located at the Union Bank located at 810 Avienda Pico in San Clemente. It should be noted that all three banks involved in the "stakeout" had been robbed by the same robber on prior occasions.

At approximately 9:00 a.m., SA [redacted] and Detective [redacted] began their surveillance of the bank. A previous determination had been made that SA [redacted] would be inside the bank to observe customers. He maintained contact with Detective [redacted] who was observing the bank from a vehicle west of the building using a hand held radio. Bank employees were notified of SA [redacted] presence and several employees knew the description of the robber.

A bank employee advised SA [redacted] at approximately 11:55 a.m., that a person matching the description of the robber was standing in the customer service line. Moments later, the bank manager also signaled to SA [redacted] that the subject was inside the bank. SA [redacted] immediately notified Detective [redacted] that the subject was possibly in the bank. b6 b7C

Since SA [redacted] was not certain if the person in the bank was the same individual as the serial robber they were

anticipating to arrest, he watched as the person walked up to a teller window carrying a small briefcase. He observed the teller take a large bundle of money and place it on the counter. Additionally, a closer look at the person convinced him that this was the robber they were searching for. SA [redacted] believed that he had just witnessed a bank robbery and he also believed that the robber was the "accountant bandit".

As the robber turned to leave, SA [redacted] observed the briefcase in one of his hands and a large bundle of cash in the other. SA [redacted] decided this would be the safest time to apprehend the subject since both of his hands were occupied and he knew Detective [redacted] would be there momentarily. b6 b7C

SA [redacted] drew his personally owned Bureau approved .45 caliber semi-automatic, Sig Sauer Model P220, and pointed it at the robber. He told the robber that he was with the FBI and that he was under arrest. SA [redacted] had positioned himself so his weapon was pointed at the robber and away from any bank employees or customers. SA [redacted] used his left hand in an attempt to guide the robber to the ground. Initially the robber complied with SA [redacted] commands then suddenly stood up. The robber dropped the cash and the briefcase while SA [redacted] continued to try to control him with his left hand.

SA [redacted] attempted to pull the robber outside the bank to get assistance from Detective [redacted] who he knew to be coming towards the bank. As the two of them approached the exit door, the robber broke free from SA [redacted] grasp and turned away from him. The robber placed both of his hands near his waist and out of SA [redacted] sight. The robber then began to quickly turn around towards SA [redacted] SA [redacted] believing the robber had retrieved a weapon and was going to attempt to kill him, fired one round towards the robber who was approximately seven to 10 feet from him. The round missed the robber and struck the deposit/withdrawal counter inside the bank.

After the shot, the robber ran back towards the center of the lobby and SA [redacted] was able to see that the robber did not have a weapon in his hands. He ran to the robber and again attempted to control him with his left hand while still holding his weapon in his right hand. As they struggled, the robber bent over reaching for something. When he stood, he was holding what appeared to be a small canister, later determined to be pepper spray. The robber began spraying SA [redacted] face including his eyes. Feeling threatened and believing that he may become disoriented giving the robber an opportunity to take his gun and b6 b7C

either shoot him or others, SA [redacted] began striking the robber with his right hand while still holding his weapon. He struck the robber three or four times in the head. During the entire time, the robber continued to spray SA [redacted] in the face with the pepper spray. Using his left hand, SA [redacted] was finally able to get the robber to the exit door where they met Detective [redacted] The three of them exited the bank and fell on the ground near the front of the bank's door.

Once outside the bank, the robber continued to struggle with both SA [redacted] and Detective [redacted] Within a few moments, additional assistance arrived from the OCSD patrol units in the area. The subject was handcuffed and paramedics were requested. They provided the robber initial first aid and transported him in custody to the Mission Hospital Regional Medical Center for further medical care where he was treated for head injuries. SA [redacted] and Detective [redacted] also received abrasions from the struggle and were treated and released from the Mission Hospital Regional Medical Center. b6 b7C

Subsequent to the shooting incident, a replica of a chrome colored semi-automatic handgun which was determined to be a BB gun was recovered along with the canister of pepper spray, the recovered bank money and the subject's briefcase.

On 10/14/98, the SIRG met to discuss the above captioned shooting incident. Deputy Assistant Director Thomas Lusby, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2B, National Security Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Unit Chief, Investigative Law Unit, Office of General Counsel, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-26, 11/23/1998

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members held a lengthy discussion regarding this shooting incident. All members agreed that the use of deadly force was justified and in conformance with the current deadly force policy.

The first comment made by a SIRG member was the fact that this "stakeout" called for two-man teams; however, technically this incident involved a one man stakeout at the bank. Operational, training and safety issues relating to this incident included the fact that the participants had a non-existent operational plan, had vague or no communication with each other and that SA [redacted] apparently had no backup. Members also noted that although SA [redacted] believed the subject to be armed, he was in the bank alone with no assistance. Additionally, members discussed the fact that SA [redacted] never attempted to neutralize the subject when he had many reasons to do so, and questioned why he shot towards a counter where people were located. These issues will be brought to the attention of the Assistant Director in Charge of the Los Angeles Division.

Observations made by the SIRG included the fact that there was very little management control provided in construction of the "proposed" operational plan; there was no supervisor on the scene or management oversight provided; and, that bank employees and bank users were unnecessarily subjected to danger. Members agreed that SA [redacted] should not have confronted the subject inside the bank and emphasized that he should have waited until the suspect exited the bank before the confrontation began. Standard operating procedures dictate that you either get the subject before entering the bank or wait until the subject leaves the bank to take action. This discussion resulted in the recommendation that SA [redacted] receive a letter of censure for his lack of judgement in confronting the subject inside the bank. b6 b7C

SIRG members noted that pistol whipping with a cocked weapon with a floating muzzle in the air puts people in jeopardy.

The SIRG unanimously agreed that under this circumstance, the weapon should either be used or holstered.

To: Inspection Division From: Inspection Division
Re: 66-19157-26, 11/23/1998

**LEAD(s):**

**Set Lead 1:**

OFFICE OF PROFESSIONAL RESPONSIBILITY

AT WASHINGTON, D. C.

That SA [redacted] be censured for his poor judgement in confronting the subject inside the bank which resulted in an escalation of violence putting individuals inside the bank in unnecessary jeopardy.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 3/4/99

To: Inspection Division Attn: Thomas Lusby

From: Inspection Division
Contact: [redacted], Extension 1837

Approved By: Lusby Thomas [redacted]

b6
b7C

Drafted By: [redacted] rr

Case ID #: 297-HQ-A1271898-D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/4/98
PHOENIX DIVISION

Synopsis: To advise of a shooting incident in the Phoenix Division on 7/4/98. FBI Agents and officers from the Phoenix Police Department (PPD), assigned to the Phoenix Fugitive Task Force (PFTF), shot and killed William John Sershon during an attempted arrest.

Details: Reference report of Assistant Special Agent in Charge Walter B. Stowe, Jr., dated 10/29/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. Foran, Room 6646
(1 - Mr. [redacted] Room 6313)
3 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted], Room 7837
1 - Mr. [redacted] USDOJ
2 - Ms. [redacted] USDOJ
(1 - Mr. [redacted])

1 - Mr [redacted] Quantico
1 - Mr [redacted] FO
1 - Mr [redacted] Room 4147
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271898-D, 03/04/1999

Details of the Shooting Incident

On 7/4/98, agents and officers from the PFTF shot and killed a subject who was being sought on a warrant for murder and burglary. The warrant was issued on 7/1/98, for a homicide which occurred in connection with a carjacking. The subject, William John Sershon, was also being sought on felony drug and weapons charges brought by the PPD.

The PPD had recently attempted to arrest Sershon; however, he had eluded them and fled to an apartment complex where he broke into an apartment and hid. When the female occupant of the apartment returned home, Sershon assaulted her at gun point, fled the apartment and left the area in a highjacked vehicle. On 6/23/98, Sershon and a female accomplice, [redacted], highjacked a motor home belonging to Melvin Dean Radtke in the vicinity of Flagstaff, Arizona. Radtke was either pushed or jumped from the vehicle and was run over by the vehicle and killed.

[redacted] turned herself in on 7/2/98, and was debriefed by agents and police officers. She advised that Sershon would return to Phoenix over the weekend and also advised that he was armed with a .357 magnum revolver and a fully automatic AK-47 style assault rifle. [redacted] also stated that Sershon had told her that he would not be taken alive and would not be sent back to prison. According to [redacted] Sershon would shoot it out with anyone who attempted to arrest him. All information provided by [redacted] was provided to members of the PFTF who had been asked to assist in the location and apprehension of Sershon. b6 b7C

[redacted]

members of the task force were able to trace a telephone number. The number came back to a Glendale, Arizona trailer park. Initially, three task force members identified as Lieutenant [redacted] and Detectives [redacted] and [redacted] of the PPD, responded to the trailer park. Sometime after 4:30 a.m., the officers saw an individual they believed to be Sershon. The three officers were subsequently joined by FBI SAs [redacted], and [redacted] as well as PPD Detective [redacted] Task force personnel blocked the front entrance to the trailer park and called the Glendale Police Department and requested that marked units respond to the scene. Additional FBI Agents were also requested to respond. b6 b7C b7D

At approximately 5:45 a.m., while PFTF personnel were finalizing an arrest plan and preparing to set up, Sershon was observed exiting the trailer where he was staying and getting into a blue 1998 Pontiac. He was observed carrying a black bag which was about the size of a shaving kit. [redacted], who was staying at the trailer, later advised that Sershon was carrying a .357 magnum revolver next to the bag. Sershon drove through the trailer park and as he was approaching the front entrance, was cut off by vehicles driven by task force personnel. Vehicles driven by FBI SA [redacted] and PPD Detective [redacted] who was accompanied by FBI SA [redacted] blocked the subject's escape route from the front and a vehicle driven by PPD Detective [redacted] blocked the subject from the rear. Sershon attempted to escape by rapidly making a U-turn to his right; however, he ran into a nearby trailer. Sershon quickly reversed the car and attempted to ram through a fence that marked the perimeter of the trailer park. His vehicle was unable to penetrate the fence and came to rest as it struck a storage shed on the other side of the fence. b6 b7C

Several of the PFTF personnel, who were wearing clothing that identified them as law enforcement personnel, approached the subject's vehicle. Several of them shouted surrender commands; however, Sershon stated that he would not be taken alive and crouched down as if to reach into the floorboard area of his vehicle. The task force personnel members also heard Sershon make a statement to the effect that if they did not kill him, he would kill himself. When Detective [redacted] observed Sershon come up with a weapon in his hand, he fired his Glock .40 caliber semi-automatic pistol. SA [redacted] fired his Colt M-4 A1 .223 caliber carbine. Several rounds struck Sershon, who was pronounced dead at the scene by Glendale Emergency Response personnel.

The Glendale Police Department conducted the crime scene assisted by FBI Evidence Response Team Coordinator [redacted] A Smith and Wesson Model 686, .357 magnum, was recovered from the passenger compartment of the subject's vehicle. The weapon's serial number was run through the National Crime Information Center and determined to be stolen from the victim of the 6/23/98, carjacking/homicide that Sershon was charged with. b6 b7C

On 1/6/99, the SIRG met to discuss the above captioned shooting incident. Chief Inspector [redacted] Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ;

[redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD) [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this shooting incident involved an intentional discharge of the weapons of SAs [redacted] and [redacted] as well as PPD Officer [redacted]. Members also unanimously concurred that the use of deadly force by these law enforcement officers was justified and in compliance with the current deadly force policy. This resulted in the recommendation that no administrative action be taken against anyone involved in this shooting incident.

The first issue discussed by the SIRG pertained to the absence of a written arrest plan in this incident. However, all members concurred that the absence of a thorough written arrest plan was a non-issue due to the fluid movements of the situation. b6 b7C

The only other issue discussed by the SIRG was the fact that SA [redacted] advised in his written statement that he knew he fired at least seven rounds due to counting seven shell casings on the ground. SA [redacted] further advised that he was not certain if the magazine in his weapon had been loaded with 25 or 30 rounds because another agent loaded the weapon for him. Members of the SIRG unanimously concurred that all SAs should

always know basic information such as the amount of ammunition in their possession during any situation. This issue did not result in any recommendation since the Firearms Training Unit representative advised that his unit would handle this matter.

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 05/25/1999

**To:** Inspection Division **Attn:** Thomas Lusby

**From:** Inspection Division
Contact: [redacted] Extension 1837

**Approved By:** Lusby Thomas [redacted]

**Drafted By:** [redacted] :lrr

b6
b7C

**Case ID #:** 297-HQ-A1271895-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/1/98
PHILADELPHIA DIVISION

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident that occurred in the Philadelphia Division on 9/1/98. Agents shot and wounded two subjects involved in a planned armored car robbery. Members of the Shooting Incident Review Group (SIRG) recommended that no administrative action be taken against any Agents involved in this incident.

**Details:** Reference report of Assistant Special Agent in Charge Michael E. Varnum, dated 11/6/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. Foran, Room 6646
(1 - Mr. [redacted] Room 6313)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted], Room 7837
1 - Mr. [redacted] USDOJ
2 - Ms. [redacted] USDOJ
(1 - Mr. [redacted])

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] oom 4147
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 7861

b6
b7C

Details of the Shooting Incident

On 2/12/97, Camden County Park Police Officer [redacted] was shot while in his patrol vehicle as he responded to the sound of gunfire on Fremont Street in Camden, New Jersey. A subsequent investigation determined that [redacted] and [redacted] shot Officer [redacted] as they fled from the scene of the attempted robbery and murder of Carlos Rosario. Both subjects were indicted by a Camden County Grand Jury and [redacted] was subsequently arrested by county authorities. He admitted to being present at the scene when Officer [redacted] was shot by [redacted] An Unlawful Flight to Avoid Prosecution warrant was obtained in the District of New Jersey and an investigation was initiated to locate and arrest [redacted] who was profiled twice on "America's Most Wanted". b6 b7C

From 7/19/97 to 5/23/98, the South Jersey Resident Agency (SJRA) initiated several investigations relating to a series of armed bank robberies committed in New Jersey. The suspects in the bank robberies were believed to be Hispanic and wore ski masks, gloves, and what appeared to be bulletproof vests during the robberies. They also carried automatic assault type weapons. [redacted] and [redacted] and [redacted] were identified as the primary suspects in one bank robbery and it was believed that they were also responsible for the two other robberies.

A review of the New Jersey Criminal History records for [redacted] and [redacted] and [redacted] reflected numerous arrests and charges relating to homicide, aggravated assault, possession of firearms and drug possession and distribution. [redacted] and [redacted] were convicted in separate felony homicide matters and [redacted] had been convicted for carrying a prohibited weapon and possession of a weapon, as well as having numerous aggravated assault and homicide arrests. b6 b7C b7D

[redacted]

[redacted]

[redacted] b6 b7C b7D

[redacted] he had access to several fully automatic shoulder weapons, including an AK-47 and body armor.

On 8/25/98, SA [redacted] drafted an operations plan to arrest [redacted] and [redacted] and [redacted]. The plan detailed the utilization of a Special Weapons and Tactics (SWAT) Team to effect the apprehension. However, on the morning of 8/27/98, [redacted] advised SA [redacted] that the robbery had been postponed by [redacted]

[redacted]. Based on this information, SA [redacted] revised his operations plan and coordinated with the participating entities to effect the arrest.

[redacted] b6 b7C b7D

Within moments, SWAT Team Leader [redacted], gave the command to arrest the subjects. The tow truck and pickup truck being utilized as blocking vehicles by the SWAT as well as a cube van containing a SWAT arrest team began their approach to block the subject vehicle and effect the arrest. The subjects, who had become suspicious of the lack of activity in the rest area parking lot and lack of traffic on the New Jersey Turnpike,

observed the vehicles moving toward them and again ordered [redacted] to move. As the subject vehicle began to accelerate south along the front of the rest area, the cube van swerved to the left to block its exit. Simultaneously, SA [redacted] who was driving north in the SWAT pickup passed the cube van and struck the subject vehicle on the left side and drove it up on the sidewalk of the rest area.

b6
b7C
b7D

As the collision occurred, Supervisory Special Agent (SSA) [redacted] and SAs [redacted] and [redacted] exited the cube van. The subject vehicle passed the van at that time and all three SWAT members reported seeing a rifle being raised by one of the subjects in the rear of the vehicle. Each of the SWAT members fired once at the subjects inside the vehicle and the vehicle moved away from them.

The subject vehicle accelerated and continued south on the sidewalk in front of the rest area building. As [redacted] drove the vehicle off of the sidewalk, it was momentarily traveling at a high rate of speed directly at another SWAT vehicle occupied by SAs [redacted] and [redacted] Both SAs had taken a position at a small parking island which was located adjacent to the southern end of the rest area building. As the vehicle sped toward them, SA [redacted] reported that he heard someone yell "gun". SA [redacted] recalled seeing a gun in the rear of the subject vehicle. Seeing the speeding vehicle moving in their direction and the weapon observed in the back seat, the agents fired their weapons at the subjects. SA [redacted] recalled firing twice before his 10 millimeter pistol jammed and SA [redacted] advised that he fired approximately three two-round bursts from his MP-5 at the subject seated in the rear on the driver's side.

The subject vehicle slowed when reaching a curve at the south end of the rest area building in order to make the corner leading to the rear employee parking lot. At that moment, the subject vehicle was struck by the SWAT tow truck driven by SA [redacted] The tow truck hit the vehicle on the right rear side and drove over the trunk of the car, crushing the left rear quarter panel, completely disabling the subject vehicle. [redacted] who was in the front passenger seat exited the vehicle and ran to the side entrance of the rest area building. SAs [redacted] and [redacted] advised that as [redacted] reached the entrance they observed him reaching for a weapon holstered on his right side. SAs [redacted] and [redacted] fired their weapons hitting [redacted] in his right hip causing him to fall to the ground.

b6
b7C

As the subject vehicle came to a halt due to the collision with the tow truck, SWAT Team Leader [redacted] observed a subject in the back seat holding a weapon. SA [redacted] fired one shot from his M-4 carbine rifle at the passenger. At this point, [redacted] and [redacted] surrendered without further incident.

As a result of the shots fired, [redacted] sustained a graze wound to his left thigh and [redacted] received two wounds to his right hip. Both subjects were treated at local hospitals and released.

On 1/6/99, the SIRG met to discuss the above captioned shooting incident. Chief Inspector [redacted] Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force in this shooting incident by all law enforcement personnel was justified and in conformance with the current deadly force policy. This decision was based on the subjects' proven propensity for violence and the fact that they were armed.

This discussion resulted in the recommendation that no administrative action be taken against any law enforcement personnel involved in this shooting incident.

The second issue discussed by SIRG members evolved around the profoundly flawed arrest plan. Areas of concern to members were the choice of location, containment of the subjects, field of fire, and the fact that [redacted] was in the car and no consideration was given to third parties involved in this incident. Members discussed the fact that the subjects could have been alerted to the situation earlier due to the lack of activity at the rest stop, the types of vehicles located in the area and the absence of turnpike traffic.

b6
b7C
b7D

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SSA [redacted] as well as SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/15/1999

**To:** Inspection Division **Attn:** Thomas Lusby

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Lusby Thomas
[redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 297-HQ-A1271747-D

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/6/98
MEMPHIS DIVISION

b6
b7C

**Synopsis:** The Shooting Incident Review Group (SIRG) reviewed a shooting incident in the Memphis Division on 11/6/98, where one subject was killed and another wounded during an attempted bank robbery. Believing that his life and the lives of other participants in the incident could be jeopardized, SA [redacted] fired shots at the driver of the vehicle. Members of the SIRG recommended that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

**Details:** Reference report of Assistant Special Agent in Charge William C. Temple dated 11/30/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the SIRG with reference to the captioned shooting.

1 - Mr. [redacted] Rm. 7142
2 - Mr. [redacted] Rm. 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. Foran, Room 6646
(1 - Mr. [redacted] Room 6313)
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] USDOJ
2 - Ms. [redacted] USDOJ
(1 - Mr. [redacted]

1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted], Room 4147
1 - Mr. [redacted] Room 3787F
1 - Mrs. [redacted] Room 786

b6
b7C

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271747-D, 03/15/1999

**Details of the Shooting Incident**

During the month of March 1998, a series of bank robberies began to occur in the Memphis and Nashville, Tennessee, areas. By 9/98, it became apparent to the Nashville Violent Crimes Task Force (VCTF) that the robberies were being perpetrated by the same individuals since the bank robberies involved similar methods of operation. Prior to 9/98, six banks in the Memphis area and two banks in Nashville had been robbed. Each robbery involved two black males driving to the banks, usually in a vehicle which was stolen within 24 hours prior to the robberies. The subjects wore ski masks and flannel shirts and were armed with handguns. One subject entered the banks and the other acted as the getaway driver.

The Nashville VCTF decided to initiate fixed surveillances at two area banks, both of which were located near the SunTrust Bank. The SunTrust Bank had been robbed in July and August. A surveillance/arrest plan was prepared prior to the operation and the surveillances were conducted over several days in late September and then discontinued. On 10/15/98, the SunTrust Bank was robbed again. During two of the three robberies, the subject fired shots into the ceiling and briefly took a bank guard hostage during the October robbery. Additionally, on some occasions the subjects assaulted employees and customers.

Due to the continuing pattern of robberies and the escalating violence during the incidents, the Nashville and Memphis VCTFs began another series of surveillances on 10/19/98. These surveillances involved officers from the Nashville Metropolitan Police Department (NMPD) as well as members of the VCTF. b6 b7C

On 11/6/98, a morning briefing was held at the Pep Boys parking lot, located in the general area in which the surveillances were to take place. The briefing was led by Task Force Officer [redacted] who provided pertinent information and made assignments for the surveillances. It was noted during the briefing that on the previous day an NMPD Officer was working at NationsBank as a security guard which was located in the general area. The officer reported seeing two suspicious black males drive through the parking lot in a gold automobile. The briefing ended at approximately 8:45 a.m., and team members were dispatched to their respective locations. The surveillance was scheduled to terminate at approximately 11:00 a.m., since the previous robberies occurred before this time.

Eleven law enforcement officers participated in the surveillances. Two of the participants were FBI Agents not assigned to the VCTF. One of the banks under surveillance was the NationsBank who had reportedly observed the suspicious individuals the previous day. SAs [redacted] and [redacted] were in a Bureau vehicle located in a parking lot east of the bank. SA [redacted] was driving the car and each of them were equipped with a bullet proof vest, a handgun and an MP-5 submachine gun. Detective [redacted] who was armed with a .40 caliber Glock pistol, was in his NMPD car in the parking lot near the FBI vehicle. Additional armed law enforcement personnel were also in the nearby vicinity. Additionally, an armed, off-duty NMPD officer was working as a security officer inside the bank. The officer was aware of the series of robberies in Memphis and Nashville and was also aware of the surveillance outside the bank. b6 b7C

At approximately 10:00 a.m., members of the NationsBank surveillance team observed a blue Oldsmobile with a broken rear vent window pull into the bank parking lot and pass between the bank and the FBI vehicle located to the east. A check of the license plates revealed that the vehicle was stolen. Team members had been briefed on this specific vehicle earlier in the morning. Officers determined that the driver of the vehicle was a black male. The driver of the car drove through an adjacent parking lot and eventually reentered the bank parking lot from Charlotte Avenue. The vehicle stopped directly in front of the bank and faced toward the front door. A black male wearing a ski mask and flannel shirt was observed exiting the passenger door of the car and running into the bank. SA [redacted] and Detective [redacted] noticed that the individual entering the bank, subsequently identified as Raymond Augustine Hawkins, was carrying a handgun. SA [redacted] and Detective [redacted] notified the other units in the area that a bank robbery was in progress.

Officer [redacted] who was the security guard inside the bank, saw Hawkins run into the bank through the front door and observed him with a gun in his left hand. As he was moving away from a desk to confront the subject, he tripped and fell on his back facing the front door. While Officer [redacted] was still on the floor, Hawkins grabbed the front of his shirt, placed the gun to his chest/shoulder area, and fired. Officer [redacted], who drew his weapon as he was falling, shot Hawkins three times in the chest area. The subject ran toward the front door. Officer [redacted], thinking that the subject might reach the parking lot and hurt someone else, fired another shot at the subject. b6 b7C

Hawkins continued to run out of the bank and SA observed him collapse on the walkway leading to the front door.

When Hawkins collapsed in front of the bank, Detective who had heard the gunshots and taken cover behind a light pole, turned his attention toward the driver of the car. As the car was backing away from the bank, Detective left his position of cover and moved toward the vehicle, shouting "police, police, freeze, show me your hands, police". The driver continued to back up, ducked down in his seat and raised up. Based on his knowledge of shots being fired inside the bank and the fact that previous robberies had a history of escalating violence, Detective believed that the driver had a weapon and was going to shoot him. He fired one round through the driver's window at the subject, who was later identified as . After the shot was fired by Detective the vehicle was moving forward toward a McDonald's. Detective again shouted "police" but instead of stopping, ducked back down inside the vehicle. Detective fired several more shots into the car while noticing an FBI car behind vehicle and heard one of the SAs fire a shot.

b6
b7C

Based on these events, SA had moved into a position directly behind the subject's car. SA observed "twisting in the seat" and felt he was doing something "out of the ordinary". He heard gunfire and knew that Detective was shooting at the driver. He also thought that the subject was shooting at the detective. Realizing that Detective had no cover and was totally exposed to the driver, and with both cars continuing to move, SA opened the passenger door and placed his MP-5 submachine gun between the door post and the door. He fired a two-shot burst from his MP-5 at the subject through the rear window of the subject's vehicle. car stopped and SA saw SA and Detective securing No weapon was found on the subject or in his vehicle. At that time, SA ran to the first subject who had exited the bank and was lying face down with a gun in his hand. SA pushed the gun away and handcuffed Hawkins.

b6
b7C

Officer was hospitalized with one gunshot wound to the shoulder. was also hospitalized with a gunshot wound to the face. Hawkins was pronounced dead at the scene of the attempted bank robbery.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271747-D, 03/15/1999

On 1/6/99, the SIRG met to discuss the above captioned shooting incident. Chief Inspector [redacted] Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; [redacted] Unit Chief, Transfer Unit, Administrative Services Division; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force in this shooting incident by SA [redacted] was justified and in conformance with the current deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident. b6 b7C

The only other issue discussed by the SIRG members evolved around the fact that a lack of coordination and communication between the Nashville VCTF and Memphis Division Executive Management (EM) existed. Specifically, this lack of communication resulted in the formulation of an inadequate arrest plan. Although the Special Agent in Charge (SAC) and the ASAC knew of the Memphis and Nashville bank robberies and were specifically aware of surveillances being conducted in Memphis, neither knew of the Nashville surveillances which began in October 1998. According to the SAC, he knew nothing of the

surveillances in Nashville until he was informed by another Supervisory Special Agent of the shooting incident. SAC Locke advised that the Memphis Division has a policy which requires an operational plan when a high probability of danger exists in an upcoming arrest or search. He also advised that, subsequent to the shooting incident, he reviewed the 10/15/98 Nashville arrest plan and emphasized that he never would have approved the plan due to its lack of detail.

Acting SSRA (A/SSRA) [redacted] advised that he assumed supervisory responsibility of the Nashville RA on 10/5/98, and assumed that the former SSRA had discussed the arrest plan formed in September with EM. Based on this assumption, he did not believe it necessary to send the October plan which he viewed as an update to the plan formulated in September. A/SSRA [redacted] also advised that former SSRA [redacted] approved the September plan and advised him that he would speak with the SAC and/or the ASAC about it. Additionally, A/SSRA [redacted] stated that he occasionally briefed ASAC Robert M. Burnham about the bank robbery surveillances in Nashville and recalled that he mentioned the surveillances at a 10/6/98, supervisor's conference in the presence of the SAC and the ASAC. Since no comments were forthcoming during the meeting, he assumed that he had approval. During an October management retreat, A/SSRA [redacted] again spoke with ASAC Burnham about the surveillances and the ASAC advised him to coordinate with the Memphis SWAT team leader since SWAT members were being used in the Memphis surveillances. b6 b7C

The discussion was concluded with the unanimous agreement that the arrest plan for the Nashville incident was inadequate and that a lack of communication existed between the participants and the EM of the Memphis Division. However, members also opined that the SAC of the Memphis Division recognized the problem and had taken steps to ensure that this type of incident does not recur in the future.

To: Inspection Division From: Inspection Division
Re: 297-HQ-A1271747-D, 03/15/1999

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C



Savage-1686

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Las Vegas
Date: June 4, 1997

Case ID #: 66-19157-38

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHOENIX DIVISION
MAY 19, 1997

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 5/19/97, FBI agents and officers from the Phoenix Police Department (PPD) and the Arizona Department of Public Safety (DPS) who were assigned to the Phoenix Fugitive Task Force (FTF) shot and killed Todd William Staskal while they were attempting to effect his arrest on Federal Bank Robbery charges. Staskal had been charged along with an accomplice, [redacted] with the violation of 18 U.S.C., Section 2113 (a) and 924 (c) in connection with the 4/18/97 robbery of the Bank of America, 5065 East Elliot Road, Phoenix, Arizona. [redacted] was captured following the 4/18/97 robbery. Staskal, who escaped, was believed to have committed three robberies on 4/19/97 and thought to be involved in as many as twelve bank robberies in the Phoenix area.

b6
b7C

While Staskal was attempting to elude authorities after the 4/18/97 robbery, he kidnapped one of his girl friends, [redacted] She later told the Phoenix case agent, [redacted] that Staskal told her that he was not going back to prison and would not be taken alive. [redacted] also told SA [redacted] that Staskal was armed with a 9 mm pistol. During the robberies of 4/19/97 bank surveillance photos reflect that Staskal did display a weapon. Following the three robberies on 4/19/97, Staskal was believed to have left the Phoenix area.

SA [redacted] sought the assistance of the Fugitive Task force to assist him in locating and

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

apprehending Staskal. On 5/16/97, one of the FTF members, Phoenix Police Officer [redacted] developed information that the fifteen-year-old daughter of [redacted] who is identified as Staskal's wife or girl friend, was back in the Phoenix area. Subsequently, [redacted] advised that Staskal had called her and her Caller I.D. indicated the call originated locally.

Officer [redacted] located [redacted] daughter, [redacted] who told him that Staskal was in the area and gave him addresses where Staskal might be staying. [redacted] also told [redacted] that Staskal was always armed and that he carried a weapon in a fanny pack and another behind his back. This information was confirmed by [redacted] boyfriend who also advised that Staskal had said he would not be taken alive. Staskal had said that he would either force the police to kill him or kill himself rather than be captured. [redacted] was also told that Staskal was attempting to obtain an automatic weapon and had discussed the possibility of attempting to break his accomplice, [redacted] out of jail.

b6
b7C

On 5/19/97, while spot checking one of the residences, FTF members observed a stolen white Mercury Sable that Staskal was supposedly driving. Shortly after the Sable was observed, an individual fitting Staskal's description came out of the residence and got into the vehicle. It was observed that the individual was wearing a fanny pack. This information was provided via radio communication to the other task force members.

A moving surveillance was instituted during which several task force members were able to get a clear look at the driver of the white Sable and confirm that it was, in fact, Staskal.

As the surveillance proceeded, Staskal turned into the parking lot of a shopping center at 75th Avenue and Bell Road in Glendale, a suburb of Phoenix. Several of the FTF members later commented that they believed that Staskal was looking for a bank to rob.

When Staskal exited the shopping center parking lot, he turned east on Bell Road heading toward downtown Phoenix. At that time, a decision was made to effect a non-compliant felony car stop which the FTF members referred to as a "street jump." It should be noted that all FTF members interviewed advised that they trained extensively on this type of car stop.

Several factors led to the decision to effect the car stop at that particular time. First, it was apparent to the FTF

members that Staskal was armed since he was observed wearing a fanny pack that the intelligence described as always containing a weapon. Second, the FTF members believed that Staskal was looking for a bank to rob. Third, he made an eastbound turn which was toward downtown Phoenix which was an even more populated area than they were in. Fourth, at the time the decision was made, all the FTF vehicles were in the immediate vicinity and configured in a way so that Staskal's vehicle was nearly surrounded. Finally, the risk of the surveillance being detected increased as it continued which would allow Staskal to prepare for a violent confrontation that the intelligence predicted.

Near the intersection of 67th Avenue and Bell Road, Staskal's vehicle and the FTF vehicles were stopped a red light. Lt. [redacted] of Phoenix P. D., the senior FTF member on the scene, gave the command to effect the arrest. Lt. [redacted] and Phoenix P. D. Officer [redacted] had Staskal's vehicle blocked at the passenger side, Arizona DPS Officer [redacted] was directly in front of Staskal's vehicle and the vehicles of FBI agents [redacted] and [redacted] were behind civilian vehicles directly to the rear and to the left of Staskal. Several of the FTF members exited their vehicles with guns drawn and surrounded Staskal's vehicle. All witnesses interviewed, law enforcement and civilian alike, reported seeing clear markings reflecting the law enforcement status of the FTF members. All witnesses close to the incident also stated that they heard voice commands to the effect, "Police, put your hands up," shouted repeatedly. This is consistent with the statements of the FTF members who attempted to effect the arrest of Staskal. b6 b7C

All of the FTF members surrounding Staskal's vehicle gave similar accounts of what transpired next. All related that Staskal raised his hands, then looked around as if surveying the situation. Staskal then dropped his hands, placed his vehicle in reverse, rammed into the Toyota Land Cruiser behind him and lurched forward until he struck a pick up truck traveling westbound at the intersection of 67th Avenue and Bell Road. The witnessing FTF members all stated that at some point during this brief sequence of events, Staskal's hands went out of view and it appeared that he was reaching for the fanny pack he was observed wearing. The fanny pack was subsequently determined to contain a fully loaded Wyoming Arms 10 mm semi-automatic pistol.

FBI agents [redacted] and [redacted] who had positioned themselves at the driver's side of Staskal's vehicle near the front door, fired 17 rounds between them, six from [redacted] Sig Sauer Model 226 and eleven from [redacted] Smith and Wesson .40

caliber. Arizona DPS Officer [redacted] who remained positioned near the driver's side door of his vehicle which was in front of Staskal's, fired one round of rifle slug from a Remington Model 870 shotgun. Staskal was struck by four .40 caliber rounds in the left side of the chest and abdomen and by the rifle slug in the left thigh. He was pulled from his vehicle unconscious after the vehicle collided with the truck and was described by the officers at the scene as apparently dead. Staskal was taken from the scene by paramedics to J. C. Lincoln Hospital where he was officially pronounced dead. b6 b7C

Officers from the Glendale P. D. arrived at the scene and conducted the immediate investigation under the direction of Sgt. [redacted] Detective [redacted] was assigned the case. A crime scene search was conducted and all pertinent evidence was secured. Witnesses including non-FBI FTF members were interviewed. A check was conducted of all weapons carried by FTF members to determine which weapons were fired. All weapons which were fired were secured by the Glendale P. D.

Phoenix SAC Bruce Gebhardt responded to the scene. SSA [redacted] notified FBIHQ of the incident. The Inspection Division assembled and dispatched a Shooting Incident Review Team under the direction of IIP [redacted] of the Las Vegas Division.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Baltimore
Date: June 17, 1997

Field Office File #: 66-HQ-19157-12
Bureau File #:

Title: SHOOTING INCIDENT
DALLAS DIVISION
MAY 22, 1997

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis:

This shooting incident was a result of a bank robbery occurring at Fidelity Bank, 7215 Skillman, Dallas, Texas on May 22, 1997.

At approximately 3:13 p.m. on 5/22/1997, a white male suspect, approximately 40-50 years old, 5'10"-6', entered the Fidelity Bank, 7215 Skillman, Dallas, Texas. The white male has been subsequently identified as DARRELL CLEO HOLMES. HOLMES was dressed in business attire, leading bank employees to believe he was a commercial vendor making a late deposit. Therefore, they buzzed HOLMES into the bank lobby. Once he entered the bank, HOLMES positioned himself with his back to the bank cameras and put on a hat and sunglasses. At 3:14 p.m., HOLMES approached the victim teller and displayed a large black frame pistol. After demanding money, the teller gave HOLMES $2,200.00, which included two electronic tracking system (ETS) devices. At 3:14 p.m., HOLMES exited the bank with the money and the activated tracking devices.

Once the tracking devices were activated, the signals were picked up by a DPD helicopter. DPD marked units responded and followed HOLMES in the direction of I-635 westbound. Prior to entering onto I-635, HOLMES stopped and threw one tracking device into a dumpster.

At approximately 3:15 p.m., FBI Dallas was

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

telephonically advised of the Fidelity Bank robbery, including the robber's description, armed status and presence of ETS tracking devices. Special Agents (SA) assigned to the Violent Crime (VC) squad responded. SAs [redacted] and [redacted] departed the office in SA [redacted] FBI vehicle. SA [redacted] and SA [redacted] individually departed in their assigned FBI vehicles.

All Dallas Division VC squad members have received joint training with DPD with the ETS tracking system utilized in area bank robberies. SA [redacted] is the Dallas FBI division's bank robbery coordinator. SA [redacted] FBI vehicle is equipped with an ETS receiver and he has received specialized training in its utilization. The VC squad members' vehicles are all equipped with Dallas Police Department (DPD) radios. b6 b7C

SA [redacted] recalled a previous bank robbery at the same branch two weeks earlier. SA [redacted] stated he recalled the previous robbery was conducted by a subject matching the 5/22/1997, robbery subject's description. He specifically recalled the first robber also being armed with a large-frame black pistol.

All three FBI vehicles proceeded northbound on US Route 75 toward the Fidelity bank location. While in route, DPD radio transmissions indicated that the ETS signal was in the vicinity of US Route 75 and Interstate 635 (I-635). SA [redacted] ETS tracking receiver began picking up the signal. DPD units, including a DPD helicopter, advised that the signal was westbound on I-635. All three FBI vehicles proceeded onto westbound I-635 from US Route 75. b6 b7C

Based on the ETS signal, the initial DPD units and DPD helicopter made the assessment that the ETS device was in a westbound vehicle that appeared to be a burgundy two-door Buick. At this time, no law enforcement vehicles, including the three FBI vehicles, were operating emergency equipment (emergency lights and sirens). The initial DPD marked unit broadcast its intention to commence a felony traffic stop on the Buick. SA [redacted] stated that he was following a DPD unit in the High Occupancy Vehicle lane and had activated his vehicle's emergency equipment. At that time , the initial DPD officer announced, via car radio, that the Buick was exiting I-635 onto a one way frontage road that paralleled the freeway. The frontage road serves as an access to exiting vehicles and is a two-lane road going one-way. The exit was for Marsh Lane and Webbs Chapel Road. Several DPD units continued behind the Buick onto the frontage road. Those DPD units commenced a traffic stop and the

Buick stopped on the frontage road.

The freeway is separated from the frontage road by a grassy median, approximately 15 yards wide. The first DPD unit stopped directly behind the Buick, slightly offset, in a felony traffic stop position. The second DPD unit stopped behind the first. The third DPD unit had not exited onto the frontage road and pulled onto the grassy median at a position that was toward the rear of the Buick. As the traffic stop was initiated, the FBI vehicles pulled onto the shoulder of I-635 parallel to the frontage road. SA [redacted] stopped his vehicle on the shoulder of I-635, approximately 3/4 of a car length ahead of the Buick. The second FBI vehicle driven by SA [redacted] stopped behind SA [redacted] vehicle parallel to, and directly across the median from the Buick. SA [redacted] pulled onto the grassy median at a slight angle behind SA [redacted] vehicle, next to the third DPD unit. The FBI vehicles were positioned in a line, across from the Buick, facing the same direction, at a distance ranging from 25-35 yards. b6 b7C

As the FBI vehicles were stopping, the SAs observed a white male, later identified as DARRELL CLEO HOLMES, exit the Buick. Simultaneously, the first DPD officer exited his vehicle and took cover behind his vehicle's door. The second DPD officer had established herself at the right rear of the first DPD vehicle with her weapon drawn. HOLMES displayed a black pistol in his right hand, waving it around while gesturing with his left hand. There was a verbal exchange between HOLMES and the first DPD officer. The DPD officers heard HOLMES screaming, "I'm going to kill you."

SAs [redacted] and [redacted] exited their vehicle, drawing their weapons, and took up positions of cover behind their vehicle. SA [redacted] stated he took a position of cover at the rear of the driver's side of the vehicle. SA [redacted] stated she assumed a position of cover behind the open, right front passenger door. SA [redacted] stated he exited his vehicle, drew his weapon and assumed a position of cover at the rear of the driver's side of his vehicle. SA [redacted] stated he exited his vehicle, drew his weapon, and assumed a position of cover at the front of the driver's side of his vehicle. b6 b7C

All FBI SAs stated that they were aware that shouting took place between HOLMES and the DPD officers, but, due to the numerous sirens and freeway traffic noise, the words were unintelligible. All four FBI SAs were aware that HOLMES was waving what appeared to be a black semi-automatic pistol, in his right hand. HOLMES took several steps toward the first DPD

vehicle and pointed the pistol at the first DPD officer. At this point, the first DPD officer ducked down behind the door of his vehicle. Each SA stated that from their individual points of view it appeared that the first DPD officer had been shot or gone down. Then, believing that the first DPD officer had been shot, the SAs and other DPD officers began firing on HOLMES.

SA [redacted] stated he believed he had observed a puff of smoke come from the barrel of HOLMES' weapon as HOLMES pointed the weapon. After hearing SA [redacted] and others fire, SA [redacted] stated he fired twice at HOLMES.

b6
b7C

SA [redacted] stated she believed she observed something come off the barrel of HOLMES' weapon at the same time she heard a gun shot. SA [redacted] fearing for the DPD officers in HOLMES line of fire, shot twice at HOLMES. She stated that it appeared HOLMES was moving toward his vehicle for cover and she fired once more.

SA [redacted] stated that from his position of cover he saw HOLMES thrust his pistol toward the DPD officer. At the same time, it appeared to SA [redacted] that the first DPD officer had been hit. SA [redacted] stated he fired once at HOLMES. Upon observing HOLMES go to a sitting position on the ground in the doorway of his vehicle, SA [redacted] fired two additional rounds, fearing for the DPD officers.

SA [redacted] stated that, upon exiting his vehicle, he observed HOLMES point his pistol toward the first DPD officers and it appeared the pistol jerked. SA [redacted] saw the first DPD officer appear to go down. SA [redacted] stated he feared for his own life and the lives of the responding DPD officer. SA [redacted] fired once at HOLMES. It appeared to SA [redacted] that HOLMES turned toward his vehicle in an attempt to gain cover. SA [redacted] fired two more times at HOLMES.

After being fired upon, HOLMES slumped to the ground with his upper torso leaning onto the driver's side floor board. DPD officers cautiously approached HOLMES and determined no further threat existed. Once HOLMES was disabled, and the approaching DPD officers appeared to be in control, the SAs holstered their weapons and both SA [redacted] and SA [redacted] advised FBI Dallas of the shooting incident via their vehicle radios. Emergency aid was called for HOLMES. As HOLMES was being secured, agents observed that the weapon being utilized by HOLMES appeared to be a BB gun. The gun had been removed from HOLMES' hand by a DPD officer and placed on the pavement. It was observed by the SAs that HOLMES experienced numerous wounds to

b6
b7C

his legs and buttocks area. He was bleeding from these areas in addition to his head. His eyes were open and staring, with a gray paleness to his skin. A private ambulance company arrived shortly after the incident and began treatment on HOLMES. Following the arrival of a Dallas Fire Department Paramedic unit, HOLMES was transported to a close-by hospital where he was pronounced dead.

SA [redacted] retrieved evidence tape from his vehicle and he and the other SAs marked the location of their shell casings for evidence. The SAs separated themselves and agreed not to talk among themselves. SSA [redacted] arrived and took control of the scene and separated all of the SAs. Acting SAC JAMES F. ADAMS arrived and toook command of the scene and ensured the well-being of each SA. With the assistance of SSA [redacted] Chief Division Counsel SSA [redacted] and ASAC HOWARD B. [redacted] Acting SAC ADAMS coordinated the crime scene investigation with DPD officials on the scene. Weapons were taken from all of the SAs by SSA [redacted] Following consultation between Acting SAC ADAMS and DPD officials, the SAs' pistols were provided to DPD investigators for forensics testing. Administrative leave was offered to each SA and replacement weapons were provided by SA [redacted] Dallas FBI Principal Firearms Instructor. The crime scene was handled jointly by the FBI Dallas Evidence Response Team and the DPD Physical Evidence Section.

b6
b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: FBIHQ
Date: April 10, 1997

Field Office File #:
Bureau File #: 66-HQ-1915767

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
SACRAMENTO FIELD OFFICE
JANUARY 29, 1997

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was precipitated as a result of a fugitive investigation to locate PETER SCOTT RICHARDS, who was charged with armed robbery in an indictment issued on November 7, 1996, by the state of Hawaii, Honolulu, Hawaii.

On January 28, 1997, Honolulu Police Department (HPD) contacted the South Lake Tahoe Police Department (SLTPD) and requested SLTPD's assistance in locating and apprehending RICHARDS who was believed to be in South Lake Tahoe, California. The HPD advised that if located, they would extradite RICHARDS.

b6
b7C

On January 28, 1997, at approximately 5:30 p.m., officers located RICHARDS, his girl friend [redacted] and their four children at [redacted] South Lake Tahoe. RICHARDS refused to surrender and barricaded himself and family in the residence. RICHARDS later allowed [redacted] and the children to leave the residence and apparently in the confusion of the movement of his family, he escaped undetected.

During the early morning hours of January 29, 1997, members of the SLTPD Special Enforcement Team entered the residence. Although RICHARDS was not located, officers found explosives, black powder, ammunition, military handbooks on weapons and explosives, an SKS assault rifle, an M1 carbine rifle, a Rugar carbine rifle, a sawed-off .22 caliber rifle, military daggers, bayonets, knives, radio receiver, gas mask, loaded rifle magazines, black powder detonation cord, and other military and survival equipment.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Shortly after noon on January 29, 1997, SA [redacted] who was assigned as the sole Agent in the South Lake Tahoe, California Resident Agency (SLTRA), received a telephone call from the SLTPD informing him of the fugitive investigation. He was requested to provide assistance in determining whether RICHARDS was involved with violation of Federal law involving militia or terrorist activities. SA [redacted] responded to the SLTPD, viewed the seized evidence, and prepared to assist SLTPD detectives in locating RICHARDS.

SA [redacted] and several detectives were preparing to depart the SLTPD to conduct interviews when they learned that RICHARDS' stepfather had telephoned to inform the Police that RICHARDS had telephoned his mother and given her instructions to meet him. SA [redacted] joined four SLTPD detectives and established surveillance along the main road in South Lake Tahoe. SA [redacted] who was accompanied in his Bureau Ford Bronco by SLTPD Detective [redacted] learned that other SLTPD detectives had located RICHARDS' Mother operating her Mazda pick-up on the main road in town. A surveillance of the vehicle was established with [redacted] and [redacted] in one vehicle, two SLTPD detectives in a second vehicle and SLTPD Detective [redacted] in a third vehicle. Each of these investigators observed a passenger in the Mazda pick-up, but could not positively identify the passenger as the subject. While continuing with a moving surveillance, investigators felt they had been identified by the occupants of the Mazda pick-up and a SLTPD investigator called for a marked police unit to make a traffic stop. Prior to the arrival of the marked units, the Mazda pick-up slowed to a stop in the traffic lane of a two lane road. SA [redacted] stopped behind the Mazda pick-up, he and Detective [redacted] exited the Bureau vehicle, and began to approach the Mazda pick-up. Upon observing a struggle and hearing loud voices from the Mazda pick-up, they retreated to the cover of the Bureau vehicle. Detective [redacted] then joined SA [redacted] and Detective [redacted] RICHARDS suddenly exited the passenger side of the Mazda pick-up and pointed a .25 caliber pistol towards [redacted] and [redacted] Investigation established that RICHARDS fired at least once, striking the front drivers side window of SA [redacted] vehicle. Seeing only RICHARDS' head and the hand which was holding the .25 caliber pistol pointed towards him and [redacted] fired four rounds from his MP-5 rifle. One of SA [redacted] rounds fatally struck RICHARDS in the head. Detective [redacted] fired nine rounds from his .45 caliber pistol and Detective [redacted] fired two rounds from his .45 caliber pistol. RICHARDS, who was wearing a protective vest, was shot five times including; #1 head wound (9mm); #2 left forearm (no bullet recovered); #3 right buttock (.45 caliber); #4 right buttock (.45 Caliber); and #5 right calf (no bullet recovered).

b6
b7C

b6
b7C

A physical examination of RICHARDS after the shooting resulted in the location of a .22 caliber pistol and four loaded magazines in his pants pocket, in addition to the .25 caliber pistol he held. RICHARDS was wearing a protective vest and there was evidence that one bullet was stopped by the protective vest.

A search of the Mazda pick-up revealed a spent.25 caliber casing on the window of the Mazda (laboratory confirmed this casing was fired by RICHARD'S .25 pistol), a 12 gauge shotgun loaded with five rounds and 11 rounds on the gun strap, a fully loaded and charged SKS 7.62 X39 assault rifle, and additional ammunition for those weapons.

Subsequent investigation established that RICHARDS, who was suffering from Acquired Immune Deficiency Syndrome (AIDS), had told [redacted] and his mother that he was going to die and that he would take a police officer with him. RICHARDS' mother confirmed that on January 29, 1997, while driving with RICHARDS, they observed SA [redacted] and the SLTPD Detectives and that RICHARDS knew they were law enforcement. Knowing that RICHARDS was going to create an armed confrontation, she chose a place to stop which would not endanger innocent third parties. Prior to RICHARDS exiting the Mazda pick-up his mother struggled with him in an attempt to keep him from exiting with the pistol. He told her "I'm dead, I won't go to jail," prior to exiting. b6 b7C

SA [redacted] was armed with his Bureau approved personally owned Sig Sauer, Model 226, 9mm pistol and a Bureau issued Heckler and Koch (H&K) MP-5 (9mm) single fire shoulder weapon and was wearing his Bureau issued protective vest. SA [redacted] fired four rounds from the H&K MP-5. He used Bureau issued Hydro-Shock ammunition and the weapon functioned properly.

Subsequent to the shooting, SA [redacted] surrendered both weapons to SLTPD Officers at their request. He spoke by telephone with his supervisor in Sacramento, SSA [redacted] and advised him of the circumstance of the shooting. A shooting inquiry team comprised of investigators from the SLTPD, the El Dorado County District Attorney's Office, and the El Dorado County Sheriff's Department responded to the scene.

Investigators were to take taped recorded statements from Detectives [redacted] and [redacted] and requested the same from SA [redacted] After conferring with SSA [redacted] SA [redacted] consented to the interview. He also allowed a blood sample to be taken for blood/alcohol content (the laboratory results revealed no alcohol in SA [redacted] blood). b6 b7C

During the course of this shooting investigation, members of the SIRT and SA [redacted] reviewed the typed transcript of the statement he provided to local investigators. A decision was to be made by the FBI Shooting Incident Review Team (SIRT)

whether SA [redacted] should stand on his recorded statement, incorporate it as part of a signed sworn statement, or provide a separate signed sworn statement. After both IIP [redacted] and SA [redacted] conferred with the Sacramento Field Office's Division Counsel, SA [redacted] SA [redacted] stated that his preference was to provide a statement which chronicled the events in a more logical sequence than which the transcript related. SA [redacted] stated that the facts contained in his interview with local investigators and in his signed statement were consistent. Divisional Counsel [redacted] was in concurrence with SA [redacted] preference.

b6
b7C

On February 6, 1997 an arrest warrant was issued by the County of El Dorado, charging [redacted] with being an accessory in RICHARD'S fugitive status. It was also determined that she had outstanding arrest warrants being held by the El Dorado Sheriff's Department since 9/22/92 for Failure to Appear, Battery, Resisting Arrest, and for refusing to leave land upon lawful owner/agent's request.

In a letter dated 3/20/97 and addressed to the Chief of Police, SLTPD, the El Dorado County Sheriff's Department, and the El Dorado County District Attorney's Office, the task force of local investigators assigned to the shooting inquiry made the following conclusions as a result of the inquiry:

"Based on the investigation, it is the opinion of the Protocol Task Force that Detective [redacted] Detective [redacted] and Special Agent [redacted] fired their weapons at PETER SCOTT RICHARDS JR., only after being fired upon and in defense of their lives. It is our further opinion that the officers involved acted without negligence and did not commit any crime as described in the Penal Code for the state of California."

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: *

Report of: SSA [redacted] Office: MEMPHIS
Date: January 21, 1997

Case ID #: 62A-ME-51032

Title: SHOOTING INCIDENT,
SA [redacted] VICTIM;
JANUARY 2, 1997,
MEMPHIS DIVISION

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: At approximately 12:55 p.m., on January 2, 1997, SA [redacted] and Task Force Officer (TFO) Sgt. [redacted] SHELBY COUNTY SHERIFF'S OFFICE conducted a spot check at [redacted] Memphis, Tennessee, as a result of information provided by a Confidential Informant (CI) that an individual living at this residence, [redacted] was a member of the Gangster Disciple street gang and was dealing in stolen vehicles. When SA [redacted] and TFO [redacted] passed the [redacted] address they noticed a red Volvo 940 Turbo in the driveway. A check of the license on the Volvo with NCIC determined the Volvo was listed as stolen. SA [redacted] and TFO [redacted] initiated surveillance on the Volvo and contacted SA [redacted] who is the case agent on an on-going Group II UCO being worked jointly by the Memphis Division and Memphis Police Department Auto Theft Unit. SA [redacted] and members of the Group II UCO were apprised of the Volvo's location and were en route to [redacted]

During the time SA [redacted] and TFO [redacted] first saw the Volvo in the driveway and initiated surveillance on the Volvo, approximately 20 minutes had passed due to a computer problem in running the Volvo's license plate and obtaining a response that the vehicle was stolen. Sometime during this 20 minute time frame a White Chevrolet Caprice had pulled into the driveway behind the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Volvo and was located in that position when SA [redacted] and TFO [redacted] initiated surveillance on the stolen Volvo. Approximately 30 minutes after surveillance was initiated and prior to arrival of the Group II UCO personnel, SA [redacted] and TFO [redacted] observed two male blacks exit [redacted] with one individual getting in the Volvo and the other getting in the Caprice.

b6
b7C

When it became evident the two individuals were starting the two vehicles in preparation to leave [redacted] SA [redacted] moved his bureau vehicle immediately behind the Caprice which would block its exit from the driveway and also block the Volvo's exit from the driveway. The driver of the Volvo immediately exited that vehicle and ran to the back of the residence followed in close pursuit by TFO [redacted]. SA [redacted] was out of his bureau vehicle and identified himself verbally to the driver of the Caprice and had his Remington 870 shotgun in his hands. The driver of the Caprice failed to heed SA [redacted] commands and SA [redacted] then moved to a position adjacent to the driver side of the Caprice, all the while identifying himself and commanding the driver to exit the Caprice. The Caprice driver continued to jockey the car forward and backward in an attempt to exit the location. As soon as the Caprice driver was able to clear the back end of the Volvo, he rapidly accelerated and made a sharp turn which had the side of the Caprice heading directly toward SA [redacted] SA [redacted] fired one round of double OO buck at the driver in an attempt to keep the driver from striking SA [redacted] with the vehicle. Immediately following SA [redacted] s discharge of the shotgun, the direction of the vehicle changed and the driver struck a utility pole and then departed the area at a high rate of speed. No evidence was obtained at the crime scene to indicate the driver had been struck by any of the shotgun pellets.

b6
b7C

Investigation subsequent to the shooting attempted to identify the driver of the vehicle. The individual to whom the license on the Caprice was registered was contacted and stated that the license had been on an old Caprice he had owned and had totaled in a wreck. That particular Caprice had been forfeited to a salvage yard since the owner could not afford to pay the towing fee or repair the vehicle. Contact with the salvage yard indicated that the vehicle had been turned over to a scrap yard and it was unknown if the license

plate was on the vehicle when it was transferred to the scrap yard. Contact with the scrap yard indicated that the vehicle the license plate belonged to had been crushed and sold for scrap. The scrap yard did not know if the vehicle did nor did not have a license plate on it when it was crushed.

The owner of [redacted] was interviewed by MPD officers concerning the identity of the two individuals who had exited the house and attempted to leave in the Volvo and Caprice. No information of value regarding the identity of either individual was obtained. b6 b7C

- P -

DETAILS:

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: AD, INSD, ROOM 7129, ATTN: SIRG; FTU

Report of: IIP [redacted] Office: Kansas City
Date: February 13, 1997

Case ID #: 66-19157-23
66F-KC-77832

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT,
KANSAS CITY DIVISION;
1/30/97;
ADMINISTRATIVE MATTER

Character: SHOOTING INQUIRY

b6
b7C
b7D

Synopsis: On 1/30/97, while conducting a reverse undercover operation (RUO), an attempted narcotics sale between a reliable Kansas City Division (KCD) [redacted] and subject, Joseph S. Riley, resulted in the attempted homicide of [redacted] by Riley and Riley's death from an SA involved shooting. At approximately 5:53pm, Riley arrived at [redacted] motel room to supposedly conclude a narcotics purchase. Kansas City SAs and local officers were in an adjacent motel room ready to arrest Riley. Upon entering [redacted] motel room, Riley immediately drew a revolver and shot [redacted] in the chest with the bullet exiting his shoulder. [redacted] fell to the floor, whereupon Riley fired a second time at [redacted] missing him. Prior to this second shot, SA [redacted] of the KCD arrest team had unlocked his interior door and negotiated through two closed doors to gain entry into [redacted] room. After Riley's second shot missed, [redacted] began to get up causing Riley to move backwards and attempt a third shot. At this point, SA [redacted] challenged the subject and fired four rounds from his .45 Sig Sauer into Riley's upper torso. Upon being hit by the first of SA [redacted] rounds, Riley fired his weapon a third time striking [redacted] superficially in the left hand. The entire episode lasted only eleven (11) seconds and was captured on CCTV videotape. Riley was pronounced dead at the scene. [redacted] was transported to the hospital, treated, discharged on 1/31/97, and is recovering from his wounds. Two other individuals, [redacted] and

b6
b7C
b7D

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] were arrested by officers of the Kansas City, Missouri Police Department and FBI SAs. [redacted] has been charged by the state with felony murder while [redacted] has had his federal parole revoked.

- P -

DETAILS:

b6
b7C
b7D

PLANNING AND EXECUTION

This operation emanated from information obtained by [redacted] that Riley was attempting to sell forfeited assets of his father and step-mother, in connection with an insurance fraud conviction.

[redacted] and Riley had several consensually recorded conversations between the period of 1/17-22/97. On 1/22/97, [redacted] was confronted by Riley unexpectedly at a gas station in Kansas City, and Riley advised that his contact had $100,000 to invest in the purchase of cocaine. Riley requested that [redacted] find out from his guy in Chicago how much cocaine he could get for $70,000. Riley could not sell the previously discussed bronze statue and grand piano at that time because he was under subpoena to testify at a Federal Grand Jury concerning the forfeiture order issued on 1/6/97.

As the topic of conversation changed from insurance fraud to cocaine trafficking during the period of 1/22-30/97, the KCD began the process of evaluating the feasibility and desirability of utilizing the RUO which occurred on 1/30/97.

For the purposes of this inquiry, ten (10) consensually monitored conversations between [redacted] and Riley from 1/17-30/97 were reviewed. They revealed no hostility between the two, and nothing in the conversations indicated a likely violent act occurring by Riley toward [redacted] Prior investigation of Riley had determined he had the financial means to purchase a large quantity of cocaine.

b6
b7C
b7D

On 1/28/97, an EC was prepared by SA [redacted] which outlined the background of the investigation, including a synopsis of pertinent recorded conversations, and requested approval to conduct a RUO against Riley. The scenario described delivery of a measured amount of cocaine to Riley in a hotel room. Once this delivery was made, Riley would be arrested immediately.

This EC articulated the controlled actions which were to be taken concerning the security of the cocaine and safety of [redacted] and all participants. An adjacent room in the hotel was secured for the Agents and police officers to be located. This plan was discussed with Supervisor [redacted] ASAC Joseph S. Bross, and SAC David M. Tubbs in a meeting held on 1/28/97. Several changes were made to enhance this operation, and an arrest plan was drafted and approved on 1/30/97. b6 b7C b7D

On 1/30/97, at approximately 10:00 a.m., a briefing was held for all personnel involved in this operation. During this meeting, all personnel were given a copy of the arrest plan to review, and the operation was orally discussed. The division articulated the dangers inherent in this operation, to include that Riley was considered Armed and Dangerous, that charges were pending against him for stabbing a bail bondsman, and he was known to own two handguns.

All personnel were advised of their roles in the operation, to include surveillance of Riley prior to arriving at the hotel, outside arrest teams, if needed, and interior arrest and evidence teams. Specific assignments were given to agents assigned to the arrest and evidence teams, to include the installation and monitoring of the CCTV, which was installed to record this RUO. Assignments were again discussed at the hotel prior to the RUO taking place.

Safety issues were thoroughly addressed for [redacted] and agent personnel, and all arrest team Agents were wearing protective body armor. The security of the drugs involved in this RUO was also addressed through CCTV coverage. A separate evidence team was assigned to the adjacent hotel room. Adequate lighting to observe the number of subjects was accomplished by the hotel exterior lighting and twilight.

Management oversight and control was established and maintained throughout the planning and execution of this operation, through discussions with the SAC, ASAC, SSA's, and Case Agents. The formulation, review, and approval of the arrest plan by the ASAC on 1/28-30/97, and the presence of two SSA's at the scene of the RUO further established the division's command and control.

PARTICIPATION OF [redacted]

On 1/22/97, Riley unexpectedly contacted [redacted] to ask if [redacted] would sell cocaine to a friend of his. [redacted] was the [redacted] of Riley and had a long social relationship with him. [redacted] was aware that Riley was involved in a variety of criminal activities, including drugs. [redacted] had on numerous occasions informed Riley that he had a guy in Chicago who could supply cocaine. Some of Riley's known associates were significant drug traffickers in the Kansas City area. b6 b7C b7D

In the substantive fraud investigation [redacted] was first utilized to obtain evidence of Riley and others' involvement in the insurance fraud. [redacted] role changed when it became evident that Riley was interested in buying drugs. The RUO was developed in response to Riley's desire to traffic in cocaine and in the belief that he might be cooperative if confronted with a potential five kilo drug charge.

During the period 1/17-30/97, [redacted] recorded numerous conversations with Riley and negotiated the RUO with Riley. On 1/30/97, [redacted] spoke telephonically, and met with Riley at Motel 6 earlier in the day to make the final arrangements for the RUO. During the first meeting at the motel, a CCTV recording was attempted, but the tape malfunctioned. However, a voice recording was obtained. [redacted] and Riley searched each others' bodies for weapons and the SAs at the scene observed no indication of Riley taking the actions he took in the subsequent meeting later that evening. Riley advised [redacted] that he would return in approximately 40 minutes, but after one hour [redacted] paged Riley and asked where he was. Riley stated he would return by 5:00 p.m. and when he did not arrive at that time, Riley was again paged by [redacted] and stated he would be there by 6:15 p.m. A review of the consensual telephone recordings provided no hints of Riley's violent intentions, and in two of those conversations, Riley requested [redacted] to travel to his own home to deliver the cocaine. b6 b7C b7D

At 5:53 p.m., Riley arrived at the motel. The video did successfully operate and recorded [redacted] actions. [redacted] allowed Riley to enter Room 231, they shook hands, and Riley drew a gun and began to fire at [redacted] (See still photos of 8mm video Tab V 1-13).

[redacted] was taken to the North Kansas City Hospital and treated for a gunshot wound. It was determined that this gunshot entered the left upper chest and exited the left shoulder. He was also slightly wounded in the left hand. [redacted] was released from the hospital on 2/1/97.

ACTIONS OF SA [redacted]

b6
b7C
b7D

Prior to the shooting, SA [redacted] was involved in the preplanning and preparation for the RUO and arrest of subject Riley. On the morning of the shooting, 1/30/97, at 10:00AM, SA [redacted] attended a pre-operation briefing in the SAC's conference room. SA [redacted] was assigned as the arrest team leader and would be positioned in the motel room adjoining the room occupied by [redacted] During the briefing, all personnel were advised of the arrest plan and their assignments.

At approximately 12:30PM, SA [redacted] arrived at the motel room where he, the other BuAgents and police officers were to stage. Subject Riley and [redacted] had talked on the telephone and made arrangements to meet about 3:00PM in [redacted] motel room where the drug deal would be completed. [redacted] had five kilos of cocaine which the FBI furnished. This was in his room to show to subject Riley.

Prior to the 3:00PM meeting and during their wait, Officer [redacted] and SA [redacted] simulated entry into [redacted] room and discussed the plan at length with him. When the arrest was to occur, [redacted] was told to dive over the bed and get against the wall when he heard the arrest team coming through the door. In the event [redacted] felt threatened or had a problem, he was told to call out, "Mickey Mouse", and throw his hat into the air. [redacted] was instructed that he was not to let anyone except subject Riley into his room and that if more than one person came to his room he was not to let them in. [redacted] was instructed to go to the bathroom and get down and that an Agent would go in with him for protection. Also during this time, SA [redacted] rehearsed opening the doors to [redacted] room and repeatedly practiced turning the locking knob from the locked to the open position. SA [redacted] and Officer [redacted] discussed the plan for entry into [redacted] room; SA [redacted] would be the first through the doorway in the event of trouble or to affect the arrest of subject Riley.

b6
b7C
b7D

The Technically Trained Agents (TTAs) had placed a concealed closed circuit television camera in [redacted] room with a monitor in the Agents' room. It was checked repeatedly because of an earlier malfunction during this investigation. One of the TTAs would be listening to the conversations in [redacted] room through a headset and SA [redacted] would rely on listening for audible sounds both through the wall and around the door frame.

The surveillance team provided all the involved personnel with updates as to the subject's location and shortly before 3:00PM, the surveillance team reported that the subject was arriving at the motel. [redacted] was told that the subject was on his way to the room and SA [redacted] had [redacted] close and lock the adjoining door. SA [redacted] then positioned himself in front of this door in preparation of making an entry if needed. This meeting between [redacted] and the subject lasted only nine minutes and was without incident. [redacted] was debriefed and they anticipated that the subject would return later in the afternoon with the money for the cocaine.

b6
b7C

Following this meeting, the surveillance team observed the subject pick up two other white males and they went to Applebee's Restaurant near the motel. SA [redacted] had a heightened sense of awareness now that subject Riley was not alone and it was getting later in the day. The subject and his two associates left the restaurant and headed for the motel around 6:00PM in Riley's Lincoln Town Car. The surveillance team advised that subject Riley was the only one getting out of the car at the motel and that he was carrying a bag. It was interpreted as possibly containing the money for the cocaine deal. SA [redacted] had told [redacted] not to lock his door to the adjoining room until he (SA [redacted] definitely told him how many subjects were coming. SA [redacted] knew that subject Riley had seen the five kilos of cocaine in [redacted] room earlier that afternoon and that [redacted] was not armed.

After SA [redacted] learned that subject Riley was approaching the room alone, he told [redacted] to 'button up' meaning to lock his door. [redacted] then closed the door and tapped twice to let SA [redacted] know the lock was on. SA [redacted] took his position at the door, which was the door to the adjoining room. SA [redacted] heard a knock, some noise of movements inside the room and then heard a gunshot. SA [redacted] immediately unlocked the door and drew his weapon as he entered [redacted] room. His first observation was seeing subject Riley holding a gun in his right hand and pointing it in the direction of movement which was either on the bed or on the floor between the two beds. A haze of something in the air further confirmed to SA [redacted] that a

b6
b7C

weapon had just been fired. SA [redacted] yelled, "freeze" but the subject did not respond and continued to point his weapon in the direction of [redacted] SA [redacted] took aim and fired one round. The subject turned toward SA [redacted] with his weapon still in his hand and SA [redacted] fired three additional rounds and the subject fell to the floor and against the wall next to the door which SA [redacted] had just entered. After SA [redacted] determined that the subject was no longer a threat, he holstered his weapon and then assisted Officer [redacted] in handcuffing the subject. [redacted] during this time, had gotten up from the floor and was yelling that he had been shot. b6 b7C

Within moments, SA [redacted] determined that the situation was under control and he walked out onto the walkway in front of the motel room where he was met by SSA [redacted] SA [redacted] released his weapon, a Bureau issued .45 Sig Sauer, to SSA [redacted] and was then driven to the Kansas City FBI Office. SA [redacted] was wearing his protective vest during this RUO.

ACTIONS OF PATROLMAN [redacted]

In preparation for the proposed arrest, [redacted] attended a briefing in the FBI conference room on 1/30/97 regarding a reverse undercover operation involving Riley and the arrest of Riley. [redacted] received a written arrest plan and reviewed the plan.

In the written arrest plan, [redacted] was originally assigned to the outside arrest team and Detective [redacted] was originally scheduled to be part of the inside arrest team. After the typed arrest plan was prepared, a change was made regarding [redacted] position. [redacted] radio had the same frequency as the Kansas City, Missouri Tactical Unit which was assigned to cover the outside perimeter, so [redacted] was moved to the outside arrest team and [redacted] was moved to the inside arrest team. Both [redacted] and [redacted] were fully briefed and aware of their new roles prior to the shooting incident. [redacted] new assignment was to be the second man into [redacted] room behind SA [redacted] to arrest Riley once the drug deal had been consummated. b6 b7C

While in position in the room next to [redacted] heard a knock at [redacted] door. He then heard a popping sound and SA [redacted] opened the door connecting to [redacted] room. [redacted] entered [redacted] room right behind SA [redacted] with his weapon drawn. [redacted] heard SA [redacted] shooting, but he did not see the subject because SA [redacted] was partially blocking [redacted] view. Riley then fell to the floor by [redacted] and SA [redacted] feet. [redacted] yelled at Riley to let [redacted] see his hands. [redacted] got on

top of Riley who was lying on his back and placed his one hand on the subject's hands and held his own gun with the other pointing at the subject. SA [redacted] and [redacted] then rolled the subject onto his stomach and handcuffed him. As [redacted] looked at the subject's face, the subject "gurgled" from his mouth. [redacted] believes the subject died at that moment.

During the operation, [redacted] wore a protective vest and had in his possession two weapons, a .40 caliber semi-automatic pistol and a .38 caliber revolver which he carried in an ankle holster. A check of both weapons following the incident indicated that the weapons had not recently been fired. b6 b7C

OTHER PARTICIPANTS LOCATED IN ROOM 230

Located in Room 230, the room adjoining [redacted] room were ten law enforcement officers assigned as members of the inside arrest and evidence teams. Included in the ten were two technically trained agents, SAs [redacted] and [redacted]. The inside arrest team consisted of the team leader SA [redacted] Patrolman [redacted], SA [redacted] and Detective [redacted]. The evidence team consisted of SAs [redacted] and [redacted] and SA [redacted] of IRS/CID. SA [redacted] was also present. Statements are consistent that a detailed briefing was held at 10:00 AM in the FBI Office's conference room on 1/30/97 regarding a reverse undercover operation involving Joseph Riley and the arrest of subject Riley. Written arrest plans were also received and reviewed.

In compliance with the arrest plan, the participants were all in place in Room 230 at the Motel 6 by 1:00 PM on 1/30/97. To provide protection for [redacted] Room 231 was wired with closed circuit television. Although there had been no previous indication that [redacted] would be harmed, his safety was paramount. At approximately 3:00 PM, an initial meeting was held between [redacted] and Riley in [redacted] room. Riley was shown the kilos of cocaine by [redacted]. It was agreed that Riley would return later in the afternoon with the money to purchase the cocaine. b6 b7C b7D

Shortly before 6:00 PM, the participants in Room 230 learned the subject had returned to the motel and was on his way to [redacted] room. The participants were aware of the entrance of Riley into [redacted] room either through the monitoring of the closed circuit television in Room 230 or by listening at the door which connected with [redacted] room. Several of the participants heard the knock at [redacted] door which prompted [redacted] to open the door for Riley to enter Room 231. While watching the closed circuit monitor, five of the participants specifically stated

they observed Riley enter [redacted] room and pull a concealed weapon from his waistband firing one shot at [redacted] Three participants were not watching the closed circuit monitor, but statements reflect they heard the knock at [redacted] door and then heard one shot.

Shortly after the shot was fired at [redacted] by Riley, participants' statements reflect an awareness that the door connecting Room 230 with [redacted] room was being opened by the arrest team, with an additional several shots being fired immediately thereafter. Two of the participants specifically stated they heard four shots. SA [redacted] observed SA [redacted] and Patrolman [redacted] make entry into the adjoining room of [redacted] and then heard someone shout, "freeze," followed by several more shots. b6 b7C b7D

Following the shots, SA [redacted] and Detective [redacted] observed subject Riley lying in the doorway of the adjoining rooms. SA [redacted] heard [redacted] ask for handcuffs in order to secure the subject and [redacted] observed [redacted] place the handcuffs on Riley.

All members of the arrest team wore badges and tactical vests which were clearly marked with "FBI". Other than SA [redacted] no other participants from Room 230 fired their weapons.

## SURVEILLANCE

The Kansas City SOG team was assigned to conduct physical surveillance of Riley. Ten Special Agents and a Bureau aircraft were assigned to this surveillance.

This surveillance began at 8:15 a.m. on 1/30/97, at the residence of Riley, 7408 West 99th Street, Overland Park, Kansas. Riley was driving a silver 1986 Lincoln Town Car bearing Texas license plate JYP-96H. After traveling to his known place of employment, Webb Communications, Riley picked up [redacted] at his residence in Kansas City. For the next two hours they rode together and met an unknown black female for a short time at a diner in Kansas City. b6 b7C b7D

Riley dropped [redacted] off at a McDonald's Restaurant and met [redacted] for the first time at the Motel 6 from 2:33 p.m. until 2:42 p.m. After this meeting, Riley returned to McDonald's to pick up [redacted]

After drinking beer at a local bar, Riley and [redacted] picked up [redacted] in Kansas City. They picked up a white bag (later determined to contain food items) and all traveled to the Motel 6, where Riley was observed entering Room 231. [redacted] and [redacted] remained in Riley's Lincoln Town Car.

b6
b7C

ARREST OF SUBJECTS AND PROSECUTIVE STATUS

Following the shooting, an investigation was initiated by the Kansas City, Missouri Police Department's Homicide Unit of a dead body which was the result of the discharge of a firearm by an agent of the FBI. The victim was identified in the investigative report as Joseph Riley. Following an examination by Dr. [redacted] of the Jackson County Medical Examiner's Office, Riley was transported to the Truman Medical Center Morgue by Funeral Director's Service.

The two individuals who remained in subject Riley's car outside the motel, [redacted] and [redacted] were arrested by officers of the Kansas City, Missouri Police Department (KCMOPD).

On 1/31/97 [redacted] Platte County Prosecutor, Platte County, Missouri filed a criminal complaint against [redacted] alleging a violation of Section 565.021 of the Missouri Revised Statutes (Mo. Rev. Stat.), i.e. felony murder in the second degree. A conviction for violation of this statute subjects the offender to a wide range of penalties which consist of 10 years to life imprisonment. See e.g. Section 558.011, Mo. Rev. Stat.

Thereafter, on the same day, an arrest warrant was issued and executed while [redacted] remained in the custody of the Kansas City, Missouri Police Department on a "20 hour hold" for his involvement in the 1/30/97 incident. Bond for [redacted] has been set at $500,000.

b6
b7C

Subsequent contact with [redacted] Assistant Prosecuting Attorney, Platte County, Missouri has determined that a Platte County Grand Jury is scheduled to review this entire incident, to include SA [redacted] actions, on 2/26-27/97. Information is still being gathered by the District Attorney's Office in preparation of possible indictments of [redacted] and [redacted] According to [redacted] the possibility of any criminal charges being filed against SA [redacted] is remote.

[redacted] is a convicted felon who is currently on unsupervised federal probation for the illegal distribution of cocaine. Based upon [redacted] involvement in the 1/30/97 shooting incident, [redacted] Probation Officer, United States Probation and Parole, Western District of Missouri, requested and obtained an arrest warrant revoking [redacted] parole. The arrest warrant was predicated on [redacted] violating the terms of his probation by associating with individuals engaged in a criminal act and with a convicted felon, [redacted] b6 b7C

The requested arrest warrant was issued by the Honorable Howard F. Sachs, United States District Judge, Western District of Missouri on 1/31/97, and immediately executed as [redacted] was at the United States Probation Office waiting to report his involvement in the 1/30/97 incident to [redacted] his Probation Officer.

CRIME SCENE INVESTIGATION

On the evening of 1/30/97, due to the possible state felony murder charges against [redacted] and [redacted] the Kansas City, Missouri Police Department (KCMOPD) processed and collected evidence from Room 231 as well as from a 1986 Lincoln Town Car, license JYP-96H (Texas), utilized by Riley and accomplices parked in the motel lot.

An apparent bullet hole was observed in the curtain, window, and exterior screen on the south wall of Room 231 (Photo 6). The hole in the window is large, possibly indicating a tumbling bullet (Photo 30). An extensive search of the motel parking lot, pool area, and surrounding areas was conducted via visual observation and metal detectors with negative results. A review of the surveillance video within Room 231 reveals that this damage was likely caused by subject Joseph Riley's first fired round. This first shot struck [redacted] in the upper chest at an oblique angle and exited from [redacted] upper left arm and continued in a southerly direction. b6 b7C

A spent bullet was also recovered on the floor along the west wall just north of the southern most bed (Photos 8, 12, 33). Firearms Examiner (FE) [redacted] Kansas City, Missouri Police Department (KCMOPD), advised a preliminary examination of the bullet is consistent with those from Riley's .38 Colt. A review of the surveillance video indicates this bullet to likely be Riley's second fired round.

The surveillance video also shows that upon being struck by SA [redacted] first fired round, Riley fired his weapon a third time in a downward, and generally, a southwesterly direction. This bullet was not located during the initial crime scene search. However, on 1/31/97, the following day, a further search was conducted by KCMOPD for the third bullet. It was located in the interior of a box spring mattress along the south wall of Room 231 (Photo 32). FE [redacted] advised this fired bullet is also consistent with those from Riley's .38 Colt. b6 b7C

A .38 Colt, six shot revolver, Serial Number 12637, was found lying on the floor east of the northern bed. (Photo 4). Three (3) spent casings head stamped "RP 38 S&W" and three (3) live bullets head stamped "RP 38 S&W" were in the cylinder. (Photo 9).

The following .45 spent shell casings were located in various locations in Room 231:

One (1) shell casing head stamped "RP 45 Auto" located under the northeast corner of the southern most bed (Photo 7).

One (1) shell casing head stamped "RP 45 Auto" located under the east end of the northern most bed (No photo).

One (1) shell casing head stamped "RP 45 Auto" located on the bathroom floor (Photo 5).

One (1) shell casing head stamped "RP 45 Auto" behind the bathroom toilet (Photo 13).

A spent bullet and copper jacket were collected from beneath Riley's shirt. (Photo 11). Three (3) additional spent bullets were removed from Riley's body during the autopsy. FE [redacted] advised these four (4) spent bullets were consistent with those from SA [redacted] weapon (Photos 23-25).

Apparent gunshot wounds were observed by crime scene technicians and reported in the following areas of subject Riley's body: b6 b7C

Two on the back, below the right shoulder.

Two on the left side of the chest beneath the right arm pit.

Subsequent review of autopsy photos reveals first on-scene examination of Riley's body by crime scene technicians was in error. Entry wound is also located on right side below armpit. One wound on chest is an exit wound (Photos 16-22).

Examination of the 1986 Lincoln Town Car, pursuant to a search warrant, revealed nothing apparently related to the shooting (Photos 14, 15).

## WEAPONS INVOLVED

During the shooting of [redacted] by Joseph S. Riley and the subsequent shooting of Riley by SA [redacted] the following weapons were discharged:

Joseph S. Riley's weapon:

.38 Colt, six-shot revolver, Serial #12637, with RP .38 Smith and Wesson ammunition.

b6
b7C
b7D

SA [redacted] weapon:

.45 Sig Sauer pistol, P220, Serial #G181620 with RP .45 auto Remington, 230 grain ammunition. A seven round magazine was utilized in SA [redacted] weapon.

Investigation by Kansas City, Missouri Police Department (KCMOPD) and FBI revealed the following number of spent casings and live rounds located at the crime scene:

Three (3) spent casings head stamped "RP 38 S&W" and three (3) live rounds head stamped "RP 38 S&W" were located in the cylinder of Joseph S. Riley's revolver. (See KCMOPD cylinder diagram in their Physical Evidence/Property Inventory Report #97-010890).

Subject Joseph S. Riley's weapon was found lying on the floor of Room 231, east of the northern most bed. The barrel was pointing east.

Four (4) spent casings head stamped "RP 45 Auto" located within Room 231.

Following the shooting, SA [redacted] weapon was examined and found to contain one (1) .45 round in the chamber and three (3) .45 live rounds in the seven (7) round magazine. These four (4) rounds in addition to the four (4) .45 shell casings found in Room 231 total eight (8) rounds.

Riley's weapon, unfired cartridges and shell casings are being maintained by the KCMOPD. SA [redacted] weapon was test fired by KCMOPD and returned to him the next day. b6 b7C

FIREARMS TRAINING

Following is the firearms training schedule conducted by the Kansas City Division, Headquarters City, calendar year 1996:

6/3-5/96

7/22-23/96

8/1/96

9/9-10/96

9/26-27/96

10/21-22/96

10/28-29/96

Review of FD-40 Field Firearms Training Record for SA [redacted] revealed that he qualified in a Pistol Qualification Course (PQC) five times during calendar year 1996. SA [redacted] attended firearms on the following days and attained the following scores:

6/5/96 (94)

7/29/96 (98/100)

10/30/96 (96/98)

SA [redacted] is a current member of the Kansas City SWAT Team. His scores obtained on 7/29/96 and 10/30/96, represent SWAT qualifications.

MEDIA COVERAGE

Local television stations covered the above described shooting during the evenings of 1/30-31/97. The major city newspaper, THE KANSAS CITY STAR, published articles on the mornings of 1/31/97 and 2/1/97.

A review of all media coverage revealed generally positive comments with no issues raised and overall factual reporting.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: Inspector [redacted] Office: WFO
Date: October 24, 1997

Field Office File #: FBIHQ
Bureau File #: 66-19157-53

Title:

Character: ADMINISTRATIVE INQUIRY

Synopsis: INQUIRY OBSERVATIONS

The Newark Division VC/FTF was alerted to subject Michael Byrd's whereabouts approximately one week prior to the incident by a source who believed Byrd to be wanted. A preliminary inquiry initiated at that time revealed he had been previously arrested for murder and later captured by police in West Virginia. Byrd was extradited to New Jersey and set free on bond. Subsequently, he failed to appear and an arrest warrant was issued. On the morning of January 30, 1997, the Newark VC/FTF planned to locate and arrest Michael Byrd.

SA [redacted]

SA [redacted] EOD 3/7/88, was assigned in San Antonio from 6/88 - 9/90 where he worked on a Violent Crimes and the surveillance squad. In 1990, he was transferred to the Newark Division where he worked exclusively on Violent Crimes cases. He is a certified Firearms Instructor, b6 Tactical Instructor and member of Newark's SWAT Team, b7C serving as assistant team leader. Prior to his FBI service, SA [redacted] spent five years with INS as a Border Patrol Agent. He is Principal Relief Supervisor for Squad C-1 and the Coordinator of the VC/FTF.

Per normal routine, the VC/FTF on days they were planning arrests, met in the FBI garage to set out the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

general plans for the morning. On 1/30/97, SA [redacted] placed the arrest of Michael Byrd second on the squad's agenda. After the first arrest came up negative, SA [redacted] briefed the squad on Michael Byrd and the fact that they would first attempt to contact [redacted] for information as to his location. At her residence, an elderly man [redacted] answered the door and identified Byrd as [redacted] was staying in Elizabeth, New Jersey, advising that he probably would be armed.

SA [redacted] initiated plans for a tactical entry, naming SA [redacted] to enter the residence with a protective shield and SA [redacted] to follow with an MP-5. The remainder of the entry team consisted of SAs [redacted] and [redacted] ECPO Detectives [redacted] and [redacted] NPD Detective [redacted] Essex County Department of Public Service (ECDPS) Sergeant [redacted], and [redacted] US Marshal's Service.

b6
b7C

Approximately one block from Byrd's suspected location, SA [redacted] provided a final briefing. The Task Force proceeded to the residence where Detective Contreras and SA [redacted] followed SAS [redacted] and [redacted] up the front steps where [redacted] rang the doorbell. Radio traffic indicated someone on the top floor was trying to throw a bag out of the back window and a short time later, jump out of the window. A woman answered the door indicating Byrd was in the upstairs apartment. The four climbed the stairs, SA [redacted] announced their presence and subsequently kicked in the door. SAs [redacted] and [redacted] began clearing the apartment, proceeding down the hall shouting commands for any residents to come out. A man and woman came out, the former indicating Byrd was in the back room. SAs [redacted] and [redacted] entered the back bedroom where they began a systematic search. SA [redacted] checked under the bed once and SA [redacted] heard him say he needed to do so again. SA [redacted] who was in the closet, heard SA [redacted] say "let me see your hands." He shouted this for 10-15 seconds at which time an individual (Byrd) jumped up from under the bed, holding his left hand up and out in front of him. SA [redacted] could not see the right hand because his body was bladed away from him, however it appeared to be in his waistband. For about 15-30 seconds SAs [redacted] and [redacted] shouted for Byrd to show his other hand. Byrd did not comply. He then spun his body around to face SA [redacted] SA [redacted] stated he heard two "pops" which he thought came from a small caliber weapon, and then a puff of smoke about two feet in front of Byrd at waist height. SA [redacted] began to fire his weapon, emptying it. He holstered the pistol after he saw Byrd slump against the wall and because he saw that SAs [redacted] and [redacted] each had Byrd covered.

b6
b7C

Following the shooting, SA began attending to necessary issues such as notifying outside individuals of the results, calling for Elizabeth Police assistance, EMS assistance and the FBI Evidence Response Team. Shortly afterward, SA became aware of the other Agents who had fired their weapons, namely SAS and NPD Detective SA did not recall during the incident that any of those individuals had fired.

SA

SA EOD 2/5/90, has served in the Newark Division on the Applicant Squad and in his present assignment on the Violent Crimes Squad for approximately seven years. He is a certified Firearms Instructor and a member of the SWAT Team, where he serves as a sniper.

b6
b7C

On January 30, 1997, Squad C-1 was preparing to conduct several arrests and as was normal procedure personnel met in the FBI garage at approximately 5:00 a.m. SA recalled that SA briefly provided the identities of the fugitives to be worked that day. The first was an armed robbery fugitive and the second case was to be Michael Byrd, wanted by New Jersey authorities for homicide.

Following a unsuccessful attempt at locating the first fugitive, squad members remained at this location where SA provided more in depth detail about Michael Byrd. Discussion dealt with how to approach the residence in Montclair, New Jersey where Byrd might be located. At this location SA was assigned to cover the rear of the house. This search also was negative so Agents and local officers moved to a staging area in Elizabeth, NJ, near another location thought to be where Byrd was staying based on information
Again, discussions about how to approach this residence were formulated and SA and SA were to enter the door first, utilizing body bunker and a MP-5 shoulder weapon, immediately followed by SA and ECPO

b6
b7C

SA arrived at the address at approximately 7:00 a.m. and when perimeter Agents and officers were in place, he and SA approached the door. Officer rang the bell and at just about that time, SA heard a radio transmission indicating individuals had appeared at the upper window. A woman answered the door indicating Byrd was located upstairs. At that time, another radio transmission indicated someone was kicking the screen out of the upper window. SA knocked and announced at the upstairs door and after one to two minutes, SA

kicked in the door. Both SAs [redacted] and [redacted] began to clear the rooms beginning with the kitchen and living room, which were empty. SA [redacted] was repeatedly calling to the occupants "FBI come out with your hands up." A man (not Byrd) and woman exited from the inner rooms and were handcuffed in the living room by other members of the arrest team. SA [redacted] continued to call out commands to come out. SA [redacted] was using the body bunker and SA [redacted] was directly in back of him. They cleared the bathroom and a closet and the decision was made to enter the back right bedroom. SA [redacted] cleared the bedroom closet while SA [redacted] advised he would look under the right side of the bed. Seeing nothing, he proceeded to the left side at which time he backed away from the bed shouting repeatedly "let me see your hands." The subject stood up abruptly, causing the mattress/box spring to thrust to SA [redacted] right side. He moved to his left and stood shoulder to shoulder with SA [redacted] with his MP-5 trained on Byrd. The subject stood in a bladed position with his right hand located near his mid-thigh area. His left hand was positioned in a defensive stance at approximate chest height. It was SA [redacted] belief that Byrd had a weapon in his pants. He also appeared to be scanning the room quickly with his eyes. Byrd did not comply with the Agents' commands to show his hands during about a 25-30 second time period. At this time, Byrd made a quick, threatening move in which he spun to face the two Agents directly. Simultaneous to this, SA [redacted] heard a "pop" coming from Byrd which he thought was a gunshot and at this point he began firing his MP-5. He indicated he didn't recall how many rounds he fired but he does remember shooting two round bursts until he observed the subject falling to the ground.

b6
b7C

SA [redacted] stated he believed Byrd possessed a weapon and as such, he was in fear for his life during the entire encounter.

b6
b7C

SA [redacted]

SA [redacted] EOD 9/8/91, has had investigative assignments in the Applicant, Civil Rights, White Collar Crime, Interstate Theft and as of 1/6/97, the VC/FTF areas. He is a Firearms and Tactical Instructor and a member of the SWAT Team where he serves as Team Leader. Previous to the FBI, he served four years in the US Army Infantry.

At approximately 4:45 a.m., on 1/30/97, Task Force members gathered in the FBI garage for a briefing on the first scheduled arrest attempt for that day. This effort proving unsuccessful, Task Force members were then briefed on the Michael Byrd case and proceeded to the

Montclair, NJ [redacted]

residence, informing SA [redacted] that Byrd was probably armed.

b6
b7C

The Task Force regrouped outside the [redacted] for a briefing on the next move. SA [redacted] was assigned to carry the shield and together with SA [redacted] who was carrying the MP-5, would enter the apartment first. SA [redacted] was the team leader.

At approximately 6:30 a.m., SAs [redacted] and [redacted] and Detective [redacted] climbed the outside stairs of the residence while other members of the TF took up other assigned positions. SA [redacted] knocked at the door and a woman answered stating that Byrd was in the upstairs apartment. At about the same time, one of the TF members saw someone appear at an upstairs window, where Byrd was supposedly staying.

When the four Agents/officer reached the second floor, SA [redacted] announced their presence and contemporaneously, another Agent observed an individual try and remove a screen from an upper window. For several minutes he continued knocking and at some point, SA [redacted] ordered that the door be kicked open. SA [redacted] accomplished this task.

SAs [redacted] and [redacted] entered the apartment and began to methodically clear the rooms, beginning with the living room. At the same time, SA [redacted] was calling for any occupants to come out. A male individual eventually came out and was handcuffed. SA [redacted] became aware that there was a woman in the apartment and he called out to her to come out as well. She exited the back left bedroom and was handcuffed.

b6
b7C

SA [redacted] instructed SA [redacted] to clear the rest of the space as Byrd was still thought to be present. SAs [redacted] and [redacted] with the assistance at one point of Detective [redacted] cleared the bathroom, closet, a — bedroom on the right and a back left bedroom which was illuminated and appeared empty.

SA [redacted] instructed them to clear the back right bedroom at this point. SA [redacted] entered the room behind the shield while SA [redacted] remained in the hallway. SA [redacted] directed SA [redacted] to enter and proceed to the right while SA [redacted] went to the left. SA [redacted] looked under the bed with his flashlight and saw no one. SA [redacted] cleared the closet and left the room to thoroughly clear the right bedroom. SA [redacted] entered the

room while SA [redacted] began to look under the left side of the bed. At this time, he saw an individual and jumped back shouting that Byrd was there. He called repeatedly to Byrd to come out and show his hands. There were four Agents/Officers (SAs [redacted] and Det. [redacted] in the room positioned around the room at this point. Byrd emerged, first in a kneeling position with the mattress on top of him and his body bladed so the right side was not visible but his left hand was directly outstretched. He quickly moved to an upright position, throwing the mattress to the left side and moving back towards the corner. His body was still bladed so his right side wasn't visible but SA [redacted] could tell that his right hand was in his sweatpants. We ordered him to remove his hand but Byrd did not comply. SA [redacted] began firing his weapon at Byrd when the latter quickly swung his body around toward him. He emptied his weapon and reloaded, however, the shooting had stopped by that time as Byrd was sliding down against the wall. SA [redacted] stayed in the room until emergency personnel arrived at the scene.

b6
b7C

SA [redacted]

SA [redacted] EOD 10/29/95, was assigned to the Applicant/Civil Rights Squad upon reporting to Newark from New Agents Class and spent approximately five months there. He has been on the VC/FTF since 7/96. Prior experience includes three years as a police officer.

On the morning of 1/30/97, the Task Force met in the Bureau garage as was the usual pattern prior to attempting a series of arrests. SA [redacted] briefed everyone on the first subject and the approximate 16 TF members took up assigned posts at the first location. Because the fugitive was not present, SA [redacted] gathered TF members together for a second briefing regarding Michael Byrd. The next location in Montclair, NJ, was that of Byrd's girlfriend. SA [redacted] and Investigator [redacted] were assigned to approach the front door while other members formed a perimeter around the house. Newark PO [redacted] and SA [redacted] were to follow SA [redacted] and [redacted] to the door. An elderly man let us in the house where [redacted] and SA [redacted] along with other personnel present conducted a protective sweep. [redacted] Once the residence was secure, SA [redacted] exited the apartment.

b6
b7C

[redacted] Prior to departing, SA [redacted] again provided instruction regarding assignments. SAs [redacted] and [redacted] were to enter the location first, closely followed by SA [redacted] and

Investigator [redacted] SA [redacted] and Detective [redacted] were to follow. When the team reached the staging point, SA [redacted] The TF then proceeded to the location where the above individuals climbed the steps of the residence. SA [redacted] observed the curtains move in an upstairs window after the doorbell was rung and heard over the radio that a side window was open. At this point, a woman came to the door and indicated Byrd was in the upstairs apartment.

The Agents and Investigator [redacted] went up the stairs where SA [redacted] announced their presence. SA [redacted] was among the individuals who followed the four up the stairs. During the several moments that SA [redacted] was announcing the presence of law enforcement, I heard another transmission indicating someone was opening a back window. On SA [redacted] order, the door was forced and SA [redacted] participated with other Agents in clearing the living room. SA [redacted] observed SAs [redacted] and [redacted] yelling commands for the occupants to come out and after a couple of minutes, SA [redacted] observed an individual coming from the back. This person wasn't totally cooperative, however, he was brought under control and searched. Next a woman came down the hall and was handcuffed and questioned by SA [redacted]

b6
b7C

SAs [redacted] and [redacted] continued to clear the apartment eventually reaching the back right bedroom. SA [redacted] and Investigator [redacted] were behind them and SA [redacted] stated he used a closet opening off the hallway to provide himself cover. SA [redacted] heard SAs [redacted] and [redacted] yelling "let me see your hands!" SA [redacted] went to the door and observed Byrd in a defensive position with his right hand near his waistband. He was bladed away and SA [redacted] was unable to actually see his right hand. SAs [redacted] shouted for Byrd to show his hidden hand, however, Byrd did not do so. He scanned the room looking at each individual in turn. Byrd then made a very quick turning movement towards SAs [redacted] and [redacted] and I heard three shots. SA [redacted] believed Byrd had fired at the Agents and began firing back. It didn't appear that Byrd was falling but SA [redacted] indicated he thought he was being hit. In all, SA [redacted] estimated he fired seven rounds. When the shooting ceased, SA [redacted] left the room and the apartment to await further instructions.

b6
b7C

## INQUIRY OBSERVATION/RECOMMENDATION

Each of the SAs interviewed by the Inspection Team were cooperative and eager to recount individual recollections of the January 30, 1997, shooting incident. those recollections are in substantial conformance with one another, although all statements contain what could be termed understandable differences in terms of the amount of detail each was able to summon regarding each aspect of that morning's events. In the seminal portion of the day's events, however, all four Agents could readily explain the reasons they believed their use of deadly force was justified and necessary and each one recounted the details of their use of it in substantially the same way.

It is recommended that this inquiry be closed with no further action.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: MINNEAPOLIS
Date: March 10, 1997

Field Office File #: 66F-MP-46872 Bureau File #: 66F-MP-46872

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT;
MINNEAPOLIS DIVISION,
1/31/97

Character: ADMINISTRATIVE MATTERS - OTHER

Synopsis: Subject of 91A-MP-46869 involved in FBI shooting incident on 1/31/97, following subject's robbing of CHANHASSEN BANK, Chanhassen, Minnesota, hostage taking, and firing upon officers in pursuit.

b6
b7C

DETAILS:

On 1/31/97, at approximately 7:35 p.m., subject [redacted] (91A-MP-46869) entered the CHANHASSEN BANK, 600 West 78th Street, Chanhassen, Minnesota, displayed a handgun, made oral demands for money, and ordered employees and customers into a back room within the bank.

After taking control of the bank, subject ordered the bank manager at gunpoint to remove money from numerous teller stations and provided a green plastic newspaper bag for secreting the monies. Subject then took as a hostage one [redacted] white female, dob [redacted] and departed the scene in her vehicle with [redacted] as driver.

Due to the timely activation of the bank's alarm system and a call placed by [redacted] to the 911 operator at the initiation of the robbery, Chaska, Minnesota, Police Department and Carver County Sheriff's Office personnel identified the vehicle and initiated surveillance.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

During the surveillance, hostage [redacted] executed a 180 degree turn of the vehicle. As the vehicle came to a stop, subject [redacted] exited, fired two shots in the direction of the police vehicles, and fled on foot with [redacted] toward a wooded area. [redacted] was able to free herself after a short distance and was rescued by responding law enforcement. Subject [redacted] fled into a wooded area adjacent to several housing developments in the vicinity of Rice Marsh Lake, Chanhassen, Minnesota.

b6
b7C

Law enforcement agencies throughout the area responded to the scene, to include Minneapolis Division SAC Roger H. Wheeler, Assistant Special Agent in Charge Michael J. Waldner, Violent Crimes Supervisor [redacted] and various SA personnel, to include Minneapolis SWAT Team Leader [redacted] and other SWAT Team members. An FBI hostage negotiator was present as well.

A command post was established at Rosemount Engineering Company on Highway 5 in Chanhassen, Minnesota, and a search was instituted for the subject. With the assistance of a Minnesota State Patrol helicopter and tactical teams of the FBI, the Minnesota State Patrol and the Eden Prairie, Minnesota, Police Department, the subject was located and surrounded in a wooded area adjacent to Rice Marsh Lake.

FBI SWAT personnel were briefed by the SWAT Team Leader and the FBI policy on deadly force was reiterated.

A single exchange of gunfire occurred during the next several hours which did not involve FBI personnel and which resulted in no injuries to the subject or to law enforcement.

When, at approximately 11:10 p.m., the subject began a verbal exchange with officers, ASAC WALDNER dispatched SA [redacted] a hostage negotiator, to the scene with Carver County Sheriff's Officer Deputy [redacted] a Bureau-trained negotiator, in support. During this verbal exchange, the subject repeatedly refused to surrender and stated officers would have to "come and get me."

b6
b7C

At approximately 11:40 p.m., SA [redacted] a member of the Minneapolis Division SWAT Team on perimeter, observed the subject walking from the wooded area into the residential development. SA [redacted] could clearly view the subject's silver handgun as he walked. SA [redacted] ordered the subject to freeze and drop his weapon. After pausing, the subject dropped to his knees and then into a prone position, still holding his handgun. SA [redacted]

moved toward the subject with SAs [redacted] and [redacted] fellow SWAT Team members, in support. The subject then stood and began walking into the residential area. SA [redacted] again ordered the subject to drop his weapon, at which time he responded, "Fuck you, come and get me." As the subject moved through the clearing toward the residential area, SA [redacted] prepared to shoot but refrained from doing so due to concerns for the safety of persons inside nearby houses. A foot chase ensued with SAs [redacted] and [redacted] in pursuit. They were jointed shortly thereafter by Eden Prairie Police Officer [redacted] After turning from a series of residential streets into a cul de sac, the subject paused in front of a driveway on the left side of the street, raised his handgun to shoulder level, and turned toward the SAs and officer, who had taken stationary positions at the entrance of the cul de sac. SAs [redacted] and [redacted] again ordered the subject to freeze and when he did not comply, they and the Eden Prairie Police Officer discharged their weapons with SA [redacted] firing first and SA [redacted] firing several seconds thereafter. The subject fell to the ground behind a snow bank along the driveway's edge, was apprehended, handcuffed and his weapon, a Taurus Model P-22 pistol, was retrieved and rendered safe.

b6
b7C

A wound was identified in the subject's lower left wrist for which he was immediately transported to the Hennepin County Medical Center for treatment.

Inasmuch as the Minneapolis Bureau of Criminal Apprehension (BCA) was to process the initial two shooting scenes, it was agreed that BCA would do the FBI scene as well.

The 10mm MP-5 weapons of SA [redacted] and [redacted] were taken into custody by the SWAT Team leader and subsequently provided to BCA for examination. Two rounds had been discharged from each. Officer [redacted] had fired four rounds from a 12-gauge shotgun.

b6
b7C

Subject [redacted] was interviewed on 2/3/97, wherein he admitted to the bank robbery, stating it was his intention to be "killed by the police during the robbery." [redacted] has been charged with three counts of bank robbery; Title 18, USC, Section 2113(a), (d), e; one count of Use of a Firearm, Title 18, USC, Section 924(c)(1); and state charges as follows: Attempted Murder in the First Degree (six counts); Second Degree Assault (four counts); Terroristic Threats (one count); Kidnapping (one count).

SAC COMMENTS AND OBSERVATIONS:

On the evening of January 31, 1997, I was on-scene at the victim bank and the command post during the sequence of events which is recorded herein. It is important to recall that this incident started late on a Friday evening at approximately 7:30 PM, and was concluded within four hours. All local police departments, sheriffs' departments and state agencies, both the Minnesota State Patrol and the Minnesota Bureau of Criminal Apprehension, cooperated entirely with each other and with the FBI in all aspects of this investigation. There was never a hint of anyone attempting to take control beyond their jurisdictions or abilities. Carver County Sheriff Allen J. Wallin and I were at the Command Post at the time the subject of the bank robbery investigation was apprehended. There was complete cooperation between the two agencies in dealing with all the investigative agencies involved. In addition, I would like to note that SA [redacted] head of the Minneapolis SWAT Team, took control as the on-scene Tactical Leader, through his demeanor and expertise, and provided guidance and assistance to each of the three Tactical Teams or partial teams that arrived and were utilized throughout the evening. Those three teams were from the Eden Prairie Police Department, Minnesota State Patrol, as well as the Minneapolis FBI Swat Team. From the beginning, this bank robbery, hostage taking, manhunt was extremely fast moving with little or no time to plan and prepare. It simply was four hours of rapid fire reaction to various situations.

b6
b7C

At the conclusion it was decided by the ranking member of each agency on-scene that the Bureau of Criminal Apprehension (BCA) would conduct the shooting scene investigation and review, except as it specifically related to each involved agency, such as interviewing of personnel. The reason for this was simple. The Bureau of Criminal Apprehension conducts reviews within the state of Minnesota for all state and local agencies so that an independent review is provided. This is the first time they had been involved with the FBI in the metro area. They are extremely well equipped and professional in everything they do. There were three separate shooting scenes, only one of which involved FBI personnel. Only one item of minor contention came out of BCA conducting their shooting review. Their standard operating procedure is to obtain blood and urine samples from involved officers. I advised them early on that the involved FBI Agents had already been released from the area and sent home and these Agents would not be providing blood and urine samples to them. I have agreed to meet with Nicholas V. O'Hara, Superintendent, BCA, (former Minneapolis SAC), to discuss this in more detail in the upcoming weeks. While we did provide the involved weapons to them for review at a later date, we did not, as the other agencies do as a matter of routine, turn weapons over to them immediately.

Being forwarded as part of this report are three video tapes. The first video is a "Home Video Shot" by a neighbor,

which contains footage of the officers involved in the shooting and involved in the subsequent investigation, milling around outside this neighbor's home after the actual incident and provides, in my opinion, no information of value.

The second video captioned, "Total Footage W/Time Code," is a video prepared by the BCA of the three various shooting scenes, in support of the still photography that was done. This video was prepared after the fact and provides usefulness to the viewer in developing references as to distances involved, etc.

The third video captioned, "MSP Flir Tape," is approximately one and one-half hours of film taken from the Minnesota State Patrol (MSP) helicopter, which was instrumental in locating and keeping the suspect under observation through the use of heat-sensitive equipment. In addition, it is an audio tape which records some of the conversation between the air and ground units and in a more limited way, ground to ground units. This video actually records the location of the subject, the one and one-half hours that he was holed up in the woods, and the subsequent foot chase through the neighborhood. (Using the Zulu time in the lower right corner, the foot chase begins at approximately 0605.)

In reviewing our report and the BCA report, it is noted there are minor inconsistencies as to time, number of shots fired, etc., between the various witnesses, both law enforcement and non-law enforcement. This is to be expected and was not of a substantial nature.

I think it is also important for the reader to understand that prior to SA [redacted] dispatching the first half of the Minneapolis Swat Team to their assignments, he met with them, reviewed the facts with them, gave them their assignments, and reviewed with them the Bureau's Standard Rules of Engagement, which is customary. It is noted during a review of the report that a number of other SWAT Team members were not present during this discussion and did not receive any instructions or Rules of Engagement. These SWAT Team members were never dispatched to the scene. b6 b7C

In reviewing this report, the one item that stands out most in my mind, beyond the obvious cooperation among everyone, was the remarkable restraint employed by all the officers involved. This subject had robbed a bank, taken a hostage, threatened the hostage, and fired shots at two police officers within the first fifteen minutes of this incident. Subsequently, he was again located and fired shots at or around police officers. In listening to the audio comments on the MSP Flir Tape, one local officer comments numerous times that he can see the subject. This officer never fires his gun. Once the subject breaks free from his hiding place and begins his run to escape, a number of police officers, including FBI Agents, could have shot at the subject. None of them did until there was no alternative left.

In discussion with the involved Agents after the incident occurred, both of them indicated that because of their training by SA [redacted] in particular, they are keenly aware that they are responsible for each and every shot fired. They have been well trained in knowing when to shoot, but more importantly, when to shoot safely. It is unfortunate that two of the shots taken did enter an occupied residence however, it is clear to me that the Agents and Officers involved had no choice but to shoot at the time they did.

b6
b7C

All things considered, the subject is in custody with a minor injury, he confessed to his crimes and his desire to commit suicide by cop, no law enforcement officers or civilians were injured and minimal property damage occurred, I believe this incident was resolved in the most effective and efficient manner possible.

# FBI
# Shooting Incident Report Summaries

# 1997

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSRA [redacted] Office: Omaha
Date: October 23, 1997

b6
b7C

Case ID #: 66F-OM-44387

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
OMAHA DIVISION
OCTOBER 3, 1997

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident occurred during a buy-bust drug scenario in Alda, Nebraska, on the night of 10/3/97.

The investigation into the drug activities of Mario H. Velez (281C-OM-43272) was opened 11/4/96 and assigned to SA [redacted] Omaha Division, North Platte Resident Agency. According to the opening communication, Velez had long been believed to be the main source of methamphetamine in Lexington and North Platte, Nebraska. Velez was described as a Mexican citizen currently living in Lexington, but moving from hotel to hotel. SA [redacted] had recently developed a source who advised that Velez routinely imported multi-pound quantities of methamphetamine, cocaine and marijuana from Mexico to Nebraska, via Garden City, Kansas. Source believed Velez was clearing about $15,000/week in profit.

Velez' criminal history record and contact with INS at Omaha, Nebraska, showed the following criminal history for Velez. He was arrested by the INS and deported in 1980. He was subsequently arrested by the North Platte Police Department in 1989 on a charge of possession of a controlled substance with intent to distribute. This charge was later dismissed. He was convicted on a felony drug charge pursuant to a 1990 arrest. He was sentenced on three different counts for periods ranging from one to three years and five to ten

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

years. He was arrested for deportation by INS in 1991 while in custody and a detainer was placed on him at that time. He was paroled in May, 1993, and then subsequently deported by INS in June, 1993. He was arrested again by INS in January, 1994, and in February, 1994, his parole status was revoked. He was paroled again in January, 1995, and pursuant to an INS detainer from his January, 1994, arrest was deported at that time.

Based on the above source information and Velez' criminal history, SA [redacted] discussed this case with SA [redacted] Grand Island Resident Agency, who advised he had a good undercover police officer to deal with Velez. b6 b7C b7D

During November 1996, two drug purchases were made from Velez. On 11/8/96, [redacted] Grand Island Police Department undercover officer [redacted] who purchased one ounce of methamphetamine (although when tested, the substance proved to be amphetamine). On 11/21/96, officer [redacted] again acting in an undercover capacity, purchased one ounce of methamphetamine from Velez in Lexington.

In December 1996, Velez abruptly moved from Nebraska to Kansas. SA [redacted] source advised that Velez fled because he believed a warrant had been issued for his arrest. At about the time he left Nebraska, Velez [redacted] During another [redacted] Velez again advised of his suspicions about [redacted] claiming [redacted] had wanted to buy too much too soon. [redacted] Velez did not return to Nebraska until September 1997.

On 9/24/97, the source advised SA [redacted] that Velez had moved back to Nebraska and wanted to reestablish contact with [redacted] On 9/26/97, Velez delivered to officer [redacted] again acting undercover as [redacted] samples of cocaine and heroin. Velez agreed to deliver to [redacted] 17 ounces of black tar heroin and 35 ounces of cocaine. SAs [redacted] and [redacted] along with other members of the Tri-City Federal Drug Task Force (TCTF), began planning a scenario intended to result in a buy-bust arrest of Velez on Friday 10/3/97. b6 b7C b7D

The arrest scenario developed for 10/3/97 was a cooperative effort by the members of the TCTF, which was headquartered in the federal building in Grand Island, Nebraska. All law enforcement agencies that were to participate in the

attempted arrest of Velez, including the FBI, are members of the task force. The Memorandum of Understanding (MOU) which sets forth the policies and procedures of the TCTF was most recently signed by the ten participating agencies (except the Immigration and Naturalization Service) in late 1996 and early 1997. The mission of this task force is to "identify, investigate and prepare for prosecution cases against major drug trafficking organizations that affect central Nebraska." Although the FBI is an active participant in the task force, it has no supervisory authority over the participating officers. The MOU clearly states that each participating agency will continue to supervise its officers and that officers "will adhere to all policies and procedures of their parent agency."

One of the TCTF's first steps in preparing for Velez' arrest was to rent, on 9/29/97, a small single-family home in Alda, Nebraska, about five miles from Grand Island. Renting this home provided the task force with complete control over the arrest scene and ensured it was at least a reasonable distance from other structures.

Also on 9/29/97, SA [redacted] tried to contact Omaha ASAC Thomas W. Richardson. ASAC Richardson was not in, so SA [redacted] left a message that he needed approval for both aviation support and technical coverage of the arrest of Velez.

ASAC Richardson supervises the Omaha Division pilots and the primary technically trained agent (TTA). ASAC Richardson contacted pilot SA [redacted] and TTA [redacted] and directed them to be available to assist SA [redacted] as necessary. ASAC Richardson then contacted Omaha SSAs [redacted] and [redacted] and advised them that an operational plan would need to be developed for the arrest. b6 b7C

SSA [redacted] has administrative responsibility for the North Platte and Grand Island RAs and is the rating official for SAs assigned there. As far as case supervision in the RAs is concerned, however, SSA [redacted] oversees investigations only in those programs which are supervised off of his squad in Omaha, i.e., VCMO, Domestic Terrorism and Applicants. SSA [redacted] the Omaha Division OC/Drug program coordinator, is responsible for day-to-day supervision of drug investigations in those RAs.

On 9/30/97, SA [redacted] dictated over the phone to Omaha an operational plan for the anticipated arrest of Velez. The two-page plan, prepared on a form developed for use within the Omaha Division, anticipated the arrest would occur at 9:30pm on 10/3/97 at the house rented earlier by the task force. The plan

noted that the FBI's Deadly Force Policy would be followed, body armor and law enforcement identification would be worn and that arresting officers would be using agency-issued handguns and shotguns. The planned arrest team included seven law enforcement officers, including SAs [redacted] and [redacted]. The plan was typed in Omaha and reviewed by both SSA [redacted] and ASAC Richardson. ASAC Richardson signed off on the plan 10/1/97 and advised later during interview that it appeared sufficient. He did request that SA [redacted], be available in case Spanish language assistance was necessary. Although this plan was typed up and approved, it was never returned to SA [redacted] and was not later used as briefing material for the arrest. The information contained in the plan, however, was provided to those taking part in the arrest and was used to formulate the final arrest order. b6 b7C

At the same time he dictated the arrest plan, SA [redacted] also dictated an operational plan for a search of Velez' drug stash house. It was anticipated that during the course of his dealings with officer [redacted] on 10/3/97, Velez would lead surveillance units to his drug storage location. The search was to be conducted immediately following the arrest of Velez. This plan was also approved by ASAC Richardson.

On 10/1/97, Omaha TTAs [redacted] and [redacted] traveled to Alda to install electronic monitoring equipment in the house to support the arrest. They installed in the living room a wireless RF camera and a hard-wire microphone which both recorded on a VCR secreted inside the house. Camera controls, a monitor and listening equipment were also set up so the arrest team outside could monitor what was going on inside the house. One member of the arrest team, Analyst [redacted] received instruction from TTA [redacted] on how to operate the monitoring equipment. This monitoring equipment was later installed by the arrest team in the sleeper area of a truck which was parked beside the house. The TTAs also installed a NAGRA in the house to serve as a back-up voice recording device. This electronic monitoring equipment all functioned properly during the arrest. b6 b7C

The first briefing to prepare task force members for the 10/3/97 arrest was held 10/1/97 at the task force office in Grand Island. At least seven of the 11 agents/officers who would make up the final arrest team attended this meeting. As determined by interview, those known to have attended are:

FBI SA [redacted] (Case agent, but not on the arrest team)
FBI SA [redacted]
Police Officer [redacted]

Grand Island, NE, Police Department
Intelligence Analyst [redacted]
HIDTA
Police Officer [redacted]
Grand Island, NE, Police Department
Police Officer [redacted]
Grand Island, NE, Police Department
Deputy [redacted]
Adams County, NE, Sheriffs Office
Deputy [redacted]
Hall County, NE, Sheriff's Office

Those members of the arrest team who did not attend on 10/1/97 are:

Police Officer [redacted]
Grand Island, NE, Police Department
Police Officer [redacted]
Grand Island, NE, Police Department
SA [redacted]
Internal Revenue Service
Deputy [redacted]
Hall County, NE, Sheriff's Office

According to the interview of SA [redacted] during this meeting "the goals were discussed, the manpower needed, how they would approach Velez, how they would provide a logical story related to [redacted] being in town, putting together a surveillance team, as well as an arrest team, and the goals for each team." Deputy [redacted] during his interview, explained that during this meeting attendees were provided background on the case and an outline of the basic arrest plan. Officer [redacted] said this meeting was held to discuss preliminary arrest and surveillance plans. They discussed how many officers they would need and how the operation would be played out.

A final briefing was held on Thursday 10/2/97 at about 3:00pm at the task force office. This meeting was attended by all 11 members of the arrest team, as well as SA [redacted] and other members of the surveillance teams. According to interviews with the attendees, this 10/2/97 briefing was more detailed than the one the day before.

SA [redacted] advised the meeting covered the layout of the residence and how the arrest was to take place. Code words were developed to be used by officer [redacted] when he viewed the drugs and when the arrest was to occur. [redacted] was to say "That's a lot of shit" when he viewed the drugs and "Bingo" when the deal was

done. SA [redacted] advised all present at that meeting that Velez had been in possession of a weapon when he was arrested in 1990. Velez had not previously been considered armed and dangerous, so this was emphasized to the arrest team. The attendees were advised to have access to their weapons and wear ballistic garments.

Among the others attending this meeting, Officer [redacted] advised that individual assignments were listed on a board along with a diagram of the house. Photographs of Velez were provided, as were photographs of vehicles he may be driving. Officer [redacted] confirmed that SA [redacted] advised all those present that Velez might be armed. Officer [redacted] recalled that he was warned Velez might be armed and to wear his bulletproof vest. Officer [redacted] according to her interview, said she believed "the operation was very well planned and everyone involved knew exactly what their role was to be." b6 b7C

There were no supervisory special agents from the FBI present at either the 10/2 or 10/3 briefings. SSA [redacted] was on annual leave both those days. SSA [redacted] was in Omaha until the evening of 10/3 when he traveled to Philadelphia, PA. Knowing both supervisors were unavailable, ASAC Richardson made himself available to SA [redacted] as the point of contact for the night of the arrest.

The final arrest plan, developed at this briefing, was as follows:

Undercover Officer [redacted] would be inside the house meeting with Velez. The arrest team would be waiting in two locations outside the house.

Three people, Officer [redacted] Deputy [redacted] and Analyst [redacted] would be in the sleeper cab of the truck tractor parked immediately adjacent to the house. [redacted] had claimed to Velez that he was an over-the-road trucker, so it was natural for the truck to be there. [redacted] job was to tilt and pan the camera as necessary, monitor the conversations going on in the house and notify everyone when the arrest signal was given. He was not to leave the cab during the arrest. When the signal to arrest was given, Officer [redacted] was to leave the truck and cover the northwest corner of the house. Deputy [redacted] was to immediately cover the southeast corner of the house. b6 b7C

The remaining seven members of the arrest team would be in a van parked a short distance from the house. When [redacted]

gave the signal that he had seen the drugs, the van was to move close to the house. When the arrest signal was given, the occupants were to exit the vehicle. Officers [redacted] and [redacted] were to immediately move to the vehicle in which Velez had arrived and secure any persons who might be inside. If there were none, Officer [redacted] was to cover the northwest corner of the house and Officer [redacted] the southwest. Officer [redacted] was to hold the screen door open so that Deputy [redacted] could kick open the front door. Once the door was open, the remaining arrest team members, SA [redacted] IRS SA [redacted] and Deputy [redacted] were to effect the arrest of Velez. SA [redacted] was appointed arrest team leader.

b6
b7C

Case agent SA [redacted] was not a member of the arrest team. He was to be the surveillance team leader and to oversee the search of Velez' drug stash house.

At 8:00am on Friday 10/3/97, Officer [redacted] tried to contact Velez by telephone. [redacted] spoke to a female who instructed him to call back between 2:30 and 3:00pm. [redacted] made his call at about 3:00pm and was told to call back at 5:00pm. When [redacted] called at 5:00pm he spoke with Velez who agreed to meet [redacted] at the Alda house at 9:00pm. SA [redacted] made a telephone call to ASAC Richardson and advised him the drugs had been ordered.

The arrest team was in place when Velez arrived at 9:00pm. Velez entered the house, observed the $50,000 "flash" money Officer [redacted] showed him, then said he did not have the drugs. He said he would get them and be back in about three hours.

Surveillance units, led by SA [redacted] followed Velez to a location in Sutton, Nebraska. When Velez left [redacted] to return to Alda, SA [redacted] and other surveillance units remained behind to search that location after the arrest.

b6
b7C

Velez returned to Alda just before midnight. The arrest team was already in place. [redacted] let Velez inside. Velez looked around the house, then went back to his car and retrieved a white plastic sack. When he entered the house the second time, Velez paused to lock the door, setting the deadbolt. Officer [redacted] saw Velez lock the door and commented on it, intending to notify the arrest team that the door had been locked.

Analyst [redacted] said later that the monitoring crew in the truck notified the officers waiting in the van that the door

was locked. Officer [redacted] likewise confirmed that the team in the van was notified that the door was locked. Officer [redacted] who was in the van, advised during interview that "everyone in the van knew Velez had locked the door."

Officer [redacted] observed the drugs brought by Velez and exclaimed, "That's a lot of shit." As planned, the arrest team van moved close to the front door. [redacted] said "Bingo," and the arrest began.

As the arrest team came out of the van, Officer [redacted] pulled the screen door open and Deputy [redacted] began to kick at the door. The door would not give way. b6 b7C

When interviewed, [redacted] said he kicked the door about five times before injuring his leg. IRS SA [redacted] later said [redacted] kicked the door five or six times. SA [redacted] thought it was six or seven times. [redacted] eventually gave up and SA [redacted] began kicking. SA [redacted] said he kicked the door but could not open it until Officer [redacted] assisted. The exact number of times SA [redacted] and Officer [redacted] kicked the door is unknown. Officer [redacted] later said, however, that SA [redacted] kicked it "a few times," she kicked it "a couple times," then they kicked it together "about two or three times" before it finally opened. Others on the arrest team confirmed that the front door failed to yield to the initial barrage of kicks. Almost simultaneously with the opening of the door, shots were heard coming from inside the house.

Officer [redacted] during his interview, said he gave the signal to arrest and waited for the officers to enter. While he and Velez were sitting on the couch, he heard the first kick at the door. He looked at the door and saw it give "a little bit" after the second kick. He got up, hoping to move closer to the door. [redacted] looked at Velez and saw that he had pulled a gun and was pointing it at the door. Thinking Velez was going to shoot through the door [redacted] said "No, don't do that." [redacted] began moving toward the bedroom keeping his eye on Velez. Velez caught up to [redacted] just outside the bedroom door, grabbed him by the shirt collar with his left hand and said, "No, it's you." Velez pushed [redacted] through the bedroom doorway, bringing the gun up to his face. [redacted] grabbed the barrel of the gun with his left hand, pushing Velez toward the bedroom closet. [redacted] stated Velez kept pulling the gun out of [redacted] hand and pointing it at his head. [redacted] pushed Velez up against the wall, then reached into his waistband for his service revolver. He raised his weapon and shot Velez once in the back. When Velez did not drop the weapon and fall down, [redacted] shot him again. Velez fell to the floor and [redacted] ran from the house just as the b6 b7C

door opened.

Officer [redacted] description of his struggle with Velez was confirmed during interviews of arrest team members. Officer [redacted] as the front door was being kicked, looked through the front window of the house and observed Velez looking at the front door. On the fourth or fifth kick, [redacted] looked again and saw Velez and [redacted] together in the bedroom door. Velez had his left arm across [redacted] chest and appeared to be pushing him back into the bedroom. Officer [redacted] explained that while the door-kicking was going on, he looked in a window on the west side of the house and saw [redacted] and Velez in the bedroom doorway "going backwards." Officer [redacted] looked in a window on the north side of the house and observed Velez move in a "hurried state" toward the west side of the house. As he moved to the northwest corner of the house, [redacted] heard "wrestling noises" coming from inside. b6 b7C

Not one of those interviewed after this incident, according to reports prepared, stated that the arrest team members announced themselves as law enforcement as they tried to enter the house. Deputy [redacted] did state that as he entered the house, he yelled "Police." In addition, Officer [redacted] did state, during his confrontation with Velez, that he was "a cop."

Officers entered the house and found Velez on the floor in the bedroom. His legs were underneath him and he was partially in the closet. Deputies [redacted] and [redacted] were the first to reach Velez and they tried to pull him flat on the floor. Deputy [redacted] stated that Velez was still alive and said, "Help me, I'm dying," but already had brown and reddish foam coming from his nose and mouth.

Paramedics were called immediately. When they arrived, they declared Velez dead and did not remove his body from the house. b6 b7C

SA [redacted] telephoned SA [redacted] a few minutes after the shooting. SA [redacted] immediately called ASAC Richardson and advised him that a shooting had occurred. ASAC Richardson immediately notified SAC George H. Andrew.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: ASU, Personnel Division

Report of: SSA [redacted] Office: BIRMINGHAM
Date: December 1, 1997

Case ID #: 62A-HQ-980037
62A-BH-46384

Title: SHOOTING INCIDENT
10/21/1997
BIRMINGHAM DIVISION

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 10/21/1997, Special Agents (SAs) and Police Officers of the Birmingham Division Violent Crimes/Fugitive Task Force were attempting to serve an arrest warrant upon [redacted] at [redacted] Birmingham, Alabama, when [redacted] observing the SAs and Officers, fired shots from his residence at the law enforcement officials. Two SAs, SA [redacted] and SA [redacted] returned fire. No SAs were injured, and [redacted] who was also uninjured, surrendered.

Enclosed for the Bureau are the memoranda that have been prepared regarding this matter.

- P -

DETAILS:

On 10/21/97, at approximately 6:00 a.m., Birmingham Division FBI Agents and members of the Birmingham Division Violent Crime/Fugitive Task Force (VCFTF) were attempting to execute an arrest warrant on [redacted] at [redacted], Birmingham, Alabama. All members of the VCFTF were wearing their body armor with "FBI" clearly marked on the front of the armor. Additionally, the team had a local uniform officer, Patrolman [redacted] Birmingham Police Department, wearing his official police uniform, body armor, and his marked Police patrol car parked in front of the residence.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

All members of the arrest team had been briefed on 10/20/97 regarding the arrest plan, and were re-briefed at approximately 5:45 a.m. on 10/21/97. A written arrest plan was prepared by VCFTF member [redacted] Case Agent of the arrest under Bureau file 88C-BH-46143.

As the arrest team members, SA [redacted] SA [redacted] SA [redacted] SA [redacted] VCFTF member Russell Steen, Jefferson County, Alabama Sheriffs Department; VCFTF member [redacted] Birmingham, Alabama Police Department; and VCFTF member [redacted] Jefferson County, Alabama Sheriffs Department, were attempting to execute their arrest plan, [redacted] fired gunshots at the arrest team. The shots were fired from a window on the left-hand side of the residence. SAs [redacted] and [redacted] returned fire as all team members sought cover. SA [redacted] fired two shots from a Bureau MP-5, on which he was fully qualified, and SA [redacted] fired two shots from his Bureau issued 10mm Smith and Wesson model 1076. From a position of cover, VCFTF member [redacted] utilized a vehicle PA system to call the occupant of the building outside. [redacted] exited the residence unarmed and was placed under arrest. No one was injured in the exchange of gunfire.

b6
b7C

The residence was searched, and inside of a bedroom, a Baretta 9MM semi-automatic handgun was found which was jammed with a live round preventing further firing without first clearing the jam. Four 9MM casings were on the bedroom floor. Also located were an AK-47 style weapon and an UZI style weapon. [redacted] stated to Investigators from the Jefferson County, Alabama Sheriffs Office that he had fired at the VCFTF members, but he did so not realizing that they were law enforcement officers.

[redacted] NCIC record indicates previous arrests for Assault, Possession of Dangerous Drugs, and carrying a firearm without a valid permit. [redacted] has been charged by the State of Alabama with attempted murder of law enforcement officials, and he has been indicted for Assault of a Federal Officer in the Northern District of Alabama, on October 29, 1997.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/26/98

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

b6
b7C

**Approved By:** [redacted]
Lusby Thomas
Mershon Mark

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-34

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/16/97
NEW YORK DIVISION

**Synopsis:** To advise of a shooting incident involving agents of the New York Office and a New York City Police Department (NYCPD) Detective who shot at a charging pitbull dog during an arrest situation.

**Details:** Reference report of Assistant Special Agent in Charge Joseph Billy, Jr., dated 2/6/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116 (Enc.)
(1 - Mr. Marquise, Rm. 5155)
1 - Mr. Foran, Rm. 6646
2 - Mr. [redacted] Rm. 7427
(1 - Ms. [redacted], Rm. 7326)
1 - Mr. Lusby, Rm. 7825
1 - Mr. Mershon, Rm. 7837
1 - Mr. Biehl, USDOJ
1 - Mr. [redacted] Rm. 4147
2 - Ms. Ginsburg, USDOJ
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] FO
1 - Ms. [redacted], Rm. 7861

**Details of the Shooting Incident**

This shooting incident was a result of an ongoing investigation into a series of related bank robberies that occurred in Westchester County, New York.

Beginning in October 1997, a series of armed bank robberies occurred and were believed to have been committed by a gang of approximately four to seven individuals who used similar methods in each robbery. Investigation revealed the identity of [redacted] as a member and prime suspect in the robberies. [redacted] was also identified as the supplier of the weapons used in the robberies which were allegedly stolen from military bases in the southeastern United States. [redacted] was described as very dangerous, carrying a Tec 9 pistol in a shoulder holster, and had a pitbull dog that he often walked in his neighborhood. b6 b7C

Based on this information, agents obtained an arrest warrant for [redacted] in November 1997. The initial strategy called for an informant to draw [redacted] into a public place where he could be more easily apprehended; however, due to the difficulty in maintaining steady contact with [redacted] this plan never came to fruition.

Due to numerous complications in the original plan, a determination was made to use a New York FBI Special Weapons and Tactics (SWAT) team to conduct a tactical entry either inside or outside [redacted] residence.

The date for the SWAT entry and arrest was slated for 12/18/97; however, his suspected involvement in a bank robbery on 12/15/97, created the need for an expeditious arrest. Surveillance commenced in the vicinity of the subject's apartment from 7:00 a.m., to 11:00 p.m., each day with the knowledge that once [redacted] was physically located a 24-hour coverage would begin.

On the evening of 12/16/97, a surveillance team led by NYCPD Detective [redacted] reported that an individual fitting the description of [redacted] was walking a pitbull dog on Park Avenue near [redacted] apartment building. Detective [redacted] notified surveillance personnel that he had a possible suspect and was exiting his vehicle to get a closer look. An agent and another detective sitting in another vehicle responded that they would exit their vehicle and cover Detective [redacted] As they proceeded south on Park Avenue, they observed the subject on the corner of Park Avenue and 158th Street. Although directed by b6 b7C

Detective [redacted] to turn around, they did not for fear of giving away the surveillance. After crossing to the east side of Park Avenue, the subject became suspicious after glancing at a parked surveillance vehicle and then directly at the law enforcement officers. Fearing that the surveillance was no longer covert, SA [redacted] broadcast on the radio that the subject was definitely [redacted] and that he was about to confront her and Detective [redacted] As [redacted] proceeded to walk directly toward SA [redacted] and Detective [redacted] they drew their weapons and ordered him to stop. [redacted] failed to stop when hearing the verbal commands and both investigators attempted to grab him. [redacted] resisted, turned and fled.

A foot chase ensued with [redacted] and the pitbull racing through the sidewalks that connected an adjacent apartment building. Other surveillance teams joined SA [redacted] and Detective [redacted] in the pursuit of [redacted] who had dropped the dog's leash and was running ahead of the animal. [redacted] proceeded to run through a playground area and entered a 16 story apartment building containing 128 family-size apartments. He closed the door before any of the investigators could apprehend him leaving the pitbull on the outside.

Additional surveillance team members assumed positions in and around the area, covering both the rear and front entrances to the building. The subject could be observed through a small window in the door.

Detective [redacted] who was located in the rear of the building was joined by SAs [redacted] and [redacted] Commands were shouted for [redacted] to come out with negative results. The pitbull continued to scratch on the door until [redacted] opened the door and pulled the dog inside. Within seconds, the door opened a second time and a woman was pushed out, apparently by [redacted] The investigators yelled to the woman to get out of the way and she complied. Seconds later, the rear door opened again and the pitbull exited and charged directly toward SA [redacted] and Detective [redacted] Fearing attack by the dog, both investigators fired their weapons at the pitbull. The dog did not stop charging and continued to advance toward Detective [redacted] and SA [redacted] They, along with SA [redacted] continued to fire until the dog was killed.

[redacted] fled into the apartment building where he eluded capture for several hours. He was arrested inside the building by NYCPD Emergency Service Unit personnel several hours later.

b6
b7C

b6
b7C

During a protective search of [redacted] apartment and a subsequent search, several weapons were recovered as well as bulletproof vests and camouflage clothing. A crime scene search was conducted by the NYCPD Crime Scene Unit, which restricted access to the area for several hours. All shell casings fired by FBI personnel were found. However, the NYCPD Crime Scene Unit did not locate any of the shell casings from Detective [redacted] weapon. This remains a topic of discussion between FBI, New York, and the NYCPD, but will not be pursued by the SIRG.

On 6/15/98, the SIRG met to discuss the above captioned shooting incident. Chief Inspector [redacted] Office of Inspections, Inspection Division, chaired the meeting with the following voting members of the SIRG in attendance: [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Administrative Services Division; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by the participants in this incident was justified and in concurrence with the current deadly force policy. This resulted in the recommendation that no administrative action be taken against any agent involved in the shooting incident.

To: Inspection Division From: Inspection Division
Re: 66-19157-34, 06/26/1998

Members voiced concern about the number of rounds fired during the incident. Attendees unanimously concurred that although the use of deadly force was justified, the use of 35 shots seemed to be extreme. Members opined that the law enforcement personnel did not consider third party injuries nor the possibility of ricochets which could result in potential injury to others. The absence of a shooting scene diagram contributed to the concerns.

The last part of the discussion pertained to information contained in the shooting report. Members noted that crime scene sketches were not made a part of the report and that the name of a Cooperating Witness was included in the report. These issues will be communicated to New York Division management.

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

b6
b7C

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Inspection Division (SIRG)
Training Division (FTU)

Report of: SSA [redacted] Office: New Orleans
Date: January 20, 1998

Case ID #: 66F-NO-62717
66-HQ-19157

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
NEW ORLEANS DIVISION
DECEMBER 22, 1997

b6
b7C
b7D

Character: ADMINISTRATIVE INQUIRY

Synopsis: On December 22, 1997, the New Orleans Division SWAT Team executed a federal drug search warrant at [redacted] New Orleans, Louisiana. This residence was known to be occupied by [redacted] (281F-NO-62284) and several other individuals. [redacted] confirmed by investigation and observation, disclosed that [redacted] and other were distributing large quantities of cocaine, methamphetamine, and marijuana from this location.

On December 12, 1997, a federal search warrant was obtained from U.S. Magistrate Alma L. Chasez, Eastern District of Louisiana. Verbal authority was obtained from AUSA [redacted] on December 19, 1997, for the arrest of [redacted] his brother [redacted] and a third subject at the residence.

b6
b7C

Due to information that residents at the house had been observed with weapons, the number of persons at the residence, and the complexity of the floor plan, SAC New Orleans authorized utilization of SWAT to effect entry and to secure the residence.

On December 18, 1997, a written drug search plan and SWAT Operations Order were provided to, reviewed, and approved by New Orleans SAC Charles Mathews and ASAC George H. Burttram.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

On December 19, 1997, SWAT members used a regularly scheduled SWAT training day to rehearse the entry of this residence.

On December 22, 1997, all participating personnel were verbally briefed by the on-scene commander, SSA [redacted] and SWAT Team Leader [redacted]

At approximately 6:30 a.m., on December 22, 1997, the New Orleans SWAT Team entered the residence. Immediately after the entry, a male subject was apprehended in possession of a weapon as he attempted to flee the residence. b6 b7C

Upon entry, SWAT observed several weapons including shotguns in plain view. While clearing a rear bedroom, after making repeated announcements of identity and purpose, SWAT member [redacted] observed what he considered a furtive, threatening movement in a side bathroom. SA [redacted] fired one round from a Sig Sauer 228 at the threat. SWAT members subsequently forcibly removed two occupants from behind a shower curtain in the bathroom. No injury was sustained by FBI or civilian personnel. A total of nine (9) persons were detained at the residence and five (5) weapons seized. Drugs, records, and drug paraphernalia were also seized.

Per division policy, SAC Mathews and ASAC Burttram were present at the scene during the deployment of the SWAT personnel.

New Orleans Evidence Response Team responded to the residence and collected evidence regarding the discharge.

- C -

DETAILS:

In September, 1997, the New Orleans Division received information from the Calcasieu Parish Sheriff's Department regarding their interception of one hundred pounds of marijuana being driven from Houston, Texas to New Orleans, Louisiana. A drug investigation was opened and assigned to SAs [redacted] and [redacted] b6 b7C b7D

[redacted] provided information that subject [redacted] and others were involved in transferring one hundred pounds of marijuana a week in addition to distributing crystal methamphetamine and cocaine.

A federal search warrant was applied for on December 12, 1997, for [redacted] residence located at [redacted] New Orleans. [redacted]

residence. Verbal authority was obtained from Assistant United States Attorney [redacted] for the arrest of [redacted] his brother [redacted] and a third subject.

On December 18, 1997, SAC authority was obtained to use SWAT to enter and secure the residence. The decision to use SWAT was based on the following factors: (1) at least nine people could be in the residence; (2) there were methamphetamine users who, because of the drug's stimulant properties, could be confrontational; (3) the size and complexity of the floor plan; and (4) information was received that at least two weapons were in the residence. b6 b7C

On December 19, 1997 the SWAT Team used their monthly training day to prepare for the search. SWAT Team Leader SA [redacted] gave each SWAT member a copy of the Operations Order. The SWAT Team viewed a video tape of the residence taken at a site survey that was conducted by SAs [redacted] and [redacted]

The New Orleans SWAT Team is divided into two teams, the Blue Team and the Gold Team. The Blue Team was made up of Team Leader SA [redacted] Blue Bunker Team One: SAs [redacted] and [redacted] Blue Bunker Team Two: SAs [redacted] and [redacted] and SA [redacted] Breacher. The Blue Team's mission was to enter and secure the first floor of the residence.

The Gold Team was made up of Team Leader SA [redacted] Gold Bunker Team One: SAs [redacted] and [redacted] and Gold Bunker Team Two: SAs [redacted] and [redacted] The Gold Team's mission was to secure the breach points and to enter and secure the second floor of the residence.

The SWAT Team practiced entering and securing the residence using a floor plan that was taped on the ground [redacted] Each SWAT Team member gave a brief-back in which they discussed their role and position.

On Monday, December 22, 1997, at 5:00 a.m., a briefing was held in the field office conference room. Present at this meeting were SAC Mathews, ASAC Burttram, the SWAT Team, SSA [redacted] members of the Drug Squad participating in the perimeter and search, three Agents from other squads to assist in the perimeter, one New Orleans Police Department (NOPD) Detective, and two Deputies from the St. Bernard Parish Sheriff's Department. (Hostage Negotiator SA [redacted] was briefed after this meeting.) b6 b7C b7D

At the briefing, there was an overview of the investigation during which the presence of weapons at the residence was mentioned in addition to the presence of one dog. The deadly

force policy was reviewed and perimeter assignments were made. All participants were told to wear their body armor. SWAT Team Leader [redacted] gave an overview of the SWAT operation.

The briefing adjourned at 5:30 a.m. The SWAT Team suited up and conducted an equipment check. All search participants lined up in their vehicles at approximately 6:15 a.m., outside of the office parking garage. After waiting for more daylight, the group caravanned over to the residence, arriving at approximately 6:30 a.m.

After securing the back perimeter with two Agents and one NOPD Officer, the SWAT Team lined up along the brick wall to the left of the residence. SA [redacted] made a call to the residence and ordered that the door be opened. When the door was not opened after 30 seconds, it was breached by SA [redacted]

b6
b7C

As the Gold Team guarded the front of the residence, the Blue Team entered Bedroom Number One. (See drawing following this section.) Blue Team Leader [redacted] announced that the FBI was executing a federal search warrant. In this room, SAs [redacted] and [redacted] observed a shotgun.

The Blue Team then entered the kitchen and living room area. There were two unarmed male subjects and one German Shepard in this area. SA [redacted] ordered one of the subjects to place the dog outside. SA [redacted] then hand-cuffed both subjects. SA [redacted] then announced his name and purpose and ordered anyone else present in the residence to come out. A female subject came out from Bedroom Number Two.

Blue Bunker Team One cleared the hall bathroom as Blue Bunker Team Two cleaned Bedroom Number Two. In Bedroom Number Two, SA [redacted] observed a shotgun laying in the floor, next to the bed. After reconvening in the hallway, Blue Bunker Team One entered Bedroom Number Three as Blue Bunker Team Two entered Bedroom Number Four.

b6
b7C

As Blue Bunker Team Two entered Bedroom Number Four, SA [redacted] carried an MP5, in addition to his pistol. SA [redacted] carried the Bunker, in addition to his pistol. The room was dark. The drapes were closed and the wall switch did not work. There were numerous pieces of clothing and bedding on the floor.

After clearing the corners of the room, SA [redacted] returned to the center and looked into the adjoining bathroom. There was no door to the bathroom, but rather draperies hanging as a partition. SA [redacted] was standing to the left of SA [redacted] SA [redacted] perceived a figure with a handgun behind the drapes. He fired one 9 millimeter round with his Bureau-issued Sig Sauer 228. SA [redacted] believed his and SA [redacted] lives were in danger.

After firing one round, SA [redacted] asked SA [redacted] what happened to which SA [redacted] advised he saw movement in the bathroom. SAs [redacted] and [redacted] then entered the bedroom. SA [redacted] advised that he had seen a figure with a gun in the bathroom. SA [redacted] told SA [redacted] to holster his pistol and instructed SA [redacted] to search the bathroom. SA [redacted] found two unarmed females hiding in the bathtub. They admitted to hearing SA [redacted] announcements but were too scared to come out of hiding. SA [redacted] instructed the Blue Team to re-sweep the first floor as the Gold Team secured the upstairs, where there were three additional adults and one child. b6 b7C

At the time the SWAT Team was entering the residence, two subjects escaped out the back. This fact was known by several of the SWAT Team members, but not by SA [redacted] It is noted that one of the subjects who attempted to escape was caught by the NOPD Officer at the rear perimeter. This subject was armed with a handgun. The other subject escaped. After the house was secured the SWAT Team did a neighborhood sweep to search for the missing subject. This search was negative. The SWAT Team returned to the office and held a critique session. The residence was searched pursuant to the federal warrant.

After securing the residence, SAC Mathews and ASAC Burttram were notified of the shooting. The ERT was notified and requested to take photographs, draw appropriate sketches, and retrieve the bullet from the wall. No injury was sustained. A total of nine persons were detained at the residence. Two of the subjects were arrested. Five weapons were seized in addition to drugs and drug paraphernalia.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC SUSAN R. CHAINER Office: Los Angeles Field Office
Date: September 17, 1997

Field Office File #: 66F-LA-209833
Bureau File #:

Title: ADMINISTRATIVE INQUIRY;
SHOOTING INCIDENT;
LOS ANGELES DIVISION
8/29/97

Character: ADMINISTRATIVE INQUIRY

Synopsis: On August 29, 1997, SA [redacted] and SA [redacted] assigned to the Los Angeles Field Office of the Federal Bureau of Investigation (FBI), were on duty and conducting a security background investigation in the 600 block of N. Roxbury Drive, Beverly Hills, California.

b6
b7C

At approximately 2:40 p.m., after completing their neighborhood investigation, SAs [redacted] and [redacted] were returning to the Bureau vehicle parked north bound in front of 614 N. Roxbury. At that time, both SAs observed a Hispanic male, approximately 25 years of age, 5'5" tall, walking south on the sidewalk towards them. When the SAs were approximately seven feet from the passenger door, the Hispanic male walked past them and was to their rear. At that point, the Hispanic male yelled and demanded their wallets. As they both turned around, the Hispanic male held a black colored small semi-automatic pistol. The robber demanded the SAs' wallets and other property and stated that he would blow off their heads if they failed to comply. Throughout the entire robbery, the robber continually pointed his weapon at the SAs and threatened that he would kill them. During the robbery incident, both SAs eventually gave up their wallets. SA [redacted] also surrendered the Bureau car keys and his gold chain necklace. The robber after looking at the necklace threw it towards the front of the Bureau vehicle.

During the incident, both SAs continually talked to the robber in an effort to calm him down. Both moved slowly in different directions from the robber. SA [redacted] moved toward the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

rear passenger side of the Bureau vehicle, while SA [redacted] slowly moved around the front of the Bureau vehicle. The robber generally followed SA [redacted] The robber would continually swing his weapon back and forth between the two SAs and continued to threaten and demand their property. While SA [redacted] slowly moved around the front of the Bureau vehicle, the robber demanded SA [redacted] fanny pack. SA [redacted] carried his Bureau issued 9 mm Sig Sauer in his fanny pack and did not want to give it up. SA [redacted] continued backing up moving around the Bureau vehicle until he was near the front driver's door. The robber followed SA [redacted] and moved to the front fender, driver's side. The robber again demanded SA [redacted] fanny pack which was worn on SA [redacted] right hip. At that time, neither SA believed that the robber knew that they were federal law enforcement officers. SA [redacted] realized that once the robber got his fanny pack which held his weapon, the robber would know that they were law enforcement officers. SA [redacted] believed that the robber would shoot him. At that point, SA [redacted] who was in fear for his life, drew his Bureau issued weapon when the robber's attention was momentarily diverted. SA [redacted] identified himself as the FBI and when the robber turned with his weapon in his hand, SA [redacted] fired one round at the robber.

b6
b7C

Immediately after SA [redacted] fired his weapon, the robber turned and ran north on N. Roxbury Drive. Apparently, SA [redacted] had missed. Both SA [redacted] and SA [redacted] weapons in hand, pursued the robber. After a short chase, the robber disappeared. No additional rounds were fired. There were no apparent injuries.

Both SAs returned to the area of the Bureau vehicle and, with citizen assistance, a limited search by citizen's vehicle was conducted, the 911 operator was contacted, as well as the BHPD and the Los Angeles, FBI Office.

Officers from the Beverly Hills Police Department responded and conducted a robbery investigation.

The Los Angeles FBI Office, Agent Involved Shooting Team responded to the scene.

A neighborhood investigation was conducted in the vicinity of 614 N. Roxbury, Beverly Hills, California and the area where the robber disappeared.

A crime scene investigation was conducted which included a sketch of the area and securing photographs of the shooting area.

BHPD provided their report under number 9707980.

Los Angeles FBI is conducting an AFO investigation in conjunction with a robbery investigation by BHPD.

- P -

DETAILS

This case is predicated upon information that SA [redacted] assigned to the Los Angeles Field Office of the Federal Bureau of Investigation (FBI) had been involved in a shooting incident, when he became a victim during a street armed robbery while on official duty, at approximately 2:40 p.m., 8/29/97, in Beverly Hills, California. b6 b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: Baltimore
Date: June 20, 1997

b6
b7C

Field Office File #: 66F-19157-3
Bureau File #:

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BALTIMORE DIVISION
JUNE 6, 1997

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident involved a Special Agent (SA) of the FBI assigned to the Baltimore Division, Wilmington Resident Agency (RA). The incident occurred during the successful apprehension of a wanted felon by members of the Delaware Joint Violent Crime Fugitive Task Force (VCFTF).

DETAILS:

Baltimore file number 88A-BA-91197 was initiated based upon a warrant for the arrest of [redacted] a white male, date of birth [redacted] was wanted by Delaware authorities for 1st Degree Robbery, Possession of Narcotics and 2nd Degree Forgery. He was also wanted for several other misdemeanor offenses charged by multiple municipalities within the State of Delaware. This investigation was conducted by the FBI led VCFTF.

b6
b7C

[redacted] was arrested by VCFTF members on 3/5/97 at [redacted] Wilmington, Delaware, the residence of his parents. [redacted] unsuccessfully attempted to flee from the rear of the house during the arrest.

Having posted bond, [redacted] was released following this arrest. He then failed to appear for his

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

court date thus again causing a warrant to be issued for his arrest, and the reinitiation of a UFAP-PI.

Officer [redacted] the Delaware Department of Corrections, Probation and Parole Division representative to the VCPTF, originally arrested [redacted] on 3/5/97. Upon learning of his failure to appear, Officer [redacted] once again began to develop leads in an effort to locate and apprehend [redacted]

On 6/6/97, at approximately 1:00 p.m., Officer [redacted] and FBI SA [redacted] set out in a Bureau car to follow up on leads in an effort to locate [redacted] Earlier in the week Officer [redacted] obtained search warrants for the [redacted] Street address as well as for [redacted] himself. b6 b7C

At approximately 1:15 p.m. Officer [redacted] and SA [redacted] drove past [redacted] and attempted to determine if anyone was home. Unable to do so, Officer [redacted] made a pretext call to the residence. The call was answered by a woman who Officer [redacted] believed to be the subject's mother. At this point, Officer [redacted] contacted the Wilmington Police Department via police radio and requested backup assistance prior to approaching the residence. The police dispatcher advised that no units were available to assist at that time.

Officer [redacted] and SA [redacted] then decided to attempt an interview of [redacted] parents. They left their Bureau car and approached the residence. Officer [redacted] took up a position at the front door of the house while directing SA [redacted] to the rear. As noted above, [redacted] had previously been arrested while attempting to escape through the rear of this residence. Officer [redacted] identified himself to [redacted] father and was invited into the residence. Officer [redacted] then advised SA [redacted] via radio to come to the front of the house where he then joined Officer [redacted] inside. b6 b7C

SA [redacted] and Officer [redacted] searched the residence for [redacted] and failed to locate him. They interviewed [redacted] parents for additional information of lead value. [redacted] parents said that they had not seen their son in over a week. During their last contact, [redacted] told his parents he would not turn himself in to authorities. The parents also said that [redacted] had been seen with a female of Asian decent. She was known only to [redacted] parents as [redacted] They also noted that [redacted] drove a green Ford Explorer type vehicle. Completing the interview, SA [redacted] and Officer [redacted] left the residence. b6 b7C

Upon returning to the Bureau car both discussed possible leads to follow in their effort to locate [redacted] Officer [redacted] and SA [redacted] then departed in the Bureau car

with Officer [redacted] driving.

Several minutes after leaving the residence and while still driving in the general vicinity, Officer [redacted] provided SA [redacted] with a photograph of [redacted] Officer [redacted] had previously told SA [redacted] that he had arrested [redacted] on 3/5/97 and that [redacted] was both a drug user and was mentally ill.

At approximately 1:40 p.m., while driving in the same vicinity, Officer Cronin observed a white male pedestrian who he believed was [redacted] SA [redacted] noticed a green Chevrolet Blazer driven by a white female parked at the curb facing the Bureau car with its passenger door open. [redacted] was walking toward the vehicle as if he were going to enter the Blazer on the passenger side. b6 b7C

At the point Officer [redacted] had positively identified [redacted] he had driven past the Blazer. Without commenting to SA [redacted] Officer [redacted] immediately attempted turn the Bureau car around, however the residential street was not wide enough. Instead, Officer [redacted] stopped the Bureau car at a diagonal angle behind the Blazer.

It appeared to Officer [redacted] that [redacted] was going to enter the right front passenger seat of the parked Blazer. He thought it necessary to apprehend [redacted] before he got into the Blazer so as to avoid a car chase. When Officer [redacted] first saw [redacted] on the sidewalk [redacted] was approximately 35 feet from the Blazer. Officer [redacted] immediately exited the Bureau car, approached [redacted] shouted [redacted] name and said "your under arrest". At the time he exited the vehicle Officer [redacted] was wearing a ballistic vest with his badge displayed on the front. Officer [redacted] attempted to physically restrain [redacted] at the open passenger door of the Blazer. A struggle ensued and [redacted] fell into the front seat of the Blazer pulling Officer [redacted] with him.

[redacted] shouted "go, go, go" to the driver of the Blazer. Officer [redacted] shouted "stop police, stop police". The driver then began to accelerate with the lower half of Officer [redacted] body hanging out of the vehicle with his feet dragging on the ground. Officer [redacted] said that as the vehicle accelerated he tried to pull himself inside to stop the driver. He held onto [redacted] for fear that if he fell onto the pavement he would be run over by the Blazer's rear wheels. Officer [redacted] said he was in great fear for his life and the most important thing to him at that point was to stop the vehicle. b6 b7C

When Officer [redacted] exited the Bureau car to pursue [redacted] SA [redacted] also exited the vehicle taking a path

around the rear of the Bureau car and moving toward the driver's side of the Blazer. SA [redacted] who was wearing his tan ballistic vest with FBI placards displayed, saw Officer [redacted] and [redacted] begin to struggle in the grassy area next to the sidewalk and in the Blazer's open passenger doorway. SA [redacted] got within three or four feet of the driver's side door of the Blazer and saw the female driver looking frantically from side to side. SA [redacted] shouted some type of command to the driver but, cannot remember what he said. Witnesses at the scene said that SA [redacted] shouted "Stop FBI". SA [redacted] said that at this point he heard screaming from inside the vehicle. The driver then "floored" the vehicle and accelerated away from the curb.

b6
b7C

As the Blazer began to move away SA [redacted] could hear Officer [redacted] yelling "stop police, stop police, stop the car". As the Blazer moved away SA [redacted] looked to where he believed Officer [redacted] would be standing and he was not there. Instead, from SA [redacted] position, he could see under the Blazer and saw two legs from approximately the knees down flailing around and being dragged down the street. SA [redacted] realized this was Officer [redacted] and that he was either hanging on to or stuck in the vehicle.

SA [redacted] believed Officer [redacted] was in serious danger. Four years earlier, while employed with the New Jersey State Police, SA [redacted] was dragged by a vehicle in a similar manner for approximately 150 feet before crashing into a building and suffering injuries. SA [redacted] said he feared for Officer [redacted] life in that he was in the immediate threat of being run over by the rear wheels of the Blazer should he have broken free.

As the vehicle accelerated SA [redacted] immediately began a foot chase. In a signed sworn statement SA [redacted] said "I knew at that point that I had to make the Blazer stop to save (Officer) [redacted] life. The only way I was going to stop the Blazer was by shooting the driver."

SA [redacted] drew his Bureau issued Sig Sauer P-226 and fired three shots at the driver of the vehicle. SA [redacted] remembered seeing the rear window glass in the Blazer shatter. He noted that his focus was on the driver of the vehicle. He said he knew that he shot three times but does not remember hearing the rounds fire. Immediately following the third shot the vehicle came to a stop. At this point SA [redacted] believed he had shot the driver.

b6
b7C

While approaching the car SA [redacted] saw Officer [redacted] stand up and remove [redacted] from the car and put him on the ground. SA [redacted] immediately approached the drivers side of the car and saw that the female driver had not been shot. SA

[redacted] ordered her out of the vehicle and placed her on the ground. No physical injuries were incurred as a result of SA [redacted] firing his weapon.

Upon securing both [redacted] and the driver Officer [redacted] contacted the Wilmington Police Department via police radio, notified them of the shooting incident and requested assistance. Officer [redacted] also used his cellular telephone to contact the Wilmington RA and notify them of the incident. b6 b7C

Officer [redacted] spoke with Acting SSRA [redacted] and advised him of the situation. Acting SSRA [redacted] immediately notified SAC Knowlton of the incident and advised that no one had been hit by the rounds fired. Acting SSRA [redacted] then went to the scene.

SAC Knowlton, upon learning of the incident, activated the Baltimore Division Evidence Response Team and directed that three Supervisory Special Agents depart for the Wilmington RA in order to conduct the shooting inquiry. SAC Knowlton also briefed the Baltimore Division EAP Coordinator as to the situation. SAC Knowlton then departed Baltimore for the Wilmington RA where he made contact with SA [redacted] and personally supervised the shooting inquiry.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 7/15/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted], Extension 1837

b6
b7C

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-66

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/19/97
COLUMBIA DIVISION

**Synopsis:** To advise of a shooting incident in the Columbia Division on 3/19/97. In an effort to locate and apprehend [redacted] who was wanted for Unlawful Flight to Avoid Prosecution - Sexual Assault First Degree in New Haven, Connecticut, SA [redacted] shot and killed a dog acting in an aggressive manner.

**Details:** Reference report of Supervisory Senior Resident Agent [redacted] dated 5/28/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. [redacted] Room 5155)
1 - Mr. [redacted] Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted], Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] Room 7837
1 - Ms. [redacted] USDOJ
1 - Mr. [redacted], Room 4147
1 - Mr. [redacted] USDOJ

1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Baltimore
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861

cc for AD Training Division, inadvertently left off. Copy sent to AD 8/1/97 lrr

To: Inspection Division From: Inspection Division
Re: 66-19157-66, 07/15/1997

## Details of the Shooting Incident

On 3/19/97, at approximately 7:50 a.m., three FBI Special Agents (SAs) and three Fairfield County Sheriff's Deputies attempted to locate and apprehend [redacted] at the trailer home of [redacted] in Ridgeway, South Carolina. [redacted] was an "Armed and Dangerous" fugitive who had a previous arrest for assault with intent to kill.

[redacted] was not located at the trailer home of [redacted] however, during the arrest procedure, SA [redacted] encountered a mixed breed terrier dog that advanced on him, barking and snarling, attempting to bite SA [redacted] eg. SA [redacted] who judged that he did not have sufficient time to remove his pepper spray which was attached to his protective armor, fired three shots, hitting the dog twice. The dog died from the gunshot wounds.

On 7/9/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; Francis A. Gallagher, Chief Inspector, Office of Inspections, Inspection Division; Peggy Kuo, Acting Deputy Chief, Civil Rights Division, USDOJ; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] SSA, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Transfer Unit, Personnel Division; and, [redacted] Supervisor, Baltimore Division. The two non-voting members present were [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division; and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2)

provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the actions of SA [redacted] were appropriate and that the use of deadly force was in accordance with the current deadly force policy. Therefore, it was recommended that no action be taken against SA [redacted] as a result of his involvement in this shooting incident. One SIRG member voiced the opinion that pepper spray is a better weapon to use for animals since bullets are not always effective. The member also noted that, although not viable in this particular incident, the use of fire extinguishers is another alternative to use on charging animals. This observation resulted in the recommendation that the Training Division discuss and consider viable options to be used by SAs during incidents involving charging animals. These comments and applicable procedures should be made known to all SAs.

b6
b7C

LEAD(s):

Set Lead 1:

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

Set Lead 2:

That the Training Division discuss and consider viable options that can be used by SAs involved in incidents with charging animals and make comments and applicable procedures known to all SAs.
♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 5/29/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-33

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/12/97
NEW ORLEANS DIVISION

b6
b7C

**Synopsis:** To advise of a shooting incident in the New Orleans Division on 3/12/97. In an effort to locate and apprehend [redacted] a fugitive from the Dallas Division for Unlawful Flight to Avoid Prosecution, SA [redacted] shot and killed a dog acting in an aggressive manner.

**Details:** Reference report of Supervisory Special Agents [redacted] and [redacted] dated 4/3/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Mr [redacted] Room 7159)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] USDOJ
1 - Mr [redacted] Room 4147
1 - Ms [redacted] USDOJ
1 - Mr. [redacted] r, Room 3787F
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] NEO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-33, 5/29/1997

**Details of the Shooting Incident**

On 3/12/97, SA [redacted] accompanied by New Orleans Police Department (NOPD) detectives and members of the FBI/NOPD Fugitive Task Force (FTF), responded to an address in New Orleans, in an effort to locate and apprehend [redacted] had been arrested by NOPD officers on 3/7/97, at this same location for drugs and weapons violations.

SA [redacted] and other FTF members from the FBI established an outer-perimeter around the residence while NOPD officers knocked and gained entrance into the residence. After being advised by the detectives that the residence was secure, SA [redacted] approached the side entrance of the residence to enter and determine if the subject had been located. As he was attempting to enter the residence, a German short-haired dog suddenly appeared at the door and confronted SA [redacted] The dog was growling and acting in an aggressive manner and then lunged at SA [redacted]. SA [redacted] discharged seven rounds from his service pistol causing the death of the dog.

On 5/14/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; Albert N. Moskowitz, Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; James M. Maddock, Inspector-Deputy General Counsel, Legal Advice and Training, Legal Policy, Office of the General Counsel; Patrick J. Foran, Section Chief, Personnel Assistance Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations,

and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the actions of SA [redacted] were appropriate and that the use of deadly force was in accordance with the current deadly force policy. SIRG members had no observations or issues regarding this shooting incident.

**LEAD(s):**

b6
b7C

**Set Lead 1:**

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.
♦♦

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: AD, INSD, ROOM 7129, ATTN: SIRG; FTU

Report of: AIIP [redacted] Office: HOUSTON
Date: June 9, 1997

Case ID #: 66-19157-19

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT,
HOUSTON DIVISION;
5/15/97;
ADMINISTRATIVE MATTER

b6
b7C

Character: SHOOTING INQUIRY

Synopsis: On May 15, 1997, at approximately 11:40 a.m. the International Bank of Commerce (IBC), Angleton, Texas, was robbed at gunpoint by three black males, later identified as [redacted] and [redacted] aka [redacted] The modus operandi of this robbery was similar to a pending May 7, 1997, armed robbery of the Community State Bank (CSB), Boling, Texas which was assigned to SA [redacted] and [redacted] fled from Angleton, Texas, subsequent to the IBC robbery, but [redacted] the brother of subject [redacted] was apprehended by the Angleton Police Department (APD). [redacted] subsequently confessed to the robbery and implicated [redacted] and [redacted] as the other two robbery subjects. During this confession [redacted] advised that his brother [redacted] and [redacted] were armed and dangerous. Local authorities obtained arrest warrants for aggravated robbery for subjects [redacted] and [redacted] then agreed to cooperate with law enforcement by luring his brother [redacted] back to Angleton, Texas, to pick him up believing that [redacted] had been successful in eluding law enforcement. Local authorities planned an arrest scenario utilizing a SWAT team consisting of various local law enforcement. SA [redacted] was not involved in the planning or execution of this arrest scenario, but was in the general area awaiting the arrest of [redacted] so that he might participate in a future interview regarding the unsolved bank robbery assigned to him. SA [redacted] had been previously

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

directed by Acting Supervisory Senior Resident Agent (A/SSRA), Texas City Resident Agency (TCRA), [redacted] not to participate in the local action which SA [redacted] acknowledged and understood. [redacted] contacted his brother [redacted] and arranged for a rendezvous in a deserted area on County Road 49 (CR49) near the intersections of State Highway 288 (S288) and Business Route 288 (B288) in Angleton, Brazoria County, Texas. During this conversation [redacted] warned [redacted] that he was bringing his "Uzi" and would use it against law enforcement as well as [redacted] if this was a setup. At approximately 11:00 p.m., 5/15/97, an individual identified by [redacted] as his brother [redacted] was driving a vehicle identified by [redacted] as his brother's [redacted] vehicle, was observed traveling in the predetermined pickup area which previously had been surrounded by the aforementioned local SWAT team. SA [redacted] was a passenger in an unmarked APD unit driven by APD Officer [redacted] which was also occupied by [redacted] who was riding in the rear seat. Shots were fired at the subject's vehicle by the local SWAT team. SA [redacted] heard the shots while observing a series of flashes. Subsequently, law enforcement radio traffic overheard by SA [redacted] confirmed this action and that the subject was fleeing the area. The exact location of the subject vehicle was unclear to SA [redacted] and Officer [redacted] however, by chance, the subject vehicle quickly entered a northbound lane of B288 which SA [redacted] vehicle was occupying. SA [redacted] suddenly found his vehicle adjacent to the subject vehicle believing it had just engaged in a firefight with the aforementioned SWAT team. The UNSUB driver of the suspect vehicle began to purposely brake his vehicle in an apparent effort to get SA [redacted] vehicle to pull up adjacent to it thus exposing SA [redacted] vehicle to a feared broadside attack of automatic weapon fire. During this braking action, [redacted] was lying prone in the backseat, stating that his brother, [redacted] was about to shoot. Concurrent with this activity, the driver's side window of the suspect vehicle lowered approximately three inches causing SA [redacted] to believe that the driver was about to shoot. SA [redacted] then fired his weapon 14 times. Eleven rounds fired by SA [redacted] struck the subject vehicle in the general area of the driver's side without striking the intended target. The remaining three rounds, which were not recovered, are presumed to have striken the pavement or embankment in the vicinity of the vehicle. Subsequently, the subject vehicle stopped and the occupant, later identified as [redacted] the [redacted] brothers' uncle, emerged from the suspect vehicle and was placed under arrest for the local equivalent of Obstruction of Justice. [redacted] has since admitted he had foreknowledge that [redacted] and [redacted] aka [redacted] went to Angleton, Texas, with the

b6
b7C

b6
b7C

intent to rob a bank.

On 5/20/97, [redacted] was arrested following a chase and violent shootout with local authorities, and has since admitted to six bank robberies spanning five Texas counties. [redacted] was the primary subject in the 5/15/97 bank robbery at the IBC, the crime from which this shooting incident developed and occurred during the late evening hours on 5/15/97. In total, three adult subjects and one juvenile have been arrested on armed bank robbery charges. b6 b7C

DETAILS:

Background

On May 15, 1997, at approximately 11:51 a.m. the Angelton Police Department (APD) was notified that two black males had entered the International Bank of Commerce (IBC), 200 East Mulberry Street, Angleton, Brazoria County, Texas, and robbed it. One black male, who was armed with a .38 caliber revolver, walked up to the teller line and placed a white envelope on the counter and ordered the teller to place all the money into a plastic bag which he had handed to her. This black male then vaulted the counter and physically took the first teller to a second teller's space and took the money from that teller's drawer. The suspect then jumped over the new accounts teller's desk and he and the other black male, who was waiting in the foyer area, ran from the bank.

During the early afternoon of May 15, 1997, SA [redacted] was in the office of the Texas City Resident Agency (TCRA), Houston Division when he was informed that a bank robbery had just occurred at the IBC. SA [redacted] volunteered to assist in interviews at the IBC and then left the TCRA in his Bureau assigned vehicle. In his vehicle was his Bureau issued body armor. Upon arrival at the IBC, SA [redacted] observed SA [redacted] TCRA, inside the bank conducting an interview on one of the tellers. SA [redacted] then entered the bank and began an interview of another teller while personnel from the APD and the Brazoria County Sheriff's Office (BCSO) were processing the crime scene. b6 b7C

While law enforcement was at the IBC conducting logical investigation, the APD received a call from a resident of the Tanglewood Apartments, 1210 N. Chenango Drive, Angleton, Brazoria County, Texas, and stated that a black male was in the apartment complex and was acting suspiciously in trying to obtain money in

order to get a taxi to take him to Houston. Subsequently, officers of the APD located this black male and escorted him the offices of the APD. The black male was identified as [redacted] who voluntarily confessed that he, his brother [redacted] and another black male known to him only as [redacted] drove from Houston to Angleton, Texas in a red and grey Mustang to commit a bank robbery. [redacted] stated that he stood in the lobby area of the IBC while [redacted] went inside the bank and held the tellers up at gunpoint. [redacted] further stated that [redacted] had the money placed in a plastic bag and they both left running from the bank. [redacted] also stated that [redacted] ran to the red Mustang driven by his brother, [redacted] while he, [redacted] fled the area on foot. b6 b7C

SA [redacted] and [redacted] were finishing their respective interviews at the IBC when a detective of the APD informed them that the APD may have apprehended one of the suspects of the IBC bank robbery and that the APD was going to transport the IBC bank tellers to the APD station in an effort to positively identify the suspects. SA [redacted] decided to go the APD station given that if this suspect was involved in the IBC robbery, he may be able to shed some information regarding an unsolved bank robbery assigned to SA [redacted]

Upon arrival at the APD station, SA [redacted] learned that the suspect in custody was named [redacted] and that he had identified his brother, [redacted] an associate [redacted] and himself as those who robbed the IBC. [redacted] also identified [redacted] as having a weapon who used it during the commission of the bank robbery while his brother [redacted] remained outside to drive the getaway car.

SA [redacted] observed the District Attorney and the Assistant District Attorney, Brazoria County, processing arrest warrants for [redacted] and [redacted]. A decision was made by A/SSRA [redacted] that this investigation was to be handled locally and that the FBI would not participate in any arrest plan or arrest until Federal Process was obtained. A/SSRA [redacted] advised SA [redacted] that he was not to participate in any arrest plan and/or arrest relating to this bank robbery which SA [redacted] acknowledged as understood. b6 b7C

Initial Arrest Plan By Local Authorities:

During the time frame that the conversations between SA [redacted] and A/SSRA [redacted] were transpiring, members of the APD and the BCSO agreed on a plan to lure [redacted] back to the Angleton area given that [redacted] had indicated his willingness

to fully cooperate with law enforcement. SA [redacted] was not aware of the particulars of this plan but wanted to remain on the periphery of this activity in an effort to glean any information from a potential interview of [redacted] relative to the unsolved May 7, 1997, bank robbery assigned to him.

Execution of Arrest Plan:

At about dusk, a tactical unit made up of Officers from the APD, the Clute Police Department (CPD), and the BCSO left the APD station to take up their respective positions at a remote location on CR 49 in support of the aforementioned arrest plan. The plan entailed [redacted] paging his brother, [redacted] When [redacted] returned the page, [redacted] would inform him that he was successful in eluding law enforcement, that he was secreted by an abandoned concrete plant on CR 49 and that he needed a ride from the area. SA [redacted] was invited by APD to ride with APD Officer [redacted] in an unmarked APD unit to transport [redacted] to a Chevron station located near CR 49 where [redacted] would make this contact from a pay telephone bank. SA [redacted] and Officer [redacted] agreed that, short of the pretext call to be made by [redacted] their role in the arrest scenario would be administrative, and that they were not to be involved in the arrest or other overt actions relating to the arrest. b6 b7C

Upon arrival at the Chevron service station, Officer [redacted] and SA [redacted] determined that the pay phones at the station would not accept incoming calls. A decision was made to let [redacted] use the cellular telephone assigned to SA [redacted] and, at 8:51 p.m., [redacted] paged his brother [redacted] immediately returned [redacted] page. After [redacted] related to his brother that he had eluded police and he was waiting to be picked up, [redacted] apparently agreed to pick up his brother. When [redacted] ended this call, he advised Officer [redacted] and SA [redacted] that [redacted] told him that he, [redacted] was bringing his "Uzi" and that if this was a setup, he was going to shoot law enforcement as well as [redacted] was asked if his brother [redacted] had access to these types of weapons and if he would use them, to which [redacted] answered in the affirmative. This information was then broadcast by Officer [redacted] over the radio to all law enforcement personnel involved in the arrest scenario. b6 b7C

Nothing transpired for approximately one and one half hours when it was decided by the APD On-site Command that [redacted] needed to recontact his brother, [redacted] and inquire as to his location. As Officer [redacted] and SA [redacted] drove north

on B288 with [redacted] toward the aforementioned Chevron station, a silver four door sedan came into view. [redacted] then stated to Officer [redacted] and SA [redacted] that the silver four door sedan was [redacted] vehicle and that [redacted] was driving it.

Officer [redacted] and SA [redacted] then drove their vehicle southbound on B288, ahead of and in the same direction of the suspect silver four door sedan. As Officer [redacted] vehicle was driving past CR49, Officer [redacted] observed in his rear view mirror the silver four door sedan exit B288 and proceed down CR49 which he immediately broadcast to law enforcement. Members of a local SWAT team who were charged with effecting the arrest of [redacted] were secreted along CR49. The silver four door sedan proceeded eastbound on CR49 and turned and came back in a westbound direction. The vehicle then slowed in front of the abandoned concrete business and then proceeded to drive back and forth on CR49.

b6
b7C

Action by Local SWAT Team:

The local SWAT team, secreted on CR49, had received orders from their command, that if the suspect vehicle did not comply with commands to stop, an attempt should be made to incapacitate the vehicle by shooting the tires and engine block. A component of the local SWAT team was charged with taking the occupants of the suspect vehicle into custody as the vehicle entered the parking lot of an abandoned concrete plant. Other members of the local SWAT team, to include officers of the Clute Police Department (CPD), were ordered if the initial assault failed and the suspect vehicle attempted to flee the scene, they were to attempt to disable the vehicle with gunfire, aiming at the engine block and/or tires, thus preventing the suspect vehicle from reentering B288. As the vehicle proceeded eastbound on CR49, the local SWAT team was further instructed by radio that, if the vehicle did not stop at the aforementioned parking lot, stun grenades would be tossed towards the vehicle and that it should be disabled if it attempted to flee. Subsequently, three CPD officers of the SWAT team observed a flash and explosion while the suspect vehicle accelerated rapidly westward heading towards the CPD SWAT components position. These law enforcement officers of the CPD fired on the suspect vehicle in an unsuccessful attempt to disable it. The vehicle immediately fled the scene westward on CR49.

Officer [redacted] vehicle was parked on B288 facing northbound, south of CR49, when gunfire was heard in the vicinity of CR49. Subsequently, it was broadcast over the radio that

shots had been fired and the vehicle was fleeing the scene. Officer [redacted] then began driving northbound on B288 in an effort to identify the direction of travel of the suspect vehicle for the arrest team. As Officer [redacted] vehicle approached the point where CR49 joined B288, the suspect vehicle entered B288 from CR49 at a high rate of speed.

As both vehicles proceeded northbound on B288, the suspect vehicle which was just ahead of [redacted] vehicle began a series of braking actions. SA [redacted] Officer [redacted] and [redacted] believed that the suspect vehicle had just engaged in a firefight with local law enforcement. SA [redacted] further believed that the suspect vehicle knew it was being pursued by law enforcement and that the braking action of the suspect vehicle was an effort to position the suspect vehicle broadside to SA [redacted] vehicle. The intent of this positioning was to maximize damage from gunfire to SA [redacted] and the other occupants of his vehicle. [redacted] who was secreted in the rear seat, told SA [redacted] and [redacted] that his brother was about to shoot.

b6
b7C

Action by SA [redacted]

At this point, SA [redacted] fired his Bureau issued Sig Sauer 228 at the driver's side of the suspect vehicle. The suspect vehicle traveled approximately 100 feet from the time SA [redacted] fired his first round until the suspect vehicle came to a complete stop. SA [redacted] then exited Officer [redacted] vehicle and took up a defensive position behind this vehicle, given he had no additional ammunition nor body armor. Officer [redacted] exited the drivers side of his vehicle and trained his weapon on the suspect vehicle. Sergeant [redacted] BCSO, who was positioned on the median directly north of Officer [redacted] vehicle, had exited his vehicle and had his weapon also trained on the suspect vehicle. Subsequently, upon commands from Officer [redacted] a suspect driver exited the vehicle and was placed under arrest. SA [redacted] immediately contacted his superior and informed her that he had just been involved in a shooting incident. There were no injuries.

b6
b7C

Search Incident to the Shooting:

As noted above, inasmuch as the APD and BCSO had a local bank robbery investigation, the evidence collection components of the APD and the BCSO took the lead and processed the crime scene on B288. All that was collected during the late evening and early morning hours of May 15 - 16, 1997, with the exception of SA [redacted] Sig Sauer P228, is in the possession

of those local law enforcement agencies.

An inspection of the crime scene by responding FBI personnel as well as a review of the crime scene sketches and photographs taken by the APD/BCSO, copies of which are in the possession of the FBI, identify the location of fourteen spent 9mm casings in close proximity to the vehicle occupied by SA [redacted] It is noted that the crime scene photographs depict fifteen markers. Fourteen of these markers identify the location of SA [redacted] spent .9mm cartridges while the fifteenth (identified as #11) identifies the location of the decal "Eighty", knocked from the suspect vehicle due to the impact of one of SA [redacted] rounds. b6 b7C

Physical observation of the suspect vehicle revealed twelve visible points of bullet entry. It is possible, but unlikely, that more than one round entered through the same point of entry. Eleven of the twelve points of bullet entry are consistent with the trajectory of shots fired from the direction of the vehicle SA [redacted] was riding in. The twelfth point of bullet entry appeared to be a shot fired from a position perpendicular to the suspect vehicle which was located in the front quarter panel close to the front left tire. This twelfth point of entry most probably occurred during the local SWAT engagement on CR49.

Due to the fact that the vehicles were moving as the shooting took place, investigators were unable to determine the exact impact location of any errant shots. It was apparent to investigators that the bullets fired which missed the subject vehicle would have most likely impacted the concrete and dirt embankment, or the ground in front of the embankment. Because of the worn condition and pitting and weathering of the embankment, investigators could not determine with certainty if chips in the concrete were caused by round impact or natural causes.

Vehicle Damage:

During this shooting incident, the following vehicle was damaged by the local SWAT team and/or SA [redacted]

A 1990 Oldsmobile Eighty Eight Royale Brougham, Texas temporary licence [redacted] Vehicle Identification Number (VIN) [redacted] purchased by [redacted] on May 8, 1997. b6 b7C

Physical observation of the above vehicle revealed twelve visible points of bullet entry. Eleven of the twelve points of bullet entry are consistent with the trajectory of

shots fired from the direction of the vehicle SA [redacted] was riding in. The twelfth point of bullet entry appeared to be a shot fired perpendicular to the automobile consistent with the original local SWAT engagement. (see E-5 through E-8).

Weapon Involved:

During this shooting incident, SA [redacted] discharged the following weapon:

.9mm Sig Sauer, Model P228, Serial #B178055, with Federal Premium brand, .9mm Luger 147 grain Hydro-Shok jacketed hollow point ammunition. Magazine capacity of thirteen rounds.

b6
b7C

Crime scene investigation by the APD, BCSO and the FBI located fourteen fired 9mm casings on B288 in close proximity to the vehicle occupied by SA [redacted] (See E-3 through E-6). A distance of approximately 90 feet separated the first .9mm shell casing (identified by marker #1) and the last .9mm shell casing (identified by marker #15).

Following the shooting, SA [redacted] weapon was empty. SA [redacted] advised that he fired fourteen rounds at the suspect vehicle, thirteen from the clip and one already chambered in his weapon.

Media Coverage:

A review of all local media outlets failed to surface any information relative to this shooting incident.

Criminal Liability of SA [redacted]

On May 20, 1997, [redacted] Brazoria County District Attorney advised that there would be no Grand Jury investigation or any criminal charges filed against SA [redacted] or any of the other officers involved in this shooting incident.

Training:

b6
b7C

SA [redacted] is fully aware of the Bureau policy relative to the importance and use of protective body armor and the importance and need for backup ammunition. This awareness was demonstrated when SA [redacted] reiterated his role to APD Officer [redacted] and Officer [redacted] reconfirming SA [redacted] role, i.e. that SA [redacted] would not participate in any arrest or related overt action to this arrest. Subsequently,

SA [redacted] left his protective body armor and backup ammunition in his Bureau vehicle which was parked at the APD station and departed in Officer [redacted] unmarked unit.

b6
b7C

SA [redacted] qualified at firearms as recently as March 24, 1997, and is not delinquent in any scheduled firearms training.

To: Inspection Division From: Inspection Division
Re: 66-19157-38, 03/06/1998

SIRG members unanimously concurred that this incident involved the intentional discharge of all weapons fired by law enforcement personnel. Additionally, members agreed that the use of deadly force was justified and within the scope of the current deadly force policy.

Two observations made by Chairman Lusby involved the actions of task force members during the car stop. The first observation was the fact that participants left Staskal an avenue of escape by not having blocked his car on all sides. Secondly, SAs [redacted] and [redacted] and Officer [redacted] placed themselves in a precarious position since the subject could have opened fire through the vehicle windows resulting in injury and a potential "cross fire" event. This discussion resulted in the recommendation that the Practical Applications Unit of the Training Division review current car blocking procedures and determine if they adequately address "cross fire" issues. b6 b7C

**LEAD (s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, DC

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

**Set Lead 2:**

TRAINING DIVISION

AT QUANTICO

That the Practical Applications Unit review current car blocking procedures to determine if they adequately address "cross fire" issues.

♦♦



Savage-1605

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 9/12/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted]:lrr

b6
b7C

**Case ID #:** 66-19157-12

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/22/97
DALLAS DIVISION

**Synopsis:** To advise of a shooting incident in the Dallas Division on 5/22/97, during the apprehension of a bank robbery suspect.

**Details:** Reference report of Inspector-in-Place [redacted] dated 6/4/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. [redacted] Room 3634)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted], Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 4147
1 - Ms. [redacted] USDOJ
(15)

1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] FO
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-12, 09/12/97

**Details of the Shooting Incident**

At approximately 3:13 p.m., on 5/22/97, a subject entered the Fidelity Bank in Dallas, Texas. The subject, who was later identified as Darrell Cleo Holmes, was dressed in business attire, leading bank employees to believe that he was a commercial vendor making a late deposit. Holmes was buzzed into the bank lobby and once he entered the bank, he positioned himself with his back to the bank cameras and put on a hat and sunglasses. Holmes approached a teller and displayed a large black frame pistol and demanded money. The teller gave Holmes $2,200 which included two electronic tracking system (ETS) devices. The subject exited the bank with the money and the activated ETS devices.

Once the devices were activated, the signals were picked up by a Dallas Police Department (DPD) helicopter. DPD marked units responded and followed the subject in the direction of Interstate 635 (I-635) westbound. Prior to entering I-635, Holmes stopped and threw one tracking device into a dumpster.

At approximately 3:15 p.m., the Dallas Division was telephonically advised of the bank robbery. Dallas was advised of the robber's description, the fact that he was armed and that the tracking devices were included in the money package given to the robber.

Four Special Agents (SAs) assigned to the Violent Crimes (VC) squad responded to the bank robbery. SA [redacted] Dallas Division's bank robbery coordinator and SA [redacted] responded in one vehicle and SAs [redacted] and [redacted] responded in their respective Bureau cars. Each member of the VC squad had previously received joint training with the DPD with the ETS tracking system utilized in area bank robberies. SA [redacted] bureau vehicle was equipped with an ETS receiver and he had received specialized training in its utilization. Additionally, each VC squad members' vehicle was equipped with DPD radios.

The three FBI vehicles proceeded northbound on U.S. Route 75 toward the bank robbery location. While enroute, DPD radio transmissions indicated that the ETS signal was in the vicinity of U.S. Route 75 and I-635. SA [redacted] ETS tracking receiver began picking up the signal. DPD units, including a DPD helicopter, advised that the signal was westbound on I-635 and the three Bureau vehicles proceeded in that direction.

b6
b7C

Based on the ETS signal, the DPD units and helicopter assessed that the ETS device was in a westbound vehicle that appeared to be a burgundy two-door Buick. At this point, no law enforcement vehicles were operating emergency equipment. The initial DPD marked unit broadcast its intention to commence a felony traffic stop on the Buick. SA [redacted] stated that he was following a DPD unit in the High Occupancy Vehicle lane and had activated his vehicle's emergency equipment. At that time, the DPD officer announced, via car radio, that the Buick was exiting I-635 onto a one way frontage road that paralleled the freeway. The two-lane road served as an access to exiting vehicles. Several DPD units continued behind the Buick onto the frontage road and commenced a traffic stop at which time the Buick stopped on the road.

The freeway was separated from the frontage road by a grassy median, approximately 15 yards wide. The first DPD unit stopped directly behind the Buick, slightly offset. The second DPD unit stopped behind the first and the third unit who had not exited on the frontage road pulled onto the grassy median at a position that was toward the rear of the Buick. As the traffic stop was initiated, the FBI vehicles pulled onto the shoulder of I-635 parallel to the frontage road. SA [redacted] stopped his vehicle on the shoulder of I-635, approximately three fourths of a car length ahead of the Buick. The second vehicle driven by SA [redacted] stopped behind SA [redacted] vehicle. SA [redacted] pulled onto the grassy median at a slight angle behind SA [redacted] vehicle, next to the third DPD unit.

b6
b7C

As the FBI vehicles were stopping, the SAs observed a white male, later identified as the subject Holmes, exit the Buick. Simultaneously, the first DPD officer exited his vehicle and took cover behind his vehicle door. The second DPD officer had established herself at the right rear of the first DPD vehicle with her weapon drawn. Holmes displayed a black pistol in his right hand, waving it around while gesturing with his left hand. There was a verbal exchange between Holmes and one DPD officer. The DPD officers heard Holmes screaming, "I'm going to kill you".

SAs [redacted] and [redacted] exited their vehicle, drawing their weapons, and took positions of cover behind their vehicle. SA [redacted] stated that he took a position of cover at the rear of the driver's side of the vehicle while SA [redacted] stated that she assumed a position of cover behind the open, right front passenger door. SA [redacted] stated that he exited his vehicle,

drew his weapon and assumed a position of cover at the front of the driver's side of his vehicle.

All of the SAs at the scene stated that they were aware that shouting took place between Holmes and the DPD officer; however, due to the numerous sirens and freeway traffic noise, the words were unintelligible. The SAs were aware that Holmes was waving what appeared to be a black semi-automatic pistol in his right hand. Holmes took several steps toward the first DPD vehicle and pointed the pistol at the first DPD officer. The DPD officer ducked down behind the door of his vehicle. According to the SAs at the scene, it appeared that the officer had been shot or gone down. Believing that the officer had been shot, the SAs and other DPD officers began firing at the subject. b6 b7C

SA [redacted] stated that he believed that he saw a puff of smoke come from the barrel of the subject's weapon and after hearing SA [redacted] and others fire, he fired twice at the subject.

According to SA [redacted] she believed that she observed something come off the barrel of Holmes' weapon at the same time she heard a gun shot. Fearing for the DPD officers in Holmes' line of fire, she shot twice at the subject. SA [redacted] also stated that it appeared that Holmes was moving toward his vehicle for cover and she then fired once more.

SA [redacted] advised that from his position of cover, he saw Holmes thrust his pistol toward the DPD officer. At the same time, it appeared to SA [redacted] that the first DPD officer had been hit. SA [redacted] fired once at the subject. Upon observing Holmes go to a sitting position on the ground in the doorway of his vehicle and fearing for the DPD officers, SA [redacted] fired two additional rounds.

SA [redacted] stated that upon exiting his vehicle he observed Holmes point his pistol toward the first DPD officer and it appeared that the pistol jerked. SA [redacted] saw the DPD officer appear to go down and fearing for his life as well as the life of the DPD officer, SA [redacted] fired once at Holmes. SA [redacted] stated that it appeared that Holmes turned toward his vehicle in an attempt to gain cover and at that point SA [redacted] fired two additional rounds at the subject.

After being fired upon, Holmes slumped to the ground with his upper torso leaning onto the driver's side floor board. Officers approached Holmes and determined that no further threat b6 b7C

existed. Once Holmes was disabled and the DPD officer appeared to be in control, the SAs holstered their weapons and SAs [redacted] and [redacted] advised the Dallas Division of the shooting incident via radio. Emergency aid was called. As Holmes was being secured, the SAs observed that the weapon being utilized by Holmes appeared to be a BB gun. The gun had been removed from the subject's hand by a DPD officer and placed on the pavement. b6 b7C

According to the SAs present, Holmes received numerous wounds to his legs and buttocks area and was also bleeding from the head. A private ambulance company arrived shortly after the incident and began treatment on Holmes. A Dallas Fire Department Paramedic Unit also responded and transported Holmes to a close-by hospital where he was pronounced dead.

An autopsy report listed the cause of death of Darrell Cleo Holmes as multiple gunshot wounds.

A subsequent grand jury report dated 7/22/97, returned a "no bill" for all law enforcement personnel involved in this shooting incident. Additionally, on 5/23/97, a representative from the Civil Rights Division, U.S. Department of Justice, declined prosecution in this matter.

On 8/12/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted], Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Acting Unit Chief, Undercover and Sensitive Operations Unit, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted], Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted], Supervisor, Washington Field Office. The two non-voting members present were [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division; and [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-12, 09/12/97

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

At the beginning of discussion of this incident, SIRG members viewed a news media tape provided by the Dallas Division regarding this incident. SIRG members unanimously concurred that the use of deadly force by the SAs involved in this shooting incident was justified and in accordance with the current deadly force policy.

The only issue regarding planning in this incident involved the fact that participants waited too long to take action. The Training Division (TD) representative opined that it was gratuitous that the subject had a BB gun and that he wanted to be killed by police.

Observations made by the group included the fact that the line-up of the SAs vehicles were in the most exposed position and that one SA was hiding behind a door which resulted in concealment at best. The SIRG representative from the TD, Practical Applications Unit advised that the unit is reviewing the current car stop package.

The second observation made by SIRG members dealt with the fact that no SAs were utilizing their ballistic protective undergarments noting that the agents had time to prepare for the situation. Emphasis was placed on the fact that each of the SAs were members of the VC task force and should have not only had their protective vests accessible, but should also have taken the time to put them on. The TD representative added that an initiative is underway to obtain completely concealable protective armor. Additionally, the TD representative advised that mental, as well as shooting incident, preparation is currently being taught during training class. SIRG members discussed the fact that the SAC, Dallas Division, had recognized that the SAs neglected to use protective armor and emphasized the danger that the SAs had put themselves in by not utilizing their vests. Although no administrative action was recommended by members of the SIRG, this discussion resulted in the

recommendation that the SAC, Dallas, re-emphasize to the SAs the importance of utilizing protective body armor.

**Set Lead 1:**

DALLAS DIVISION

AT DALLAS

That SAC, Dallas re-emphasize to SAs [redacted] and [redacted] the importance of utilizing their ballistic protective undergarments.

b6
b7C

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 9/10/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-3 b6 b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
6/6/97
BALTIMORE DIVISION

**Synopsis:** To advise of a shooting incident in the Baltimore Division, Wilmington, Delaware, Resident Agency (WDRA). Special Agent (SA) [redacted] fired three shots at the driver of a moving vehicle during the arrest of a wanted felon.

**Details:** Reference report of Supervisory Special Agent [redacted], dated 6/30/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. [redacted] Room 3634)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 4147
1 - Ms. [redacted] USDOJ

1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861

b6 b7C

**Details of the Shooting Incident**

The Baltimore Division opened a case based upon an arrest warrant for subject [redacted] who was wanted by Delaware authorities for First Degree Robbery, Possession of Narcotics and Second Degree Robbery. [redacted] was also wanted for several misdemeanor offenses within the state. The investigation of [redacted] was conducted by the Delaware Joint Violent Crime Fugitive Task Force (VCFTF) which was led by the Bureau. b6 b7C

[redacted] was arrested by VCFTF members on 3/5/97, in Wilmington. Having posted bond, he was released following this arrest. [redacted] failed to appear for his court date causing a warrant to be issued for his arrest, and the reinitiation of an Unlawful Flight to Avoid Prosecution Preliminary Inquiry.

On 6/6/97, at approximately 1:00 p.m., Officer [redacted] the Delaware Department of Corrections, Probation and Parole Division representative to the VCFTF, and SA [redacted] began to follow leads in an effort to locate [redacted] Search warrants had been obtained by Officer [redacted] earlier that week for a Delaware address as well as for [redacted] himself.

At approximately 1:15 p.m., Officer [redacted] and SA [redacted] drove past the Delaware address to determine if anyone was in the home. Unable to determine if anyone was in the home, Officer [redacted] made a call to the residence which was answered by a female believed to be the subject's mother. Officer [redacted] contacted the Wilmington Police Department via police radio and requested backup assistance prior to approaching the residence; however, the police dispatcher advised that no units were available to assist at that time.

Officer [redacted] and SA [redacted] decided to attempt to interview [redacted] parents. As they approached the residence, Officer [redacted] took a position at the front door of the house while directing SA [redacted] to the rear. This action was taken due to the fact that [redacted] had previously attempted to escape through the rear of this residence. Officer [redacted] identified himself to the father and was invited into the residence. [redacted] advised SA [redacted] via radio to come to the front of the house where he joined Officer [redacted] inside. b6 b7C

The residence was searched, however, the subject was not located. During the interview, [redacted] parents advised

that they had not seen their son in over a week. They did advise that the last time they saw [redacted] he had stated that he would not turn himself in to authorities. According to the parents, [redacted] had been seen with a female of Asian descent known to them as [redacted] They advised that [redacted] drove a green Ford Explorer type vehicle.

Upon completion of the interview, [redacted] and [redacted] discussed possible leads to follow in their attempt to locate the subject. Several minutes after leaving the residence with Officer [redacted] driving the Bureau vehicle, SA [redacted] was provided a photograph of the subject. [redacted] also advised SA [redacted] that he had previously arrested [redacted] and that the subject was both a drug user and mentally ill. b6 b7C

At approximately 1:40 p.m., while driving in the vicinity, Officer [redacted] observed a white male pedestrian who he believed to be [redacted] SA [redacted] noticed a green Chevrolet Blazer driven by a white female parked at the curb facing the Bureau car with its passenger door open. [redacted] was walking toward the vehicle as if he were going to enter the Blazer on the passenger side.

By the time Officer [redacted] had positively identified the pedestrian as [redacted] he had driven past the Blazer. Without commenting to SA [redacted] immediately turned the car around, however the residential street was not wide enough to accommodate the turn. Officer [redacted] stopped the Bureau vehicle at a diagonal angle behind the Blazer.

It appeared to Officer [redacted] that [redacted] was going to enter the right front passenger seat of the parked Blazer and he thought it necessary to apprehend the subject before he entered the Blazer in order to avoid a car chase. When Officer [redacted] first saw the subject on the sidewalk, [redacted] was approximately 35 feet from the Blazer. Officer [redacted] immediately exited the Bureau car, approached [redacted] shouted his name and said "you're under arrest." Officer [redacted] attempted to physically restrain [redacted] at the open passenger door of the Blazer. A struggle ensued and [redacted] fell into the front seat of the Blazer pulling Officer [redacted] with him. [redacted] shouted "go, go, go" to the driver of the Blazer and Officer [redacted] shouted "stop police, stop police." The driver began to accelerate with the lower half of Officer [redacted] body hanging out of the vehicle with his feet dragging on the ground. Officer [redacted] advised that as the vehicle accelerated, he tried to pull himself inside to stop the driver. He held onto [redacted] for b6 b7C

fear that if he fell onto the pavement he would be run over by the Blazer's rear wheels.

At the same time that Officer [redacted] exited the Bureau car to pursue the subject, SA [redacted] exited the vehicle taking a path around the rear of the car and moving toward the driver's side of the Blazer. SA [redacted] saw Officer [redacted] and [redacted] begin to struggle in the grassy area next to the sidewalk and in the Blazer's open passenger doorway. SA [redacted] got within three or four feet of the driver's side door of the Blazer and saw the female driver looking from side to side. SA [redacted] shouted a command to the driver later determined by witnesses to be "Stop FBI." At that point, SA [redacted] heard screaming from inside the vehicle and the driver "floored" the vehicle and accelerated away from the curb. b6 b7C

As the Blazer began to move away, SA [redacted] heard Officer [redacted] yelling "stop police, stop the car." As the Blazer moved away SA [redacted] saw two legs from approximately the knees down flailing around and being dragged down the street. SA [redacted] realized that this was Officer [redacted] and that he was either hanging on or stuck in the vehicle.

SA [redacted] believing that Officer [redacted] was in serious danger, began a foot chase. SA [redacted] advised that he knew that he had to make the Blazer stop in order to save Officer [redacted] life and he determined that the only way to accomplish this was to shoot the driver of the Blazer. SA [redacted] drew his Bureau issued Sig Sauer P-226 and fired three shots at the driver of the vehicle. Immediately following the third shot, the vehicle came to a stop. SA [redacted] believed that he had shot the driver.

While approaching the car, SA [redacted] saw Officer [redacted] stand up and remove [redacted] from the car and put him on the ground. SA [redacted] approached the driver's side of the car and saw that the female driver had not been shot, ordered her out of the vehicle and placed her on the ground. b6 b7C

With both subjects secured, the Wilmington, Delaware, RA as well as local authorities were contacted and notified of the shooting incident.

To: Inspection Division From: Inspection Division
Re: 66-19157-3, 09/10/97

On 8/12/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Acting Unit Chief, Undercover and Sensitive Operations Unit, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present were [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division; and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

During the discussion of this shooting incident, SIRG members unanimously concurred that the use of deadly force by SA [redacted] was justified and in accordance with the current deadly force policy. This discussion resulted in the recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Two issues were raised by SIRG members during the discussion of this incident. The first issue related to the fact that the actions of Officer [redacted] resulted in SA [redacted] having to use deadly force. Additionally, it was noted that [redacted] actions were contrary to the instructions issued to task force members. The second issue involved the lack of sufficient personnel present during the execution of the search warrant.

To: Inspection Division From: Inspection Division
Re: 66-19157-3, 09/10/97

Members emphasized the fact that one person can not cover a back or a front of a location without being placed in a vulnerable position. SIRG members unanimously concurred that SAC, Baltimore, recognized these areas of concern and had implemented procedures to ensure that this situation does not recur.

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 11/24/97

To: Inspection Division Attn: [redacted]

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: [redacted]
Lusby Thomas

Drafted By: [redacted] lrr

Case ID #: 66-19157-26

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/29/97
LOS ANGELES DIVISION

Synopsis: To advise of a shooting incident in the Los Angeles Division when Special Agents (SAs) [redacted] and [redacted] were confronted by an armed robber.

Details: Reference report of Assistant Special Agent in Charge Susan R. Chainer, dated 9/17/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. [redacted] Room 7129
(1 - Adjudication Unit)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] Room 4147
2 - Mr. [redacted] DOJ
(1 - Ms. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-26, 11/24/1997

Details of the Shooting Incident

On 8/29/97, SAs [redacted] and [redacted] were on duty and conducting a security background investigation on North Roxbury Drive in Beverly Hills, California. At approximately 2:40 p.m., after completing their neighborhood investigation, the agents were returning to their Bureau vehicle parked north bound in front of 614 North Roxbury Drive. Both SAs observed a Hispanic male walking south on the sidewalk towards them. When the SAs were approximately seven feet from the passenger door of their vehicle, the subject walked past them and was to their rear. At that point, the subject yelled and demanded their wallets. As they turned around, the subject was holding a black colored small semi-automatic pistol. The robber demanded the agents' wallets and other property and stated that he would blow off their heads if they did not comply. Throughout the robbery, the subject continually pointed his weapon and threatened to kill them. Both SAs gave up their wallets, and SA [redacted] also surrendered the Bureau car keys and his gold chain necklace. b6 b7C

During the incident, SAs [redacted] and [redacted] talked to the robber in an effort to calm him as both agents moved slowly in different directions from the subject. SA [redacted] moved toward the rear passenger side of the Bureau vehicle while SA [redacted] slowly moved around the front of the vehicle. The robber continually swung his weapon back and forth between the two agents and continued to threaten and demand their property. While SA [redacted] slowly moved around the front of the vehicle, the robber demanded his fanny pack which contained his Bureau issued nine millimeter Sig Sauer pistol. SA [redacted] knowing that his weapon was inside the fanny pack, continued backing up moving around the Bureau vehicle until he was near the front driver's door. The robber followed SA [redacted] and moved to the front fender of the driver's side of the vehicle and again demanded his fanny pack. At that time, neither SA believed that the robber knew they were federal law enforcement officers. However, SA [redacted] realized that once the robber got his fanny pack which held his weapon, he would know they were law enforcement officers. SA [redacted] believed that once the robber became of aware of this that he would shoot him. At that point, SA [redacted], who was in fear for his life, drew his weapon when the robber's attention was momentarily diverted. SA [redacted] identified himself as the FBI and when the robber turned with his weapon in his hand, SA [redacted] fired one round at the subject. b6 b7C

The robber turned and ran north on North Roxbury Drive and both agents pursued him. After a short chase, the robber disappeared and no additional rounds were fired.

According to SA [redacted] statement, as he and SA [redacted] were returning to the vicinity of the Bureau vehicle, a citizen driving by stopped his vehicle and talked to SA [redacted] SA [redacted] got into the vehicle and left. After SA [redacted] had left, another citizen stopped and offered SA [redacted] the use of his cellular phone which was used to talk to the 911 operator who was already on the line with the owner of the phone.

SA [redacted] statement advised that as he and SA [redacted] were walking back to the area of the Bureau vehicle, a passing motorist stopped and stated that he would drive SA [redacted] around to look for the suspect; however, he would not give up his car. Neither agent recalled advising the motorist that they needed his car. It should be noted that in the motorist's statement, he advised an individual who later identified himself as an FBI agent stopped his car by holding up his hand. The motorist stated that he believed that was the person who said "FBI, we need your car". SA [redacted] accepted the motorist's offer since the robber had taken the keys to the Bureau vehicle. After several minutes, SA [redacted] realized that if he confronted the robber, the motorist could be in danger; therefore, he called off the search. At the point of SA [redacted] return to the scene of the incident, a Beverly Hills police officer had arrived and notification was made to the Los Angeles Division regarding the shooting incident.

b6
b7C

On 11/12/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; Francis A. Gallagher, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); and [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-26, 11/24/1997

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this shooting incident involved an intentional discharge of SA [redacted] weapon and the shooting was in conformance with the current deadly force policy.

The only issue raised by the group was the fact that SA [redacted] placed a citizen at risk and exposed the FBI to possible extensive civil liability had any injuries been incurred. This discussion resulted in the recommendation that SA [redacted] receive a letter of censure for using poor judgement in commandeering a citizen's vehicle and placing him in a precarious situation.

LEAD(s):

Set Lead 1:

OFFICE OF PROFESSIONAL RESPONSIBILITY

b6
b7C

AT WASHINGTON, D. C.

That SA [redacted] receive a letter of censure for his use of poor judgement in placing a citizen at risk and exposing the FBI to possible extensive civil liability.

Set Lead 2:

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.



Savage-1622

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/04/98

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-36

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/3/97
OMAHA DIVISION

b6
b7C

**Synopsis:** To advise of a shooting incident in the Omaha Division during a buy-bust drug scenario in Alda, Nebraska, on the night of 10/3/97. This incident resulted in the death of subject Mario H. Velez who was shot by Undercover Police Officer [redacted] of the Grand Island, Nebraska, Police Department.

**Details:** Reference report of Supervisory Senior Resident Agent [redacted] dated 11/14/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted], Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116 (Enc.)
(1 - Mr [redacted] Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 4147
2 - Mr. [redacted] USDOJ
(1 - Ms. [redacted]

1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861

b6
b7C

**Details of the Shooting Incident**

The investigation into the drug activities of Mario H. Velez was opened on 11/4/96, and assigned to SA [redacted] in the North Platte Resident Agency (NPRA). Velez had long been believed to be the main source of methamphetamine in Lexington and North Platte, Nebraska. SA [redacted] developed a source who advised that Velez routinely imported multi-pound quantities of methamphetamines, cocaine and marijuana from Mexico to Nebraska via Garden City, Kansas. b6 b7C

Based on information provided by SA [redacted] source and a review of Velez' criminal history, SA [redacted] discussed the case with SA [redacted] of the Grand Island Resident Agency. SA [redacted] advised that he had a good undercover police officer to deal with Velez.

During November 1996, two drug purchases were made from Velez. On 11/8/96, SA [redacted] source introduced Velez to Grand Island Police Department Undercover Officer [redacted] who purchased one ounce of methamphetamine. Although the drug was tested and determined to be amphetamine, on 11/21/96, Officer [redacted] purchased one ounce of methamphetamine from Velez.

In December 1996, Velez moved from Nebraska to Kansas. SA [redacted] source advised that Velez fled because he believed that a warrant had been issued for his arrest. At approximately the same time he left Nebraska, Velez expressed concern to the source about [redacted] and asked the source to provide additional information about [redacted] and how the source met him. During another conversation between the source and Velez in June 1997, Velez again spoke of his suspicions about [redacted] claiming that he wanted to buy too much too soon. Velez also claimed that "a cop" had told him that [redacted] was a police officer. Velez did not return to Nebraska until September 1997.

On 9/24/97, the source advised SA [redacted] that Velez had moved back to Nebraska and wanted to reestablish contact with [redacted] On 9/26/97, Velez delivered samples of cocaine and heroin to Officer [redacted] and also agreed to deliver 17 ounces of black tar heroin and 35 ounces of cocaine. SAs [redacted] and [redacted] along with other members of the Tri-City Federal Drug Task Force (TCTF), began planning a scenario intended to result in a buy-bust arrest of Velez on 10/3/97. All law enforcement agencies participating in the planned arrest of Velez, including the FBI Agents, were members of the task force. b6 b7C

One of the first steps taken in preparing for the arrest of Velez was to rent a small single-family home in Alda, Nebraska. This home would provide the task force with complete control over the arrest scene and ensured it was a reasonable distance from other structures. Additionally, SA [redacted] contacted the Omaha Division to obtain approval for both aviation support and technical coverage during the arrest of Velez. ASAC Thomas W. Richardson arranged for this requested support and also advised two supervisors in the Omaha Division that an operational plan was needed for the arrest. b6 b7C

An operational and arrest plan was developed by SA [redacted] for the anticipated arrest of Velez. On 10/1/97, Omaha personnel traveled to Alda to install electronic monitoring equipment, including audio and video, in the house to be used during the arrest.

On 10/3/97, at 8:00 a.m., Officer [redacted] tried to contact Velez by phone and was instructed to call back between 2:30 and 3:00 p.m. Officer [redacted] called at approximately 3:00 p.m., and was advised to call at 5:00 p.m. During the 5:00 p.m. telephone call, Officer [redacted] spoke with Velez who agreed to meet Officer [redacted] at the house in Alda at 9:00 p.m. SA [redacted] subsequently telephoned ASAC Richardson and advised that the drugs had been ordered.

The arrest team was in place when Velez arrived at 9:00 p.m. Velez entered the house, observed the $50,000 "flash" money in Officer [redacted] possession, and said he did not have the drugs but he would get them and be back in approximately three hours.

Surveillance units followed Velez to a location in Sutton, Nebraska and remained at that location when Velez departed the area. The plan was to search the location after Velez' arrest. Velez returned to Alda just before midnight. With the arrest team in place, [redacted] let Velez inside the house. Velez looked around the house and went back to his car and retrieved a white plastic sack. Upon entering the house a second time, Velez paused to lock the door, setting the deadbolt. Officer [redacted] observed Velez lock the door and commented on it, intending to notify the arrest team that the door had been locked. b6 b7C

Officer [redacted] observed the drugs possessed by Velez and commented, "That's a lot of shit". As planned, the arrest team van moved close to the front door. At that point,

Officer [redacted] said "Bingo", and the arrest began. It should be noted that these were prearranged code words by the arrest team to indicate when Officer [redacted] viewed the drugs and when the deal was completed.

As the arrest team exited the van, Officer [redacted] pulled the screen door open and Deputy [redacted] began to kick at the door; however, the door would not give. Several arrest team members kicked the door with negative results. Subsequently two team members kicked the door simultaneously and as the door was opening, shots were heard coming from inside the house. b6 b7C

According to Officer [redacted] once he gave the signal to arrest and waited for the officers to enter, he and Velez were sitting on the couch when he heard the first kick at the door. He looked at the door and saw it give "a little bit" after the second kick. He got up, hoping to move closer to the door. Officer [redacted] looked at Velez and saw that he had pulled a gun and was pointing it at the door. Thinking Velez was going to shoot through the door, [redacted] said "No, don't do that." Officer [redacted] began moving toward the bedroom keeping his eye on Velez. Velez caught up to Officer [redacted] just outside the bedroom door, grabbed him by the shirt collar with his left hand and said, "No, it's you". Velez pushed Officer [redacted] through the bedroom doorway, bringing the gun up to his face. Officer [redacted] grabbed the barrel of the gun with his left hand while pushing Velez toward the bedroom closet. According to Officer [redacted] Velez kept pulling the gun out of his hand and pointing it at his head. Officer [redacted] pushed Velez up against the wall and reached into his waistband for his service revolver. He raised his weapon and shot Velez once in the back. When Velez did not drop the weapon and fall down, Officer [redacted] shot him again. Velez fell to the floor and Officer [redacted] ran from the house just as the door opened. b6 b7C

Officers entered the house and found Velez on the bedroom floor. His legs were underneath him and he was partially in the closet. According to two Deputies present, Velez was still alive and said, "Help me, I'm dying". Velez had brown and reddish foam coming from his nose and mouth. Officers on the scene immediately requested paramedics. Upon the arrival of the paramedics, Velez was declared dead.

On 2/11/98, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant

Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; [redacted], Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted], Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present consisted of [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Although this shooting incident did not involve any shots fired by FBI personnel, the SIRG reviewed the incident since this was an FBI controlled task force. Prior to discussing this incident, SIRG members viewed a video tape provided by the Omaha Division. The discussion began with a unanimous decision by the SIRG members that the use of deadly force was justified in this incident. The video tape contained the drug transaction taking place; however, a prearranged plan had directed that the video camera be turned off once the transaction was completed. According to the statement of the individual operating the camera, the mission of the video equipment was to capture the drug transaction for court prosecution.

Two observations made by the members related to the video equipment being turned off before the completion of the

incident and the fact that the undercover officer had a can of beer on the table during the operation. This discussion resulted in a recommendation for the Criminal Investigative Division regarding procedures for the use of video taping during buy-bust arrests. The SIRG Chairman will address the use of alcohol during operations with the Special Agent in Charge of the Omaha Division.

The last issue addressed by SIRG members pertained to safety. The most serious safety issue was the fact that the subject was allowed to enter the house and lock the door. SIRG members unanimously concurred that the undercover officer should have manipulated the situation to preclude this from occurring. It was also recognized that although the arrest plan was good, operational control was neglected. Participants should have been in possession of a battering ram to ensure quick entry into the residence. Additionally, new agents were assigned to the task force without proper training. The last safety issue discussed was the fact that participants allowed the drugs and "buy money" in the same room. This will also be brought to the attention of the SAC.

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

**Set Lead 2:**

CRIMINAL INVESTIGATIVE DIVISION

AT WASHINGTON, D. C.

That the Criminal Investigative Division, define and publish guidelines regarding proper protocol for buy-bust situations, in particularly addressing the issue of utilizing video equipment, when the equipment should be operational and define at what point the equipment should be shut down.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 04/20/98

To: Inspection Division Attn: [redacted]

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: [redacted]
Lusby Thomas 0/18

Drafted By: [redacted] lrr

Case ID #: 66-19157-4

b6
b7C

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/21/97
BIRMINGHAM DIVISION

Synopsis: To advise of a shooting incident in the Birmingham Division while agents were attempting to serve an arrest warrant for [redacted] who was wanted for burglary charges in Birmingham.

Details: Reference report of Supervisory Special Agent (SSA) [redacted] dated 12/1/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Rm. 7142
1 - Mr. [redacted] Rm. 7825 (Enc.)
2 - Mr. [redacted] Rm. 7116 (Enc.)
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 4147
2 - Mr. [redacted] USDOJ
(1 - Ms. [redacted]

1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] WFO
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-4, 04/20/1998

Details of the Shooting Incident

On 10/21/97, at approximately 6:00 a.m., Birmingham Division Agents and members of the Division's Violent Crime/ Fugitive Task Force (VCFTF) were attempting to execute an arrest warrant on [redacted] at [redacted] in Birmingham. All members of the Task Force were wearing body armor with "FBI" clearly marked on the front. A local uniform officer was also with the Task Force and was wearing his official police uniform, body armor, and his marked police patrol car which was parked in front of the subject's residence. b6 b7C

As the arrest team members were attempting to execute the arrest plan, the subject fired gunshots at the team from a window on the left-hand side of the residence. SAs [redacted] and [redacted] returned fire as all team members sought cover. SA [redacted] fired two shots from a Bureau MP-5 and SA [redacted] fired two shots from his Bureau issued 10 millimeter Smith and Wesson, Model 1076. From a position of cover, a Task Force member utilized a vehicle public address system to call the occupant of the residence outside. [redacted] exited the residence unarmed and was placed under arrest. No injuries were encountered in the exchange of gunfire.

The residence was searched and a Baretta 9 millimeter semi-automatic handgun was found inside of a bedroom. The handgun was jammed with a live round preventing further firing until the jam was cleared. One AK-47 style weapon and an UZI style weapon were also located in the residence. [redacted] stated that he had fired at the Task Force members; however, he did not realize that they were law enforcement officers.

On 2/11/98, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; b6 b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-4, 04/20/1998

[redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present consisted of [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this incident involved an intentional discharge of the weapons of SAs [redacted] and [redacted] Additionally, a unanimous decision was reached that the use of deadly force was justified in this incident. This resulted in a recommendation that no administrative action be taken against SAs [redacted] and [redacted] b6 b7C

The majority of the SIRG agreed that the planning of this arrest was sufficient although sloppy. Participants never considered that this arrest could be dangerous, there was no indication in the plan of where each participant should be located and participants neglected to ensure that someone was covering the back of the residence.

The SIRG Chairman addressed one additional area of concern involving one SA interviewing another. Chairman Lusby emphasized that the desirous protocol is to have, at a minimum, an SSA present during the interview. Additionally, the Birmingham Division failed to submit signed sworn statements by the agents who discharged their firearms during this incident. Chairman Lusby advised that this concern will be communicated to the Birmingham Division management.

To: Inspection Division From: Inspection Division
Re: 66-19157-4, 04/20/1998

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C



Savage-1632

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 3/12/98

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

b6
b7C

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-31

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/30/97
NEWARK DIVISION

**Synopsis:** To advise of a shooting incident in the Newark Division on 1/30/97, resulting in the death of fugitive Michael Byrd.

**Details:** Reference report of Inspector-in-Place (IIP) [redacted] dated 2/20/97, and subsequent report from IIP [redacted] dated 10/31/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] oom 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] oom 4147
2 - Mr. [redacted] DOJ
(1 - Ms. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted], Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-31, 03/12/1998

**Details of the Shooting Incident**

On the morning of 1/30/97, members of the Newark Division's Violent Crime Fugitive Task Force (VC/FTF), comprised of FBI Agents and Task Force officers, along with two other agents of the Newark Division and two detectives of the Roseland, New Jersey Police Department, attempted to arrest Michael Byrd. Byrd was wanted on a bench warrant issued by the Superior Court of Essex County New Jersey, for failure to appear to stand trial for murder.

Acting on a tip received from an anonymous caller, information was developed that Byrd drove a vehicle registered to his [redacted] who lived at [redacted] Montclair, New Jersey. Based on interviews and a consent search of the premises, a determination was made that Byrd was not at that location. [redacted] leading investigators to a residence in Elizabeth, New Jersey, [redacted] Agents corroborated the address, through subscriber information for the telephone number [redacted] as [redacted] Elizabeth, New Jersey. [redacted] provided directions to the address. b6 b7C b7D

Upon arrival at the residence, agents and officers surrounded the building while an entry team attempted to gain access by ringing doorbells for apartments on both the first and second floors. During the initial attempt to gain access to the building, agents posted outside the residence reported unusual activity in the second floor apartment, including the turning on and off of lights, opening and closing of windows, and an occupant attempting to push a bag through a screen that was forced out from within.

Agents were admitted to the building by a first floor tenant who was shown a photograph of Byrd and confirmed his presence in the second floor apartment. They proceeded to the second floor apartment, where they knocked and announced their presence. The agents received no response to their repeated demands to open the door and subsequently forcibly entered the apartment. Upon entry, two occupants were ordered out of a rear bedroom. These two individuals gave an indication to the officers present that Byrd was in the apartment.

Agents began to slowly and methodically clear the apartment, calling out to Byrd to show himself and to come out. They discovered the subject hiding under a bed in a rear bedroom and ordered him to come out. Byrd suddenly jumped up, knocking the mattress and box spring off the frame and moved to a far corner of the room, assuming a position that concealed his right hand. After repeated commands had been given by the agents to show his hands, Byrd whirled toward the agents in a threatening manner. Almost simultaneously, two shots were fired which caused agents to believe that Byrd had fired a weapon at them. Four agents and one Newark Police Detective fired a volley of rounds at Byrd, killing him instantly.

The Newark Division released a press statement, based upon initial reports from the scene, indicating that Byrd had fired two shots at the agents who returned fire. However, it was subsequently determined that Byrd was unarmed. Based upon this fact and the number of rounds fired, the Civil Rights Division, United States Department of Justice, in consultation with FBI Headquarters, the United States Attorney, District of New Jersey, and the Union County Prosecutor's Office, ordered that a criminal Civil Rights - Color of Law investigation be initiated.

On 2/12/97, an anonymous letter was forwarded by the Inspection Division to the Inspection Team in Newark. This letter alleged that Newark Division employees and management had engaged in a pattern of improper conduct in reporting and handling information pertaining to the shooting incident and in the operation of the VC/FTF. As a result of this letter, the criminal investigation was expanded to specifically address the alleged misconduct.

The administrative inquiry into the shooting death of Michael Byrd initially began on 1/31/97. However, the inquiry was preempted the same day by the initiation of a civil rights investigation opened by the Department of Justice. The Department of Justice review as well as an investigation conducted by the Union County District Attorney's Office, resulted in subsequent declinations of criminal prosecution for all agents and the police officer who fired their weapons during this incident. Subsequent signed sworn statements were provided in September 1997, by the agents involved in the shooting. These statements were provided after completion of the criminal investigation and the resuming of the administrative inquiry.

To: Inspection Division From: Inspection Division
Re: 66-19157-31, 03/12/1998

On 11/12/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Before the discussion of this shooting incident, SIRG member [redacted] recused herself from the discussion of this incident. Ms. [redacted] voiced her opinion that her presence may be considered a conflict of interest since she was serving as the Chief Division Counsel in the Newark Division at the time of this shooting incident. Based on comments from other SIRG members, Ms. [redacted] stayed through the discussion of the incident with the knowledge that she would participate in the discussion; however, would not vote on any recommended action.

b6
b7C

SIRG members held a lengthy discussion regarding this shooting incident and unanimously concurred that all law enforcement personnel intentionally discharged their weapons during this incident. Members further concurred that the use of deadly force by law enforcement personnel was justified.

recommendation was made by the Shooting Incident Response Team that the management of the squad could benefit by the creation of a coordinator position to supervise the day-to-day activities of the task force.

The last observation made by SIRG members was the inaccurate information provided in the initial phase of the investigation which required a criminal investigation. As noted in the report, the initial statement to the press issued by the Newark Division stated that Byrd fired one and possibly two shots at the Agents. However, subsequent investigation determined that the subject was not armed and did not fire any shots. A more prudent course of action would have been for the Newark Division to confirm the incident with the press but provide no details until the crime scene investigation had been concluded. After a thorough review of this shooting incident, SIRG members recommended that no administrative action be taken against any individual involved in this shooting incident.

It should also be noted in this communication that the allegations of improper conduct by Newark Division employees and management was investigated by the shooting response team. Based on a review of the statements of agents and other investigators present at the shooting incident, physical evidence obtained as well as statements provided by personnel of the Newark Division who participated in the investigation, the allegations were unsupported by fact and without merit.

**LEAD(s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, D. C.

b6
b7C

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 03/05/1998

**To:** Inspection **Attn:** [redacted]

**From:** Inspection Division
Office of Inspections
Contact: [redacted]

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-33

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/22/97
NEW ORLEANS DIVISION

**Synopsis:** To advise of a shooting incident involving Special Agent (SA) [redacted] SA [redacted] fired his weapon during the execution of a federal drug search warrant at a New Orleans residence.

**Details:** Reference [redacted] report of Supervisory Special Agent (SSA) [redacted] dated 1/22/98.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 4147
2 - Mr. [redacted] USDOJ
(1 - Ms. [redacted]

1 - Mr. [redacted] uantico
1 - Mr [redacted] Room 3787F
1 - Mr [redacted] FO
1 - Mr [redacted] Quantico
1 - Mrs. [redacted] Room 7861

b6
b7C

## Details of the Shooting Incident

On 12/22/97, the New Orleans Division Special Weapons and Tactics (SWAT) Team executed a federal drug search warrant which was obtained on 12/12/97, at [redacted] in New Orleans. The residence was known to be occupied by [redacted] along with several other individuals, who were confirmed to be distributing large quantities of cocaine, methamphetamine, and marijuana from the location. Verbal authority was obtained from an Assistant United States Attorney on 12/19/97, for the arrest of [redacted], his brother [redacted] and a third subject at the residence. b6 b7C

Authorization to use the SWAT Team to effect entry and to secure the residence was granted by Special Agent in Charge (SAC) Charles Matthews. This authorization was given due to information that the residents of the house had been observed with weapons, the number of persons at the residence, and the complexity of the floor plan. SWAT Team members used a regularly scheduled training day to rehearse the entry of the residence on 12/19/97, and all participating personnel were verbally briefed by the on-scene commander and the SWAT Team Leader on 12/22/97.

At approximately 6:30 a.m., on 12/22/97, the SWAT Team entered the residence and immediately apprehended an armed subject as he attempted to flee the residence. SWAT members observed several weapons including shotguns in plain view. While attempting to clear a dark rear bedroom, and after clearing the corners of the room, SA [redacted] returned to the center and looked into the adjoining bathroom. There was no door to the bathroom, but rather draperies hanging as a partition. SA [redacted] perceived a figure with a handgun behind the drapes and fired one round with his Bureau-issued Sig Sauer 228. After the round was fired another team member asked SA [redacted] what happened and he advised that he saw movement in the bathroom. Subsequently, SWAT members removed two unarmed female occupants hiding in the bathtub. The two individuals admitted that they heard the announcements by the law enforcement officers; however, they were too scared to come out of hiding.

No injuries were sustained as a result of SA [redacted] firing his weapon. b6 b7C

On 2/11/98, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief,

Personnel Administration and Benefits Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; SSA [redacted] Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting members present consisted of [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division, and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force in this shooting incident was justified. The only observation made by the members was the fact that SAC Matthews recognized the need for additional training for SWAT Team members in the identification and recognition of a proper target in dimly lit, indoor circumstances. This mandatory training was set to be completed within 60 days of this shooting incident.

**LEAD (s):**

**Set Lead 1:**

INSPECTION DIVISION

AT WASHINGTON, DC

b6
b7C

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.
♦♦

# 1997

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 5/28/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted] b6 b7C
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-67

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/29/97
SACRAMENTO DIVISION

**Synopsis:** To advise of a shooting incident in the Sacramento Division on 1/29/97. Peter Scott Richards, who was wanted for armed robbery, was shot and killed by SA [redacted] and South Lake Tahoe Police Department (SLTPD) detectives during an attempted arrest.

**Details:** Reference report of Inspector-in-Place [redacted] dated 4/10/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
1 - Mr. Lusby, Room 7825
1 - Mr [redacted], USDOJ
1 - Mr [redacted] Room 4147
1 - Ms [redacted] SDOJ

1 - Mr [redacted] Room 3787F
1 - Mr [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-67, 5/28/1997

**Details of the Shooting Incident**

On 1/28/97, Honolulu Police Department (HPD) officials contacted the SLTPD and requested their assistance in locating and apprehending Peter Scott Richards who was believed to be in South Lake Tahoe, California. Richards was charged with armed robbery in an indictment issued on 11/7/96, by the State of Hawaii and the HPD advised that if located, they would extradite the subject.

b6
b7C

At approximately 5:30 p.m., on 1/28/97, officers located Richards, his girl friend [redacted] and their four children in South Lake Tahoe. Richards refused to surrender and barricaded himself and the family in the residence. The subject subsequently allowed his girl friend and the four children to leave the residence and apparently in the confusion of the movement of his family, Richards escaped undetected.

During the early morning hours of 1/29/97, members of the SLTPD Special Enforcement Team entered the residence. Although Richards was not located, officers found explosives, black powder, ammunition, military handbooks on weapons and explosives, an SKS assault rifle, an M1 carbine rifle, a Rugar carbine rifle, a sawed-off .22 caliber rifle, military daggers, bayonets, knives, radio receiver, gas mask, loaded rifle magazines, black powder detonation cord, and other military and survival equipment.

At approximately 12:00 noon on 1/29/97, SA [redacted] who was assigned as the only agent in the South Lake Tahoe Resident Agency, received a telephone call from the SLTPD informing him of the fugitive investigation. SA [redacted] was requested to provide assistance in determining whether Richards was involved with violation of Federal law involving militia or terrorist activities. SA [redacted] responded to the SLTPD, viewed the seized evidence, and prepared to assist the SLTPD detectives in locating the subject.

b6
b7C
b7D

SA [redacted] and several detectives were preparing to depart the Police Department to conduct interviews when they learned that Richards' [redacted] had telephoned to inform the police that Richards had telephoned his mother and given her instructions to meet him. SA [redacted] joined four detectives and established surveillance along the main road in South Lake Tahoe. SA [redacted] accompanied by Detective [redacted] of the SLTPD, learned that other detectives had located Richards' mother

operating her Mazda pick-up on the main road in town. A surveillance of the mother's vehicle was established with SA [redacted] and Detective [redacted] in a Bureau vehicle, two other detectives in a second vehicle and Detective [redacted] in a third vehicle. Each participant observed a passenger in the Mazda pick-up; however, the passenger could not be positively identified as Richards. While continuing with a moving surveillance, investigators felt that they had been identified by the occupants in the truck and a SLTPD investigator called for a marked police unit to make a traffic stop. Prior to the arrival of the marked unit, the pick-up slowed to a stop in the traffic lane of a two lane road. SA [redacted] stopped behind the pick-up and he and Detective [redacted] exited the Bureau vehicle and began to approach the truck. Upon observing a struggle and hearing loud voices from the pick-up, they retreated to the cover of the Bureau vehicle. Detective [redacted] joined SA [redacted] and Detective [redacted] Richards suddenly exited the passenger side of the pick-up and pointed a .25 caliber pistol towards SA [redacted] and Detective [redacted] Investigation revealed that Richards fired at least once, striking the front drivers side window of the Bureau vehicle. Seeing only Richards' head and the hand which was holding the pistol pointed towards him and Detective [redacted] SA [redacted] fired four rounds from his MP-5 rifle. One of the rounds fired by SA [redacted] fatally struck Richards in the head. Detective [redacted] fired nine rounds from his .45 caliber pistol and Detective [redacted] fired two rounds from his .45 caliber pistol. Richards, who was wearing a protective vest, was shot five times including one wound to the head, one to the left forearm, two wounds in the right buttock and one wound to the right calf.

b6
b7C

b6
b7C

A physical examination of Richards after the shooting resulted in the location of a .22 caliber pistol and four loaded magazines in his pants pocket in addition to the .25 caliber pistol that he held. Richards was wearing a protective vest and evidence indicated that one bullet was stopped by the vest.

A search of the pick-up revealed a spent .25 caliber casing on the window of the truck, a 12 gauge shotgun loaded with five rounds and 11 rounds on the gun strap, a fully loaded and charged SKS 7.62 X39 assault rifle, and additional ammunition for those weapons.

Subsequent investigation determined that Richards, who was suffering from Acquired Immune Deficiency Syndrome, had told his girl friend and his mother that he was going to die and that he would take a police officer with him. Richards' mother

confirmed that on 1/29/97, while driving with Richards, they observed SA [redacted] and the SLTPD detectives and that Richards knew they were law enforcement authorities. Knowing that Richards was going to create an armed confrontation, she chose a place to stop which would not endanger innocent third parties. Prior to exiting the truck, Richards and his mother struggled when she attempted to keep him from exiting the vehicle with the pistol. Richards told her "I'm dead, I won't go to jail", prior to exiting the truck.

b6
b7C

It should be noted that subsequent to the shooting, SA [redacted] surrendered both weapons to SLTPD officers at their request. SA [redacted] spoke with his supervisor in Sacramento by telephone and advised him of the circumstances of the shooting. A shooting inquiry team comprised of investigators from the SLTPD, the El Dorado County District Attorney's Office, and the El Dorado County Sheriff's Department responded to the scene.

Investigators took taped recorded statements from Detectives [redacted] and [redacted] and requested the same from SA [redacted] After conferring with his supervisor, SA [redacted] consented to the interview. He also allowed a blood sample to be taken for blood/alcohol content.

In a letter dated 3/20/97, addressed to the Chief of Police, SLTPD, the El Dorado County Sheriff's Department, and the El Dorado County District Attorney's Office, the task force of local investigators assigned to the shooting inquiry concluded that SA [redacted] and the officers involved in the shooting fired their weapons at Richards only after being fired upon and in defense of their lives. Further, the officers involved acted without negligence and did not commit any crime as described in the Penal Code for the State of California.

b6
b7C

On 5/14/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Inspector-Deputy General Counsel, Legal Advice and Training, Legal Policy, Office of the General Counsel; Patrick J. Foran, Section Chief, Personnel Assistance Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms

Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the actions of SA [redacted] and other law enforcement personnel involved in the shooting incident were appropriate and that the use of deadly force was in accordance with the current deadly force policy.

The only issue discussed by SIRG members regarding this shooting incident involved the lack of response taken by the Sacramento Division management. Members voiced concern that any office management would allow an SA involved in a shooting incident, especially one resulting in a death, to be left alone to fend for himself. Members also noted that management's inappropriate response to the situation resulted in SA [redacted] being interviewed by local authorities; local authorities taking possession of SA [redacted] weapon; and lastly, he was given a blood test, all without benefit of management oversight. SIRG members recognized that Sacramento's decision to wait until the next morning to provide on-scene response was based on the travel time to South Lake Tahoe. However, members unanimously agreed that this incident required immediate on-scene Bureau assistance and that Sacramento management should have immediately dispatched someone to the scene of the shooting. As a result of this discussion, the Special Agent in Charge of the Sacramento Division has been advised that the lack of adherence to proper procedures placed SA [redacted] in a position not deserved.

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-67, 5/28/1997

**LEAD(s):**

**Set Lead 1:**

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.
♦♦

b6
b7C



Savage-1582

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 4/10/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William [redacted] b6
Lusby Thomas [redacted] b7C

**Drafted By:** [redacted] rr

**Case ID #:** 66-19157-23

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/30/97
KANSAS CITY DIVISION

**Synopsis:** To advise of a shooting incident on 1/30/97, in the Kansas City Division. During a Reverse Undercover Operation (RUO) to gather evidence of drug violations, Special Agents (SAs) shot and killed a subject [redacted] b7D

**Details:** Reference report of Inspector-in-Place [redacted] dated 2/19/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr [redacted] Room 7142
1 - Mr. Gore, Room 7825 (Enclosure)
2 - Mr [redacted], Room 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
2 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] Room 4147

1 - Mr. [redacted], DOJ b6
1 - Mr. [redacted], WFO b7C
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-23, 4/10/97

**Details of the Shooting Incident**

On 1/30/97, while conducting a RUO, an attempted narcotics sale between [redacted] and subject Joseph S. Riley, resulted in the attempted homicide of [redacted] by Riley. Based on this event, SA [redacted] fired four rounds from his .45 Sig Sauer into the upper torso of Riley resulting in Riley's death.

At approximately 5:53 p. m., Joseph Riley arrived at [redacted] motel room to supposedly conclude a narcotics purchase. Kansas City SAs and local officers were in an adjacent motel room waiting to arrest Riley. Upon entering [redacted] motel room, Riley immediately drew a revolver and shot [redacted] in the chest with the bullet exiting his shoulder. [redacted] fell to the floor and Riley fired a second time, missing [redacted] Prior to Riley's second shot, SA [redacted] of the arrest team unlocked his interior door and negotiated through two closed doors to gain entry into [redacted] room. After Riley's second shot missed, [redacted] began to get up causing Riley to move backwards and attempt a third shot. At that point, SA [redacted] challenged the subject and fired four rounds into Riley's upper torso. Upon being hit by the first of SA [redacted] rounds, Riley fired his weapon a third time striking [redacted] in the left hand.

b6
b7C
b7D

Riley was pronounced dead at the scene and [redacted] was transported to a hospital, treated, and discharged on 1/31/97.

Based on an electronic communication dated 3/11/97, Inspector-in-Place [redacted] advised that on 2/27/97, the Platte County Grand Jury at Kansas City, Missouri, returned a No True Bill absolving SA [redacted] of any criminal responsibility in the shooting death of Joseph M. Riley.

On 3/27/97, the SIRG discussed the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Inspector-Deputy General Counsel, Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Assistance Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; and,

b6
b7C
b7D

To: Inspection Division From: Inspection Division
Re: 66-19157-23, 4/10/97

[redacted] Supervisor, Washington Field Office. George M. Alznauer, Assistant Special Agent in Charge of the Richmond Division also attended this meeting of the SIRG. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

After viewing a video tape of this shooting incident, the first item of discussion by SIRG members involved the use of deadly force. All members agreed that the use of deadly force in this incident was justified and in accordance with the current deadly force policy.

All comments by the SIRG regarding training and safety issues were positive. Members recognized and commended the Kansas City Division for its operational plan and procedures noting that both were addressed in an outstanding manner. Members also noted that the operational plan was rehearsed and that proper management oversight was provided on the scene. Lastly, SIRG members commended the actions of SA [redacted] during this incident.

**LEAD(s):**

b6
b7C

**Set Lead 1:**

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

WDG 7/8

♦♦



Savage-1585

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 4/16/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-43 b6 b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/31/97
MINNEAPOLIS DIVISION

**Synopsis:** To advise of a shooting incident in the Minneapolis Division on 1/31/97. A subject was shot and injured by Special Agents after robbing a bank, taking a hostage, and exchanging gun fire with law enforcement authorities prior to his arrest.

**Details:** Reference report of Supervisory Special Agent [redacted] dated 3/10/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] Room 4147

1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs [redacted] Room 7861

b6 b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-43, 4/16/1997

**Details of the Shooting Incident**

On 1/31/97, at approximately 7:35 p.m. [redacted] entered the Chanhassen Bank in Chanhassen, Minnesota, displayed a handgun, made oral demands for money, and ordered employees and customers into a back room within the bank.

After taking control of the bank, the subject ordered the bank manager at gunpoint to remove money from numerous teller stations and provided a green plastic newspaper bag to hold the money. The subject then took a female hostage and departed the scene in the victim's vehicle with the victim driving.

b6
b7C

Due to the timely activation of the bank's alarm system and a call placed by the hostage to the 911 operator at the initiation of the robbery, Chaska, Minnesota, Police Department and Carver County Sheriff's Office personnel identified the vehicle and initiated surveillance.

During the surveillance, the hostage executed a 180 degree turn of the vehicle. As the vehicle came to a stop, [redacted] exited, fired two shots in the direction of the police vehicles, and fled on foot, with the hostage, toward a wooded area. After a short distance, the hostage was able to free herself and was rescued by responding law enforcement officials. The subject fled into a wooded area adjacent to several housing developments.

Law enforcement agencies throughout the area had responded to the scene, including the Minneapolis Division's Special Agent in Charge, the Assistant Special Agent in Charge, a violent crimes supervisor and other SA personnel. Also responding to the scene was the Minneapolis Special Weapons and Tactics (SWAT) Team leader and other SWAT Team members as well as an FBI hostage negotiator.

A command post was established and a search was instituted for the subject. With the assistance of a Minnesota State Patrol helicopter, and tactical teams of the FBI, the Minnesota State Patrol and the Eden Prairie Police Department, the subject was located and surrounded in a wooded area adjacent to Rice Marsh Lake.

FBI SWAT personnel were briefed by the SWAT Team Leader and the FBI policy on deadly force was reiterated.

A single exchange of gunfire occurred during the next several hours which did not involve Bureau personnel nor injuries to the subject or law enforcement officers.

At approximately 11:10 p.m., the subject began a verbal exchange with officers and a hostage negotiator was dispatched to the scene. The subject repeatedly refused to surrender and stated that officers would have to "come and get me."

At approximately 11:40 p.m., SA [redacted] a member of the Minneapolis Division SWAT Team on perimeter, observed the subject walking from the wooded area into the residential development. SA [redacted] clearly viewed the subject's silver handgun as he walked. SA [redacted] ordered the subject to freeze and to drop his weapon. After pausing, the subject dropped to his knees and then into a prone position, still holding the handgun. SA [redacted] moved toward the subject with two other SWAT team members. The subject stood and began walking into the residential area. SA [redacted] again ordered the subject to drop his weapon and the subject responded with obscenities telling the SAs to come and get him. As the subject moved through the clearing toward the residential area, SA [redacted] prepared to shoot; however, refrained from doing so due to concerns for the safety of persons inside nearby homes. A foot chase ensued with SAs [redacted] and [redacted] in pursuit. They were joined by an Eden Prairie Police Officer. After turning from a series of residential streets into a cul de sac, the subject paused in front of a driveway, raised his handgun to shoulder level and turned toward the SAs and officer who had taken stationary positions at the entrance of the cul de sac. SAs [redacted] and [redacted] again ordered the subject to freeze and when he did not comply, they and the police officer on the scene discharged their weapons with SA [redacted] firing first and SA [redacted] firing several seconds thereafter. A subsequent determination was made that SAs [redacted] and [redacted] fired two rounds each and the police officer on the scene fired four rounds from a 12-gauge shotgun. The subject fell to the ground behind a snow bank along the driveway's edge and was apprehended, handcuffed and his weapon was retrieved and rendered safe.

b6
b7C

b6
b7C

A wound was identified in the subject's lower left wrist for which he was immediately transported to the Hennepin County Medical Center for treatment.

The subject was interviewed on 2/3/97, and he admitted to the bank robbery, stating it was his intention to be "killed by the police during the robbery".

To: Inspection Division From: Inspection Division
Re: 66-19157-43, 4/16/1997

On 4/8/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Inspector-Deputy General Counsel, Legal Advice and Training, Legal Policy, Office of the General Counsel; Patrick J. Foran, Section Chief, Personnel Assistance Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the actions of the SAs throughout this incident were appropriate and that the use of deadly force was in accordance with the current deadly force policy. One member opined that based on the actions of the subject, deadly force could have been initiated earlier in the incident; however, all members agreed that a judgement call was made by the SA and that call netted positive results.

Two additional observations made during the discussion was the fact that small inconsistencies existed in individual statements made during the incident. Members concurred that the inconsistencies were minor and were a result of each individual telling what they observed in a different way. The second observation made by the SIRG was the fact that area residents who were interviewed after the incident stated that "a couple of hours" passed before law enforcement authorities canvassed to ensure that no injuries were sustained by individuals residing in

the area. Members agreed that SAC Minneapolis, should be aware of these statements to ensure that this does not recur.

**LEAD(s):**

**Set Lead 1:**

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

♦♦

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 4/9/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William
Lusby Thomas

**Drafted By:** [redacted]

**Case ID #:** 66-19157-28 b6 b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/2/97
MEMPHIS DIVISION

**Synopsis:** To advise of a shooting incident on 1/2/97, in the Memphis Division during the attempted arrest of an unknown subject driving an automobile toward SA [redacted]

**Details:** Reference report of Supervisory Special Agent [redacted] dated 1/21/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7825 (Enclosure)
2 - Mr. [redacted], Room 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
2 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. [redacted] oom 4147

1 - Mr [redacted] DOJ
1 - Mr [redacted] WFO
1 - Mrs. [redacted] Room 7861

**Details of the Shooting Incident**

At approximately 12:55 p.m., on 1/2/97, SA [redacted] and Task Force Officer (TFO) Sgt [redacted] of the Shelby County Sheriff's Office, conducted a spot check of a Memphis, Tennessee, address as a result of information provided by a Confidential Informant (CI). The CI reported that an individual living at the residence, [redacted] was a member of the Gangster Disciple street gang and was dealing in stolen vehicles. When SA [redacted] and TFO [redacted] passed the address they noticed a red Volvo 940 Turbo in the driveway. A check of the license on the Volvo with NCIC determined that the Volvo was listed as stolen. SA [redacted] and TFO [redacted] initiated surveillance on the Volvo and contacted SA [redacted], the case agent on a current Group II Undercover Operation (UCO) being worked jointly by the Memphis Division and the Memphis Police Department Auto Theft Unit. SA [redacted] and members of the UCO were apprised of the Volvo's location and were enroute to the address.

b6
b7C

During the time SA [redacted] and TFO [redacted] first observed the Volvo in the driveway and initiated surveillance, approximately 20 minutes had passed due to a computer problem in running the Volvo's license plate and obtaining a response that the vehicle was stolen. During this 20 minute time lapse, a white Chevrolet Caprice pulled into the driveway behind the Volvo and was located in that position when SA [redacted] and TFO [redacted] initiated surveillance on the stolen Volvo. Approximately 30 minutes after surveillance was initiated and prior to the arrival of other law enforcement personnel, SA [redacted] and TFO [redacted] observed two black males exit the residence with one individual getting into the Volvo and the other entering the Caprice.

When it became evident that the two individuals were starting the two vehicles in preparation to leave, SA [redacted] moved his bureau vehicle behind the Caprice blocking the exit of either car from the driveway. The driver of the Volvo immediately exited the vehicle and ran to the back of the residence followed closely by TFO [redacted] SA [redacted] exited his bureau vehicle, identified himself verbally to the driver of the Caprice and had his Remington 870 shotgun in his hands. SA [redacted]'s commands were ignored by the driver; therefore, SA [redacted] moved to a position adjacent to the driver's side of the Caprice, continuing to identify himself and commanding the driver to exit the vehicle. The subject continued to jockey the Caprice forward and backward in an attempt to exit the location.

b6
b7C

As soon as he was able to clear the back end of the Volvo, the subject rapidly accelerated and made a sharp turn which had the side of the Caprice heading directly toward SA [redacted] At that point, SA [redacted] fired one round of double 00 buck at the driver. Immediately following the discharge of the shotgun, the direction of the vehicle changed and the driver struck a utility pole and subsequently departed the area at a high rate of speed. No evidence was obtained at the crime scene indicating that the driver was struck by any of the shotgun pellets. b6 b7C

Subsequent investigation attempted to identify the driver of the vehicle. The individual to whom the license on the Caprice was registered was contacted and stated that the license had been on an old Caprice that he had previously owned and had totaled in an accident. The wrecked Caprice was forfeited to a salvage yard because the owner could not afford to pay the towing fee or repair the vehicle. Contact with the salvage yard indicated that the vehicle had been turned over to a scrap yard and it was unknown if the license plate was on the vehicle when it was transferred to the scrap yard. A determination was made that the scrap yard had crushed the vehicle and sold it for scrap; however, it was unknown if the license plate had been on the vehicle at the time it was crushed.

The owner of the residence was interviewed regarding the identity of the two individuals who had exited the house and departed in the Volvo and the Caprice. No information of value regarding the subjects' identities was obtained.

On 3/27/97, the SIRG discussed the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted], Chief Inspector, Office of Inspections, Inspection Division; [redacted] Inspector-Deputy General Counsel, Legal Advice and Training, Legal Policy, Office of the General Counsel; [redacted] b6 b7C [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Assistance Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; and, [redacted] Supervisor, Washington Field Office. George M. Alznauer, Assistant Special Agent in Charge of the Richmond Division also attended this meeting of the SIRG. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

To: Inspection Division From: Inspection Division
Re: 66-19157-28, 4/9/97

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that this incident involved an intentional discharge of SA [redacted]'s weapon and that his use of deadly force was in accordance with the current deadly force policy.

Attendees had no training or safety issues regarding this incident noting that it involved rapidly developing circumstances.

**LEAD(s):**

b6
b7C

**Set Lead 1:**

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

♦♦



Savage-1594

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 8/1/97

To: Inspection Division Attn: [redacted]

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: [redacted]
Lusby Thomas

Drafted By: [redacted] lrr

Case ID #: 66-19157-19

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/15/97
HOUSTON DIVISION

b6
b7C

Synopsis: To advise that SA [redacted] of the Houston Division fired his weapon during the attempted apprehension of a subject who had robbed a bank in the Houston area.

Details: Reference report of Assistant Inspector-in-Place [redacted], dated 6/9/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
1 - Mr. [redacted], Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] oom 7837
1 - Ms. [redacted], USDOJ
1 - Mr. [redacted], Room 4147
1 - Mr. [redacted] USDOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Baltimore
1 - Mr. [redacted] Quantico
1 - Mrs. [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-19, 08/01/97

Details of the Shooting Incident

On 5/15/97, the International Bank of Commerce (IBC), in Angleton, Texas, was robbed at gunpoint by three black males, who were later identified as [redacted] and [redacted] The modus operandi of this robbery was similar to a 5/7/97, armed robbery of the Community State Bank in Boling, Texas, which had been assigned to SA [redacted] and [redacted] fled from Angleton subsequent to the IBC robbery; however, [redacted] was apprehended by the Angleton Police Department (APD). [redacted] confessed to the robbery and implicated [redacted] and [redacted] as the other two robbery subjects. During this confession, [redacted] advised that his brother [redacted] and [redacted] were armed and dangerous. Local authorities obtained arrest warrants for aggravated robbery for the two subjects who eluded capture. [redacted] subsequently agreed to cooperate with law enforcement by luring his brother [redacted] back to Angleton to pick him up believing that [redacted] had been successful in eluding law enforcement officers. Local authorities planned an arrest scenario utilizing a Special Weapons and Tactic (SWAT) team consisting of various local law enforcement authorities.

When informed of the bank robbery at the IBC, SA [redacted] volunteered to assist in interviews at the bank and left his office in his Bureau vehicle. Upon arrival at the bank, SA [redacted] observed SA [redacted] inside the bank conducting an interview with one of the tellers. SA [redacted] entered the bank and began an interview of another teller while local law enforcement personnel were processing the crime scene.

The agents were completing their respective interviews at the bank when an APD detective informed them that one of the suspects in the bank robbery may have been apprehended. The detective advised that the APD was going to transport the bank tellers to the police station in an effort to positively identify the suspect. SA [redacted] decided to go to the police station in the event that the suspect being held by the APD was involved in the IBC robbery and may also be able to provide information regarding the unsolved bank robbery assigned to him.

b6
b7C

While at the station, SA [redacted] learned that the suspect being held in custody was about to give a video taped confession regarding the IBC robbery.

SA [redacted] subsequently telephoned Acting Supervisory Senior Resident Agent (A/SSRA) [redacted] to discuss the similarities of the IBC robbery and other unsolved bank robberies in the area. A/SSRA [redacted] wanted to federally prosecute [redacted] his brother [redacted] and [redacted] She tasked SA [redacted] to contact Assistant United States Attorney [redacted] Southern District of Texas, for a prosecutive opinion. Neither A/SSRA [redacted] nor SA [redacted] was successful in contacting Mr. [redacted] At this point, a determination was made that this would be a local case and the FBI would not participate in any plan or arrest. Although not a participant in the planning or execution of the arrest scenario, SA [redacted] was in the general area awaiting the arrest of [redacted] so that he could participate in an interview regarding his unsolved bank robbery. b6 b7C

SA [redacted] was asked to ride with Officer [redacted] and [redacted] to transport [redacted] to a Chevron station where he would make a telephone call to lure his brother to the area. SA [redacted] verified with Officer [redacted] that he was not to be involved in the arrest or other overt action relating to the arrest. Officer [redacted] concurred with SA [redacted] statement which resulted in SA [redacted] leaving his Bureau vehicle parked at the APD. Also in the parked vehicle was SA [redacted] protective body armor and extra 9 mm magazines for his Sig Sauer 228 which was in his possession. .

[redacted] contacted his brother and arranged for a rendezvous in a deserted area on County Road 49 near the intersections of State Highway 288 and Business Route 288 in Angleton. During their conversation, [redacted] warned [redacted] that he was bringing his "Uzi" and would use it against law enforcement as well as [redacted] if this was a setup. b6 b7C

At approximately 11:00 p.m., on 5/15/97, an individual identified by [redacted] as his brother, [redacted] was driving a vehicle that was also identified as belonging to [redacted] The vehicle was observed traveling in the predetermined pickup area which was surrounded by the local SWAT team. Subsequently, shots were fired at the subject's vehicle by the local SWAT team. SA [redacted] heard the shots while observing a series of flashes and overheard law enforcement radio traffic confirming this information and the fact that the subject was fleeing the area. The exact location of the subject vehicle was not clear to SA [redacted] and Officer [redacted] However, by chance, the subject vehicle quickly entered a northbound lane of the same road occupied by the car being driven by Officer [redacted] with SA [redacted] and [redacted] as passengers. SA [redacted] suddenly

found their vehicle adjacent to the subject vehicle believing that it had just engaged in a firefight with the local SWAT team. The driver of the suspect vehicle began to purposely brake his vehicle in an apparent effort to get the police vehicle to pull up adjacent to it. This action could have provided the opportunity to expose the vehicle occupied by SA [redacted] to a broadside attack of automatic weapon fire. During the braking action, [redacted] was lying prone in the backseat, stating that his brother [redacted] was about to shoot. At the same time [redacted] made the statement, the driver's side window of the suspect vehicle lowered approximately three inches causing SA [redacted] to believe that the driver was about to shoot. SA [redacted] fired his weapon 14 times. Eleven rounds fired by SA [redacted] struck the subject vehicle in the general area of the driver's side without striking the intended target. The remaining three rounds, which were not recovered, were presumed to have struck the pavement or embankment in the vicinity of the vehicle.

b6
b7C

The subject vehicle stopped and the occupant, who was later identified as [redacted] the [redacted] brothers' uncle, emerged from the suspect vehicle and was placed under arrest for the local equivalent of Obstruction of Justice.

[redacted] subsequently admitted that he had knowledge that [redacted] and [redacted] and [redacted] went to Angleton with the intent to rob a bank. [redacted] was subsequently arrested on 5/20/97, following a chase and violent shootout with local authorities and admitted to six bank robberies.

On 7/9/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Acting Deputy Chief, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] SSA, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Unit Chief, Transfer Unit, Personnel Division; and [redacted] Supervisor, Baltimore Division. The two non-voting members

b6
b7C

present were [redacted] Program Manager, Law Enforcement Training for Safety and Survival, Practical Applications Unit, Training Division; and [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members held a lengthy discussion regarding this shooting incident. The consensus of SIRG members was that the use of deadly force by SA [redacted] was justified since the "imminent danger" status was met.

The first observation made by SIRG members was the fact that SA [redacted] was not properly prepared due to the fact that his protective armor and extra ammunition were left in his car parked at the Police Department. Members noted that SA [redacted] was to be on the periphery of a tactical operation involving weapons and that he should have possessed both his body armor and additional ammunition. However, members also emphasized the fact that SA [redacted] probably exercised less diligent safety precautions due to instructions provided by management that he was not to participate in the planning or the actual arrest. Based on a consensus of the group, this discussion resulted in the recommendation that no administrative action be taken against SA [redacted] due to mitigating factors surrounding the incident. b6 b7C b7D

Additionally, members noted that [redacted] was placed in circumstances probably not appropriate. All members concurred that it would have been advisable to place [redacted] further away from the scene of the incident.

SIRG members noted that SA [redacted] was put in a precarious situation by being provided less than adequate instructions by management. Members also questioned the fact that management decided that this was to be a local arrest rather than a joint Federal/local action.

To: Inspection Division From: Inspection Division
Re: 66-19157-19, 08/01/97

LEAD(s):

Set Lead 1:

INSPECTION DIVISION

AT WASHINGTON, D. C.

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 3/6/98

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-38

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/19/97
PHOENIX DIVISION

b6
b7C

**Synopsis:** To advise of a shooting incident in the Phoenix Division on 5/19/97. While trying to effect the arrest of Todd William Staskal on Federal bank robbery charges, the subject was shot and killed by members of the Phoenix Fugitive Task Force.

**Details:** Reference report of Inspector-in-Place [redacted], dated 6/15/97.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] oom 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
2 - Mr. [redacted] Quantico
(1 - Practical Applications Unit)
1 - Mr. Foran, Room 6646
2 - Mr. [redacted] Room 7427
(1 - Ms. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] oom 4147
2 - Mr. [redacted] DOJ
(1 - Ms. [redacted]
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-38, 03/06/1998

**Details of the Shooting Incident**

On 5/19/97, FBI Agents and officers from the Phoenix Police Department and the Arizona Department of Public Safety were attempting to effect the arrest of Todd William Staskal on Federal bank robbery charges. Staskal was charged along with an accomplice, [redacted] in connection with the 4/18/97, robbery of the Bank of America in Phoenix. [redacted] was captured following the robbery; however, Staskal escaped arrest by law enforcement authorities. While attempting to elude authorities, Staskal kidnaped one of his girl friends, [redacted] later told the Phoenix case agent that Staskal told her that he was not going back to prison and would not be taken alive. She also advised that Staskal was armed with a 9 millimeter pistol. b6 b7C

SA [redacted] the case agent, sought the assistance of the Fugitive Task Force to assist in locating and apprehending Staskal. On 5/16/97, one of the task force members developed information that the 15 year old daughter of [redacted] identified as Staskal's wife or girl friend, was back in the Phoenix area. [redacted] also advised that Staskal had called her and her Caller I.D. indicated that the call originated locally.

Officer [redacted] located [redacted] who advised that Staskal was in the area and provided addresses where he may be staying. [redacted] also advised that Staskal was always armed and that he carried a weapon in a fanny pack and another behind his back. This information was confirmed by [redacted] boyfriend who also advised that Staskal had said he would not be taken alive. Staskal had also said that he would either force the police to kill him or kill himself rather than be captured. Officer [redacted] was also told that Staskal was attempting to obtain an automatic weapon and had discussed the possibility of attempting to break his accomplice, [redacted] out of jail. b6 b7C

On 5/19/97, while checking one of the residences furnished by [redacted] task force members observed a stolen white Mercury Sable that Staskal was supposedly driving. Shortly after observing the car, an individual matching the description of Staskal came out of the residence and entered the vehicle. Participants also noted that the individual was wearing a fanny pack and this information was relayed to other task force members via radio communication.

A moving surveillance was instituted and several task force members were able to get a clear look at the driver of the vehicle and confirmed that it was Staskal.

As the surveillance proceeded, Staskal turned into the parking lot of a shopping center in Glendale, Arizona. Upon exiting the shopping center parking lot, Staskal turned east on Bell Road heading toward downtown Phoenix. A decision was made to effect a non-compliant felony car stop.

Additionally, members felt it necessary to effect the car stop at that time for several reasons. They felt that Staskal was armed since he was observed wearing a fanny pack that the intelligence described as always containing a weapon; the task force members believed that Staskal was looking for a bank to rob; the subject made an eastbound turn toward downtown Phoenix which was more populated than the area they were located; all of the task force vehicles were in the immediate vicinity and configured in a way that would nearly surround Staskal's vehicle; and, the risk of the surveillance being detected increased as it continued allowing time for Staskal to prepare for a violent confrontation that the intelligence predicted.

Near the intersection of 67th Avenue and Bell Road, Staskal's vehicle and the task force vehicles were stopped at a red light. Lt. [redacted] of the Phoenix Police Department who was the senior task force member on the scene, gave the command to effect the arrest. Lt. [redacted] vehicle had Staskal's vehicle blocked at the passenger side, a Department of Public Safety Officer was directly in front of the subject's vehicle and the vehicles of FBI agents [redacted] and [redacted] were behind civilian vehicles directly to the rear and to the left of Staskal. Several of the task force members exited their vehicles with guns drawn and surrounded Staskal's vehicle.

Staskal raised his hands and looked around as if surveying the situation. He then dropped his hands, placed his vehicle in reverse, rammed into a vehicle behind him and lurched forward until he struck a truck traveling westbound. According to the task force members, at some point during this sequence of events, Staskal's hands went out of view and it appeared that he was reaching for the fanny pack that they had observed him wearing. b6 b7C

FBI SAs [redacted] and [redacted] who had positioned themselves at the driver's side of Staskal's vehicle near the front door, fired a total of 17 rounds. SA [redacted] fired six

rounds from his Sig Sauer Model 226 and SA [redacted] fired 11 rounds from his Smith and Wesson .40 caliber. Department of Public Safety Officer [redacted] who remained positioned near the driver's side door of his vehicle, fired one round of rifle slug from a Remington Model 870 shotgun. Staskal was struck by four .40 caliber rounds in the left side of the chest and abdomen and once in the left thigh by the rifle slug. He was pulled from his vehicle unconscious after the vehicle collided with the truck and was described at the scene as apparently dead. Staskal was taken from the scene by paramedics to the J.C. Lincoln Hospital where he was officially pronounced dead.

b6
b7C

Investigation determined that all law enforcement and civilian witnesses reported seeing clear markings reflecting the law enforcement status of the task force members. Witnesses also verified that they heard voice commands to the effect, "Police, put your hands up", shouted repeatedly to Staskal.

On 11/12/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; Francis A. Gallagher, Chief Inspector, Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Section, Criminal Division, USDOJ; Patrick J. Foran, Section Chief, Personnel Administration and Benefits Section, Personnel Division; [redacted] Supervisory Special Agent (SSA), Legal Advice and Training, Legal Policy, Office of the General Counsel; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division (TD); and, [redacted] Supervisor, Washington Field Office. The only non-voting member present was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

# FBI
# Shooting Incident Report Summaries

# 1996

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: United States Attorney, Western District of Washington
Skamania County Prosecuting Attorney

Report of: SSA [redacted] Office: Seattle
Date: October 30, 1996

Case ID #: 9A-SE-77050
66F-19157-50

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
SEATTLE DIVISION
OCTOBER 20, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an investigation into extortion, bomb threat, and Hobbs Act violations which occurred at the Bonneville Lock and Dam, North Shore Visitor Center, North Bonneville, Washington on Sunday, October 20, 1996. Bonneville Lock and Dam is operated by the U.S. Army Corps of Engineers. The Washington state side of the Bonneville Lock and Dam is located on Federal property in Skamania County. The Federal Government and Skamania County have concurrent jurisdiction over criminal matters occurring on the Washington state side of the Bonneville Lock and Dam. At approximately 4:00 pm, three tourists at the Dam turned over to a visitor center Ranger a small tape cassette player that they found in the telephone booth adjacent to the visitor center building. This tape cassette player had a handwritten note taped to it that read, "Play me". The message on the tape was a male voice stating, among other things, that there was a bomb in the building and threatening to blow up the Dam. The message further stated, "I want fifteen thousand dollars, two semi-automatic nine millimeter Uzis and I want a car with a female officer, unarmed and unwired.... You follow us, she dies. Like I said, I find a wire or an armed weapon on her, she will die and then the dam will blow. You got two hours my friends." The FBI was notified at approximately 5:00 pm and SA [redacted] Vancouver, Washington Resident Agency, responded to the scene, arriving at approximately 6:30 pm. SA [redacted] uniformed Oregon State Police Trooper [redacted], and

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

others listened to the extortion tape. At approximately 6:45 pm, while exiting the visitor center (which was closed) to examine the telephone booth where the tape cassette was found, SA [redacted] and [redacted] were confronted by an assailant (later identified as NATHANIEL WAYNE ENRICKY MILLIGAN). MILLIGAN pointed a silver-barreled rifle at SA [redacted] from a distance of about seven yards. The rifle, outfitted with a scope, resembled a Ruger, Mini 14, semi-automatic weapon (later identified as a Ruger .22 caliber rifle). The rifle was in MILLIGAN's right hand held against his waist. In his left hand, which he held up in the air, was what appeared to be a portable police radio or police scanner (this object was later identified as a Bearcat police scanner). MILLIGAN asked where his money was and stated he had the bomb. MILLIGAN told SA [redacted] that he had been watching them the whole time. SA [redacted] and Trooper [redacted] backed into the visitor center, under the pretext of obtaining the demanded items, leaving MILLIGAN outside in the dark. SA [redacted] and Trooper [redacted] alerted employees that there was a man outside with a rifle and a Dam employee called 911 to request assistance for the FBI. Trooper [redacted] watched the front entrance for MILLIGAN and also radioed his dispatch for assistance. Skamania County Sheriff's Units and Washington State Patrol began to respond. [redacted], Chief of Security at the Dam, led SA [redacted] down one level and out the back door, accidentally locking himself out. SA [redacted] moved around the area east of the visitor center to his Bureau automobile without seeing MILLIGAN. He obtained his Bureau shotgun and put on his protective vest and FBI baseball cap. He observed police cars responding to the front gate, which was locked. He called 911 by cellular phone to report his location, however, the police cars left the area before he could contact them. [redacted] walked around the area east of the visitor center and was confronted by MILLIGAN at gun point, at a distance of about fifteen to twenty yards. MILLIGAN ordered [redacted] to drop his gun. [redacted] told MILLIGAN that he was not armed. MILLIGAN then ordered him, "Go tell them to get the cars out of here. Hurry. Move." [redacted] entered the visitor center front door, followed by SA [redacted] and reported his encounter with MILLIGAN. SA [redacted] and Trooper [redacted] exited the visitor center in an effort to locate and isolate MILLIGAN on the grounds. SA [redacted] spotted MILLIGAN near the fish viewing building which is east of the visitor center. SA [redacted] and [redacted] worked their way towards that building. MILLIGAN moved around the fish viewing building where he spotted and orally challenged [redacted] at gun point at a distance of about thirty-six yards. MILLIGAN repeatedly ordered [redacted] to put down his weapon and come out from his position of concealment. SA [redacted] heard MILLIGAN's voice and moved along the west side of the fish viewing building towards the voice. SA [redacted] heard Trooper [redacted] say that he was putting down his weapon. SA [redacted] believed that MILLIGAN had disarmed [redacted] and that the Trooper was in imminent danger. MILLIGAN spotted SA [redacted] shadow and orally challenged him. SA [redacted] moved away from the building attempting to see MILLIGAN and was confronted by

b6
b7C

b6
b7C

MILLIGAN from a distance of about nine yards. MILLIGAN was holding the rifle with both hands, with the barrel pointed directly at SA [redacted]. Fearing that he would be shot, SA [redacted] fired one OO Buck round from his shotgun, striking MILLIGAN in the torso area. When MILLIGAN did not fall, SA [redacted] immediately fired a second round, a rifled slug. The second round also struck MILLIGAN in the torso area. MILLIGAN fell down and stated, "Why did you shoot me? I'm a manic depressive. There isn't a bomb." [redacted] handcuffed MILLIGAN and SA [redacted] called Skamania County 911 to notify them of the shooting and requested immediate medical emergency service. [redacted] rendered MILLIGAN's rifle safe, ejecting one live round from the chamber. The weapon was then observed to be a Ruger .22 caliber rifle with a loaded magazine. Three ambulance services and a Life Flight helicopter responded to the scene and provided on-scene trauma care. MILLIGAN was identified by a responding Skamania County Sheriff's Deputy, and acknowledged his identity. MILLIGAN died at the scene. SAC Seattle was notified and Shooting Inquiry initiated. MILLIGAN's mother in Montana and father in Portland, Oregon, were located and notified of his death. Security sweeps at the Dam and at MILLIGAN's residence revealed no actual bomb material. Investigation revealed that MILLIGAN, age 19, was a convicted sex offender and child molester, released from juvenile detention in February 1996. He had been residing alone in a loaned tent and trailer less than a mile east of the Dam. A search of this tent and trailer located paper, duct tape, and audio-cassettes consistent with the tape cassette player and note left inside the telephone booth at the visitor center. The rifle and the scanner in MILLIGAN's possession were determined to belong to an Oregon resident, [redacted] had allowed MILLIGAN to temporarily stay in a small travel trailer that [redacted] had borrowed from a third party. The rifle and scanner had been left in this trailer and were used by MILLIGAN without [redacted] knowledge or permission. The extortion demand cassette tape was later played for two of MILLIGAN's parole counselors, who positively identified the voice as MILLIGAN's. MILLIGAN left a recorded telephone message on the probation counselor's voice mail at 1:42 pm, on October 20, 1996, in which he talked about having a .22 caliber weapon and ammunition. A copy of pertinent 911 recordings was obtained from Skamania County, transcribed, and is consistent with witness reports. Autopsy revealed MILLIGAN's death was caused by loss of blood from two shotgun wounds. Direction and pattern of wounds corroborate SA [redacted] statement as to the position of MILLIGAN when shot. The Medical Examiner, Dr. [redacted] advised that wound paths would not be inconsistent with MILLIGAN holding an object or objects in his hands and that the wound path of the right index finger and hand would not be inconsistent with a wound that would occur if MILLIGAN was holding a weapon toward the direction from where the shot came, with his index finger extended around the trigger.

b6
b7C

b6
b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: AD, INSD, ROOM 7129, ATTN: SIRG; FTU

Report of: AIIP [redacted] Office: HOUSTON
Date: November 15, 1996

Case ID #: 66-19157-19
89B-HO-46407

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT,
HOUSTON DIVISION;
10/21/96;
ADMINISTRATIVE MATTER

Character: SHOOTING INQUIRY

Synopsis: On October 21, 1996, while conducting a surveillance of drug subject, [redacted] a Houston SOG team consisting of five SAs followed the subject to a local restaurant where he remained for approximately 2 ½ hours, primarily drinking at the bar. At approximately 8:45 pm, [redacted] was observed by one SA to fire twice into the opened restaurant door and then to proceed into the restaurant where several more shots were fired. It was later learned that [redacted] had shot and killed restaurant patron, Raul Flores Comacho. SOG team members were alerted to the shooting and began moving towards the restaurant. [redacted] then departed the restaurant and began walking easterly towards an adjacent bowling alley parking lot. One of the SOG team members, SA [redacted], in the interim, had positioned himself in the parking lot of a Diamond Shamrock Service Station east of the restaurant and north of the bowling alley. While traversing the parking lot, Orosco was challenged by an armed security guard and immediately fired upon the guard striking him on a bullet pouch on his belt. SA [redacted] exited his vehicle wearing body armor and took cover behind his open driver side door. [redacted] then fired at SA [redacted] who returned fire with five rounds, striking [redacted] once in the left leg above the knee. There are differing accounts regarding how many shots [redacted] fired at SA [redacted] SA [redacted] describes "several", however, only four shell casings were found in the vicinity to include the shots fired at the security guard. SA [redacted] also struck and

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

damaged two parked vehicles behind [redacted] as the subject moved in a west to east direction. Subject fled to an adjacent street where he was found unconscious between two residences. [redacted] was arrested by the Houston Police Department (HPD) and transported to the hospital. Inasmuch as the HPD had a homicide and an aggravated assault investigation to conduct contemporaneous with Houston's shooting inquiry, the HPD handled the immediate crime scene searches and maintains all evidence in these investigations. Subject was treated at the hospital for a through and through flesh wound to his left leg and was released to the custody of the HPD. Subject has been charged by the Harris County District Attorney with murder and aggravated assault. On October 23, 1996, [redacted] was charged with violation of Title 18, USC Section 111(a)(1); (b) via a signed complaint by U.S. Magistrate Judge Calvin Botley.

- P -

DETAILS:

b6
b7C

Surveillance:

On October 21, 1996, an SOG "red team" consisting of team leader SA [redacted] SA [redacted] SA [redacted] SA [redacted] and SA [redacted] began a 3:00 pm to 11:00 pm shift. They were assigned to conduct surveillance of [redacted] residing at [redacted] Houston, Texas. Surveillance was initiated at approximately 4:00 pm and at approximately 5:50 pm the team members observed [redacted] leave his residence and ultimately arrive at the Ostioneria Michoacan Restaurant at 50 Aldine-Bender Road at approximately 6:28 pm. This restaurant is within a short walking distance from [redacted] residence, however, he drove his black Ford Mustang, Texas license [redacted] and parked directly in front of the restaurant (See E-1 and E-2 for relative locations of subject's residence, restaurant, and SA positions upon subject's arrival at restaurant).

[redacted] spent almost 2 ½ hours in the restaurant, primarily drinking at the bar, according to witnesses and other information. At the time of his eventual arrival at the hospital following the shooting, [redacted] would register a .263 blood alcohol level, almost three times the level of legal intoxication in the State of Texas.

SA [redacted] was designated as having the "eye" on the restaurant door. He accomplished this by parking his bucar 204 feet west of the restaurant door so that his line of sight was parallel to the front facade of the strip center containing the restaurant. SA [redacted] from his location could not see into the restaurant but could monitor [redacted] coming and going (See E-7 and E-8 for SA [redacted] view).

At approximately 8:45 pm, [redacted] exited the restaurant carrying a black object in his right hand and walked to his vehicle. After a moment at the Mustang he returned to the restaurant with a handgun which SA [redacted] viewed through binoculars. SA [redacted] radioed the entire team that [redacted] had a gun and was re-entering the restaurant. After a few seconds, [redacted] exited the restaurant and fired two rounds into the lock and frame of the opened restaurant door, shattering its glass. With the door open, [redacted] would have been firing in the general direction of SA [redacted] SA [redacted] continued to radio these events to the team members as [redacted] re-entered the restaurant. According to SA [redacted] he heard 4 or 5 more shots fired inside the restaurant. He likewise reported this to team members. [redacted] was then observed leaving the restaurant and walking easterly towards the bowling alley parking lot and his residence.

b6
b7C

Actions of SA [redacted]

Prior to the shooting, SA [redacted] took a position at a Shell Service Station near the southwest corner of Aldine-Bender and I-45 North. Upon hearing from SA [redacted] on the radio that [redacted] had a gun and was firing inside the restaurant, SA [redacted] drove east on Aldine-Bender, past the restaurant, and parked at a Diamond Shamrock Service Station one-half block east of the restaurant and north of the bowling alley. SA [redacted] observed a crowd of by-standers moving towards the front of the restaurant and then suddenly begin running away towards the bowling alley. SA [redacted] then saw [redacted] whom he recognized from earlier observations, walking in his general direction. SA [redacted] observed that [redacted] was carrying a handgun and was walking in a west to east direction through the bowling alley parking lot. SA [redacted] then observed [redacted] fire his handgun at a security guard. SA [redacted] exited his vehicle and took cover behind his driver's side door. According to SA [redacted] immediately fired "several rounds" in SA [redacted] direction. SA [redacted] returned fire (estimated at four) from a distance of 77 feet but was unaware of whether he hit [redacted] as the subject continued to travel easterly through the parking lot and towards his residence (See E-9 through E-16). SA [redacted] re-entered his vehicle and drove in

b6
b7C

[redacted] direction hoping to cut-off his escape (See signed statements of SAs and E-45 through E-49 for movements of all SAs following announcement of shots fired by SA [redacted] was later found lying wounded between two houses on Coach Road.

b6
b7C

Statement of Security Guard [redacted]

[redacted] advised he was working as a security guard in the bowling alley parking lot on Aldine-Bender on October 21, 1996. He was in the west area of the parking lot talking to bowling alley customers when he heard two loud noises. He originally thought the noises were coming from the alley way behind some businesses in a strip center to the northwest and adjoining the bowling alley parking lot. He went towards the alley area to investigate the noise when several persons came running from the strip center and into the bowling alley parking lot. As people saw him, they shouted that a crazy man had a gun at the Mexican restaurant (Ostioneria Michoacan, 50 Aldine-Bender). They also indicated that the man had shot someone in the restaurant. As the crowd turned south and ran towards the bowling alley Torres noticed that a Hispanic male was running behind them and had a black semi-automatic pistol in his hand. This man moved away from the crowd at this point and started east in the bowling alley parking lot in what would be a direct line towards what would be Coach Road once he reached the east boundary of the bowling alley parking lot.

Realizing the Hispanic male with a gun was a suspect, [redacted] drew his revolver, he described as a .38 caliber with the brand "RG" stamped on it. [redacted] cocked his revolver and ordered the subject to "freeze". The Hispanic male immediately shot at [redacted] and hit him in his speed loader bullet pouch located on his left hip. [redacted] did not fire his weapon or attempt to fire his weapon. He ran behind some vehicles moving east in the parking lot parallel to and south of the movements of the subject. [redacted] advised that he is unsure of how many times the subject fired at him, but he believes he saw the subject fire his weapon at an individual in the Diamond Shamrock Service Station in the northeast corner of the bowling alley parking lot. [redacted] advised that he later learned that the man in the parking lot who was firing a weapon back at the subject from behind his own vehicle was an FBI Agent. He knew that the FBI Agent fired his weapon at the subject several times but was unsure of the number of times the FBI Agent fired. [redacted] advised the FBI car was pointed in a southeast direction. He stated that the FBI Agent quit firing his weapon at some point when the subject was directly south of the FBI Agent. [redacted] noticed at this point

b6
b7C

that the subject was dragging one leg, as if he had been injured. The subject kept running east and disappeared in the houses on Coach Road. [redacted] then saw several vehicles with emergency lights and men with FBI agency identifier jackets attempting to locate the subject near the intersection of Coach and Wagon Road (See E-50 for movements of security guard).

Other witnesses to shooting between SA [redacted] and [redacted]

Three other witnesses to [redacted] actions in the bowling alley parking lot were identified, detained, and interviewed by HPD officers. A review of the HPD statements of [redacted] and [redacted] determined that none of the statements addressed the exchange of gunfire between [redacted] and SA [redacted] These witnesses were recontacted by Houston but none could provide any information regarding the exchange. [redacted] advised, however, that at first he believed [redacted] was shooting in a southwesterly direction and then turned almost 180 degrees and began shooting in the opposite direction. During Houston's investigation four other witnesses were found and interviewed, [redacted] and [redacted] Only [redacted] advised seeing SA [redacted] firing his weapon at [redacted]. Witnesses were consistent in their observations of [redacted] firing his weapon first.

b6
b7C

Arrest of [redacted]

Following the shooting between SA [redacted] and [redacted] a search was conducted of the houses along Coach Road where the subject was observed fleeing. While SA [redacted] was explaining the sequence of events to arriving HPD patrol units on Coach Road he observed some movement between the houses. An HPD officer and SA [redacted] proceeded to inspect the movement and found [redacted] lying on his back behind an air conditioning unit adjacent to 110 Coach Road (See E-5, E-39, E-40, for location). He was placed under arrest by HPD and removed by emergency medical technicians who transported him to Ben Taub Hospital.

Statements of [redacted]

An attempt was made to interview [redacted] at Ben Taub Hospital immediately after the shooting. Given his obvious intoxication and nonsensical answers (birth date January 1, 1900) the interview was terminated.

On October 22, 1996, a video taped interview of [redacted] was conducted in Spanish by HPD (See translation of interview of

[redacted]. During this interview, [redacted] admitted shooting inside the restaurant, however, he claims not to remember killing the restaurant patron or firing at the security guard. He recalls being shot in the parking lot east of the restaurant but claims not to know by whom. Subject claims that when provoked to this level of anger he loses control of himself.

Injuries to [redacted]

b3
b6
b7C

Attending physician described the gunshot wound to [redacted] as a lateral or horizontal wound tract. It traveled either from the medial to lateral or vice versa direction and was a through and through wound. Both entrance and exit wounds were approximately 2" above the left knee to the frontal aspect away from the arterial paths. According to the doctor, this is commonly called a flesh wound and would not be considered immediately life threatening. No powder burns were indicated and in the doctor's opinion the injury was consistent with [redacted] having been injured by a gunshot from several yards away. The physician could not determine the entry or exit wound and could not determine the caliber of projectile causing the injury.

[redacted] were obtained via a Federal Grand Jury subpoena. [redacted]

Searches Incident to the Shooting:

As noted above, inasmuch as the HPD had a homicide and aggravated assault investigation contemporaneous to the FBI's shooting inquiry, the HPD Evidence Team took the lead and processed both crime scenes in the restaurant and in the parking lot. All evidence collected on the night of October 21, 1996 was taken by the HPD for their cases. Relevant photographs were taken by Houston's Evidence Response Team (ERT).

On October 22, 1996, in an attempt to account for missing shell casings from SA [redacted] weapon, a daylight search was made of the parking lot area and along the route driven by SA [redacted] following the shooting. It was surmised that inasmuch as three shell casings from SA [redacted] weapon were found in the windshield wiper well of his bucar, additional shell casings may have been lying on his hood and were subsequently thrown off in his pursuit of [redacted] This search was negative.

b6
b7C

Also on October 22, 1996 the facade of the AMF Houston

Bowling Lanes was searched for possible bullet impacts. A bullet hole was found in a boarded-up area on the west end of the bowling alley and a spent bullet was found inside (See E-41 through E-44). This bullet was processed, diagramed, and turned over to HPD. Ballistics report from HPD is pending.

On October 22, 1996, in a continuing attempt to locate casings from SA [redacted] weapon, the front fenders of SA [redacted] bucar were removed. A .9mm casing was found at the bottom of each side fender (See E-35 through E-38). These were also turned over to HPD. Houston surmises these casings fell through "weep holes" located at either end of the windshield wiper well. b6 b7C

Searches were conducted of the areas behind the spots were SA [redacted] identified as his first and last shot at [redacted] See E-12 and E-14). This search was negative for bullet strikes.

Vehicles Damaged:

During the shooting between SA [redacted] and [redacted] the following vehicles were damaged by SA [redacted]

A 1986 gray Chevrolet Blazer S-10, Texas license [redacted], Vehicle Identification Number (VIN) [redacted] registered to [redacted] Kingwood, Texas 77339.

Above vehicle suffered a bullet strike through the driver's side window, glancing off the inside windshield, and imbedding in the passenger side vertical windshield frame approximately 12" up from the vehicle hood (See E-21 through E-24).

A 1996 blue Dodge Ram 1500 Pickup, Texas license [redacted], VIN [redacted] registered to [redacted] Houston, Texas 77076. b6 b7C

Above vehicle suffered a strike to the driver's side door panel, near center, approximately 2 ½" below the window. Impact resulted in a shattered driver's side window (See E-17 through E-20).

A search by HPD's and FBI's Evidence Response Team failed to find any other bullet impacts on vehicles located in the parking lot. No citizens have come forward subsequent to the

shooting to identify vehicle damage. No persons were in the vehicles when damaged.

Weapons Involved:

During the shooting between SA [redacted] and [redacted] the following weapons were discharged:

[redacted] weapon:

.40 Glock, Model 22, Serial #AYL729US, with .40 Smith and Wesson, jacketed hollow point ammunition, manufactured by Federal. Magazine capacity of 15 rounds.

SA [redacted] weapon: b6 b7C

.9mm Sig Sauer P226, Serial #U445016, with Federal Premium brand, .9mm Luger 147 grain Hydra-Shok jacketed hollow point ammunition. Magazine capacity of 15 rounds.

Investigation by HPD and FBI revealed the following number of spent casings and live rounds located at the two crime scenes:

Restaurant:

2 fired .40 S&W casings on sidewalk near the entrance.
5 fired .40 S&W casings inside the restaurant.
1 unfired .40 S&W cartridge inside the restaurant.

Parking Lot:

2 unfired .40 S&W cartridges (See E-27 and E-28).

4 fired .40 S&W casings (See E-29 through E-32).

3 .9mm Federal shell casings in SA [redacted] bucar windshield wiper well (See E-33 and E-34).

2 .9mm Federal shell casings found in bucar fenders (See E-35 through E-38).

Subject [redacted] weapon was found at the extreme east side of the parking lot opposite the entrance to Coach Road (See E-1). The slide was in the lock back position and contained

an empty 15 round magazine (See E-25). Search of the area accounted for 14 spent shell casings and dropped live rounds from [redacted] weapon.

Following the shooting, SA [redacted] weapon was found to contain one (1) .9mm round in the chamber and eight(8) .9mm cartridges in the 15 round magazine. These nine (9) rounds in addition to the five (5) .9mm shell casings found on and in SA [redacted] bucar total 14 rounds. SA [redacted] advised he cannot recall exactly how many shots he fired and is unsure as to whether he "topped-off" his magazine. b6 b7C

A fired bullet was found by HPD in the parking lot approximately 54' north of the north curb of the bowling alley (No photo available, see the diagram in HPD report #138220796N for location). Ballistics report from HPD is pending.

[redacted] weapon, unfired cartridges, and shell casings are being maintained by the HPD. SA [redacted] weapon was test fired by HPD and returned to him the next day.

Training/Planning:

Two requests were drafted for SOG assistance on October 9, 1996 for ongoing surveillance of the main case subject and his associate, [redacted] (LNU). In the SOG request on [redacted] (LNU), it was noted that he was known to carry a firearm. Updated information regarding [redacted] was passed to the SOG as it was obtained by the substantive drug squad. Surveillance team integrity was maintained in that the same team that surveilled [redacted] during a controlled narcotics purchase on September 30, 1996 was also used in the planned surveillance of October 21, 1996. Adequate meetings and face-to-face discussions were held between drug SAs and SOG members. The pertinent ASAC was briefed on the morning of the shooting regarding planned surveillance of [redacted] b6 b7C

Houston SOG utilizes a team leader concept with one SA directing the surveillance activities of the team SAs. The SOG supervisor contacts substantive squad supervisors on at least a weekly basis to determine SOG needs and requirements.

During the evening of October 21, 1996, emergency procedures regarding 911 notification were carried out and the division Crisis Response Plan enacted to include on-scene oversight by the SAC, two ASACs, Chief Division Counsel, ERT, etc.

Protective body armor was utilized by all SOG team members and all team members qualify at firearms on a routine basis. SA [redacted] qualified at firearms as recently as October 8, 1996 and advised that once the shooting began "his training took over" and was automatic.

b6
b7C

Prosecutive Status:

Subject, [redacted] is currently being held without bond and has been charged by the Harris County District Attorney's Office with murder and aggravated assault.

On October 23, 1996, a federal criminal complaint was signed by U.S. Magistrate Judge Calvin Botley charging [redacted] with violation of Title 18, USC Section 111(a)(1); (b), assaulting a federal officer.

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC RICHARD A. MARQUISE Office: MEMPHIS
Date: November 21, 1996

Case ID #: 62A-ME-50779

Title: SHOOTING INCIDENT,
SA [redacted]
October 26, 1996,
MEMPHIS DIVISION

Character: ADMINISTRATIVE INQUIRY

Synopsis: At approximately 10:00 PM, 10/26/96, the FBI was advised that [redacted] a fugitive wanted for murder from the State of Virginia, had been in telephonic contact with his mother in Oklahoma from a telephone registered in Lakeland, TN. SA [redacted] determined that the Tennessee Bureau of Investigation (TBI) was also attempting to locate and arrest [redacted] for a murder committed in Nashville, TN, in October, 1996, and [redacted] was on the TBI's Top Ten Most Wanted Fugitives list. SA [redacted] located 5 other Special Agents who either lived in the area or had worked with him earlier in the evening on the arrest of several bank robbers, and met the TBI and the Shelby County Sheriff's Department (SCSD) in Lakeland, TN, to formulate an arrest plan. After initially going to another steel salvage yard, Sheriff's Deputies directed them to Surplus Steel in Lakeland. There are 3 main buildings located at Surplus Steel, and the consensus of the Agents was that [redacted] if there, was located in the trailer at the rear of the compound. Attempts were made for between 10 and 20 minutes, utilizing a public address system in vehicles, to call [redacted] or any other resident of the compound out of one of the 3 buildings. No one responded. Efforts to contact the telephone number at Surplus Steel did not result in anyone answering the telephone. Based on observing lights coming from one of

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

the buildings. SAs [redacted] and [redacted] along with TBI Agents [redacted] (ASAC) and [redacted] moved in an attempt to secure this outbuilding. As the 4 Agents moved to secure the first outbuilding, they noticed a young male in the building, in his 20s, who appeared to resemble the subject. As Agents attempted to direct him to surrender, he flipped onto his stomach and hid his hands. SA [redacted] attempted to talk this individual into surrendering and to show his hands. When [redacted] made a move with his hands from under the pillow and turned toward the direction where the Agents were, SA [redacted] fired approximately two rounds from his MP-5, and SA [redacted] fired two rounds from a shotgun, and ASAC [redacted] fired two rounds from his shotgun. Prior to the shooting ending, SA [redacted] who had ducked below the glass in the door, fired 4 more rounds through the door in the direction of [redacted] At that point they determined that [redacted] had been hit and SA [redacted] had wounds to his face and ear which were later determined to be from .00 buckshot, possibly from a ricocheting round. It was also determined that [redacted] gun had not been fired; however, an examination of the weapon indicated that a live round with an indented primer was under the hammer. The gun was located in the cabin on the floor after he was subdued and arrested by FBI Agents. Although [redacted] was transported to the Regional Medical Center in Memphis, he recovered from his wounds and was transported to Nashville on charges of murder. SA [redacted] has recovered from his wounds. None of the other Agents or officers on the scene were injured. The U. S. Attorney for the Western District of Tennessee is considering prosecution of [redacted] for assaulting a federal officer.

b6
b7C

b6
b7C

- P -

DETAILS:

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 3/6/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

b6
b7C

**Approved By:** Gore William D
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-33

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/28/96
NEW ORLEANS DIVISION

**Synopsis:** To advise of a shooting incident on 10/28/96, in the New Orleans Division. Paul Douglas Harnum, an armed and dangerous fugitive who was wanted for Interstate Flight to Avoid Prosecution on charges of rape in the first degree, assault in the first and second degree, reckless endangerment, and false imprisonment, was shot and killed during an attempted arrest.

**Details:** Reference report of Inspector-in-Place [redacted]

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted], Room 7116
(1 - Mr. Marquise, Room 5155)
3 - Mr. [redacted], Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. [redacted], Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted], Room 4147

1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], WFO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-33, 3/6/97

**Details of the Shooting Incident**

On 10/27/96, Supervisory Senior Resident Agent (SSRA) [redacted] received a phone call regarding fugitive Paul Douglas Harnum. Information indicated that Harnum was possibly in the Shreveport, Louisiana, area. SSRA [redacted] contacted a Dallas Office SA requesting additional information about the subject. A Dallas agent advised that Harnum had been traveling through the Dallas Division the past few days and that they had been tracking his cellular telephone in an effort to locate him. It was learned that Harnum had traveled to Denver and other East and Midwest locations before traveling to Dallas on 10/25/96, Tyler, Texas, on 10/26/96, and was believed to be in the Shreveport area.

Background information regarding Harnum was provided to SSRA [redacted] by the Dallas agent. Four agents were paged and requested to meet SSRA [redacted] at the office. The Shreveport Police Department, Bossier City Police Department, and the Louisiana State Police were notified of the possibility of Harnum's presence in the area. Investigation determined that Harnum was in the Shreveport area and agents were dispatched to began a search for vehicles matching the description of possible vehicles being used by the subject. The vehicle description included a Ford F-350 pickup that was alternately described as having a camper shell or a factory constructed camper compartment possibly bearing New Hampshire license plate CFA-254; however, information was also developed that Harnum may have obtained a different vehicle. Within several hours, agents identified two possible sites where Harnum might be located. One possible identified site was the Shreveport/Bossier City KOA Campground located in southwest Shreveport. SA [redacted] provided a photograph of Harnum to the manager of the campground who felt that the photograph resembled an individual who had checked into the campground in a recreational vehicle (RV) the previous evening and was lodged at a site on the campgrounds. Another witness indicated that the photograph did not resemble the individual lodged at the campground; however, she was certain that the individual at the campground was accompanied by a female in the RV. Based on additional information provided by SA [redacted] regarding the individuals at the campground, SSRA [redacted] instructed SAs [redacted] and [redacted] to maintain a discreet surveillance of the campground property.

b6
b7C

b6
b7C

During the surveillance of the campgrounds, SSRA [redacted] asked SA [redacted] to travel to his home and change into clothing that would make it appear that he was a manual laborer at the RV park. At this point, SSRA [redacted] formulated a three-part strategy. First, an operational Special Investigations Unit van containing a "jump out squad" of six officers would be sent into the north end of the RV park. SA [redacted] disguised as a manual laborer, was deployed to a surveillance position at the entrance/exit of the park. SA [redacted] was instructed to only participate in this surveillance function and not to become operational during any arrest strategy. This instruction was given because SA [redacted] was unable to wear his protective vest in the manual laborer role. SA [redacted] was instructed to take a portable radio in the event that communication other than the established signals was necessary. He was advised to adequately hide the radio from view.

b6
b7C

At approximately 4:00 a.m., surveillance was instituted on the motor home parked at site E-6 at the KOA Campground. An FBI "spotter" van was parked two spaces from the subject and a Shreveport Police Department (SPD) "jump van" with four Special Response Team (SRT) officers and a driver was located five spaces away. SA [redacted] was on foot as a "lookout" and SA [redacted] and Sgt. [redacted] were parked across from the campground. Other FBI and SPD personnel were stationed at various points as part of an outer perimeter.

At approximately 7:00 a.m., Harnum exited the motor home to walk a dog. He re-entered the motor home, exited again, and walked toward the KOA showers. As Harnum approached the "jump van" four SRT officers exited the van and attempted to arrest him. Harnum ignored their commands and pulled a .380 Colt semi-automatic pistol from a "fanny pack". Harnum ran between various camper sites and headed south and east towards a fence that formed the border of the campground with SRT members in pursuit.

b6
b7C

SA [redacted] and Sgt. [redacted] heard the radio traffic advising that Harnum was out of the motor home, however, there was no response from radio queries from the "spotter" van to the "jump van". At that point, SA [redacted] drove his car into the campground and stopped near the southeast corner. SA [redacted] exited the driver side of the vehicle and Sgt. [redacted] exited the passenger side. As Harnum continued running towards SA [redacted] and Sgt. [redacted] he raised his .380 Colt and pointed it at them.

Sgt. [redacted] fired first, striking a parked blue Chevrolet's bumper. SA [redacted] fired striking a parked RV and SRT member [redacted] fired striking another parked RV. SA [redacted] fired a second shot striking Harnum. The bullet entered behind Harnum's right ear and exited his left brow, ultimately lodging in a parked trailer. Harnum died immediately and fell face forward to the ground, dropping his weapon.

b6
b7C

A fire department rescue unit was requested and officers were called to preserve and process the scene. The female traveling with Harnum was removed from the motor home, interviewed, and released. It was determined that the female was a prostitute that had been picked up by Harnum at a rest area in Liberty City, Texas. After purchasing some crack cocaine in Kilgore, Texas, Harnum drove himself and [redacted] in the motor home to Shreveport.

On 1/16/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting attendee was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force in this shooting incident was justified.

The second topic discussed by SIRG members related to training and safety issues in this incident. Members noted the fact that agents who were assigned only to surveillance duties ran to the area of fire and conflict. The SIRG iterated the fact that participants were at risk due to their lack of protective armor and the subject's known propensity for violence. Particularly noted was the fact that SAs [redacted] and [redacted] did not utilize protective body armor during this incident. Members also noted that managerial oversight was lax in this area due to the lack of protective armor use. The SIRG members particularly noted the fact that SA [redacted], who was posing in an undercover capacity, did not possess a firearm, did not utilize protective body armor, and although he had possession of a radio, he had shut it off. Members emphasized the fact that SA [redacted] should not have been present without equipment critical for his defense. SIRG members recommended that all SAs involved in this incident receive a letter of censure for their neglect of protective armor use. b6 b7C

Based on electronic communication dated 11/4/96, from the New Orleans Division to Inspector-in-Place Imfeld, FBIHQ was advised that agents in the New Orleans Division had been apprised of the Bureau requirements regarding the use of body armor in all arrest or high risk situations.

**LEAD(s):**

**Set Lead 1:**

That the Administrative Summary Unit (ASU), Personnel Division, (PD), forward letters of censure to SAs [redacted] and [redacted] for their neglect of utilizing protective body armor during this shooting incident.

◆◆

FD-204 (Rev. 12-1-95)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to: Denver Division

Report of: IIP [redacted] Office: WFO
Date: December 5, 1996

Case ID #: 66-19157-13

b6
b7C

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
DENVER DIVISION
NOVEMBER 6, 1996

Character: ADMINISTRATIVE MATTER

Synopsis: Based upon information provided by a credible cooperating witness and his attorney, on 11/6/96, [redacted] was observed and audio recorded completing a felonious narcotics transaction by FBI Special Agents (SAs), Officers from the Aurora Police Department (APD), and members of the Metro Gang Task Force, Aurora/Denver, Colorado. [redacted] was permitted to re-enter his vehicle before an attempt was made to arrest him. When [redacted]s vehicle was blocked in its parking space by a police surveillance van, and clearly identified police and FBI officials attempted to place him under arrest, [redacted] began to aggressively maneuver his vehicle without regard for the safety of the law enforcement officials who surrounded the vehicle and ignored their orders for him to surrender. [redacted] vehicle, while moving rearward, collided into the police surveillance van after forcing a clearly identified police officer to flee from his location between the two vehicles. Following the collision, [redacted] immediately accelerated forward leaving approximately eight feet of skid marks while the vehicle was surrounded on its right, left, and rear by law enforcement personnel and parked vehicles, and an apartment building and a tree at its front. Simultaneously, 14 rounds were discharged from the weapons of Officer [redacted] (four rounds), Officer

b6
b7C



This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

(three rounds), and SA (seven rounds), causing non-life threatening injuries to subsequently complied with orders to extend his hands outside the drivers door of the vehicle at which time he was subdued and arrested. was found to be have had a Glock, Model G23 Semiautomatic Pistol, Serial Number AWX106, with a fully loaded magazine, within his reach in the passenger compartment of the vehicle. b6 b7C

Photographic, video, and other evidence, as well as the results of witness interviews, sketches, and official records, were reviewed to reconstruct the sequence of events leading to the arrest of at Aurora, Colorado, on 11/6/96, at approximately 3:00 p.m., and this shooting inquiry.

According to the report of Detective Denver Police Department (DPD), dated 11/8/96, captioned "Denver Police Department Narcotics Bureau," date of birth Denver, Colorado, was arrested by the DPD on 5/20/96 at his residence during the execution of a search warrant and the subsequent recovery of 157.3 grams of a controlled substance and two weapons. On October 14, 1996, District Attorney, Drug Court, Denver, Colorado, invited the DPD, through the Attorney for to interview regarding drug trafficking within the Denver, Colorado, area. and his attorney came to the DPD on 10/22/96 where reported to Detective that a person known to him as had steadily provided at Apartment Number 103, Aurora, Colorado. informed Detective had made 25 to 30 deliveries, every two week, for over one year and that always carried a gun. provided substantial information regarding " in the presence of his attorney, to ensure the arrest of in order to receive favorable consideration by the Drug Court, Denver, Colorado, upon his own sentencing. An agreement was reached whereas would call the DPD upon his next contact with b6 b7C

On 11/4 - 5/96 contacted Detective DPD, to report had contacted him and wanted to make a delivery. A decision was made to arrange for the transaction to take place on 11/6/96. On 11/5/96 Detective made arrangements for to work with

Officer [redacted] Narcotics Unit, APD. A telephone conversation took place between Officer [redacted] and [redacted] on 11/5/96 and a meeting was arranged for 11/6/96, during the morning. Arrangements were made to purchase nine ounces of cocaine and two ounces of methamphetamine from [redacted] on 11/6/96. [redacted] contacted Officer [redacted] at approximately 10:00 a.m. on 11/6/96, and provided details concerning [redacted] that he previously provided to Detective [redacted] including a history of prior deliveries, descriptive data, and information regarding weapons and vehicles utilized by [redacted] Immediately thereafter, Officer [redacted] and SA [redacted] FBI, Denver Division, traveled to [redacted] Aurora, Colorado, where they video taped and diagramed the building and neighborhood described by [redacted] A briefing was scheduled for 12:30 p.m. with the Metro Gang Task Force; buy money was obtained; and arrest and surveillance team assignments were discussed and made. Between 12:00 p.m. and 12:30 p.m. the Metro Gang Task Force briefing began and assignments were given. Appropriate management and other officials from within the FBI and the APD were notified and/or were present in the briefing as follows:

b6
b7C

Notified

ASAC LYDIA C. PUGH, FBI, Denver Division

ASAC KEITH A. DEVINCENTIS, Acting SAC, Denver Division

Present

SSA [redacted]

SA [redacted]

SA [redacted]

SA [redacted]

Lieutenant [redacted] Aurora Police Department (APD)

Officer [redacted] APD

Officer [redacted] APD

Officer [redacted] APD

Investigator [redacted] APD

Sergeant [redacted] APD

Officer [redacted] APD

III

Officer [redacted] APD

Officer [redacted] APD

Officer [redacted] Glendale Colorado Police Department b6 b7C

Officer [redacted] DPD

Investigator [redacted] Arapaho County Colorado Sheriff's Office

SA [redacted] Colorado Bureau of Investigation (CBI)

The surveillance video made at [redacted] Street was shown and diagrams of the area were utilized to make assignments and responsibilities clear. Vehicle descriptions and descriptive information regarding [redacted] were also provided. Plans included assignment of an undercover officer to cover [redacted] and establishment of audio and video surveillance to provide effective coverage of the drug buy and arrest. A subsequent meeting was arranged with the undercover officer, Investigator [redacted] APD, to arrange a system of codes to address safety issues and emergency changes. Uniformed Officers [redacted] and [redacted] APD, were given assignments to ensure an immediate uniform presence on the scene at the appropriate time. Other assignments, made by Sergeant [redacted] APD, were as follows:

Arrest Team

Officer [redacted] b6 b7C

Officer [redacted]

Officer [redacted]

SA [redacted]

Video Surveillance

SA [redacted] CBI

Equipment Operation (Monitoring)

SA [redacted]

Officer [redacted]

SSA [redacted]

All other law enforcement personnel were given surveillance and backup assignments.

Immediately after the briefing Officers [redacted] and [redacted] met with [redacted] near Mississippi and Uvalda Streets in Aurora, Colorado, where they searched [redacted] vehicle and person. Thereafter, [redacted] was equipped with a wireless transmitter. Officer [redacted] was also equipped with a wireless transmitter. b6 b7C

By 1:00 p.m. all law enforcement personnel were at their respective assignments and the Arrest Team was positioned to the west of [redacted] in an unmarked police surveillance van. An arrest plan had been discussed and approved. Other personnel were assigned to monitor routes into the area of [redacted] in anticipation of the arrival of [redacted]

Shortly after 3:00 p.m. Officer [redacted] by police radio, notified the undercover, arrest, surveillance, and monitoring teams that he had observed a late model, black, Chevrolet, pickup park in the north lot next to [redacted] and a Hispanic male exited the vehicle and entered the apartment building by the north door. The vehicle was parked facing south toward the north wall of [redacted], in the third parking space from the east side of the apartment building. One vehicle was parked in the first parking space (left of [redacted] vehicle); the second space was empty; and a vehicle was parked in the fourth space, on the right side of [redacted] pickup truck. The curb in front of the vehicles was approximately seven inches high and surrounded a rock/plant bed that uniformly extended 97 inches outward from the north and east walls of the apartment building (see the attached diagram marked Exhibit A). A tree with a trunk thickness of approximately six inches was growing between the northeast corner of the apartment building and the vehicle parked in first parking space (to the left of [redacted] vehicle). A stairway to the right of [redacted] vehicle extended outward from the north wall of the apartment building to within 33 inches of the curb where other vehicles were parked. b6 b7C

Within minutes of Officer [redacted] notification,

and after the aforementioned Hispanic male was observed to enter the single doorway on the north wall of [redacted] Street, Officer [redacted] from inside Apartment 103, by wireless remote transmitter, advised the suspect [redacted] had arrived and was entering the front door of Apartment 103. A drug transaction was completed during which [redacted] purchased 7 ½ ounces of a substance believed to be powered cocaine from [redacted] for $4,850.00, paid for with marked U.S. paper currency. Upon completing the transaction [redacted] departed from the apartment building through the same door Officer [redacted] and surveillance team members had seen him use to enter the apartment building. All participating law enforcement officers were notified that [redacted] had completed the drug transaction and was leaving the building. Sergeant [redacted] related this information directly to the Arrest Team signaling the Arrest Team to initiate the arrest of [redacted]. The Arrest Team moved the brown police surveillance van into position directly behind [redacted] vehicle as soon as [redacted] entered his vehicle. The driver's side of the police surveillance van was parallel to the rear bumper of [redacted] black Chevrolet . The two vehicles were separated by approximately five feet and four inches (see the attached diagram marked Exhibit B). Officer [redacted] was driving the police surveillance van while Officers [redacted] and [redacted] and SA [redacted] occupied the cargo area of the vehicle.

b6
b7C

As soon as the police surveillance van came to a stop, per the pre-discussed arrest plan, Officer [redacted] exited the drivers side door of the police surveillance van with his weapon drawn and placed himself between the police surveillance van and the rear bumper of [redacted] vehicle. Officer [redacted] was first to exit the cargo doors on the right side of the police surveillance van. He moved to his left to take a position at the left front of the police surveillance van covering the right side of [redacted] pickup. Officer [redacted] was second to exit the cargo doors on the right side of the police surveillance van. Officer [redacted] moved to his right to take a position at the left rear of the police surveillance van to cover the right, driver's side, of [redacted] pickup truck. SA [redacted] was last to exit from the cargo doors on the right side of the police surveillance van. He moved to his right to take a position to the left of Officer [redacted] in the area of the left rear of the police surveillance van. Movement by all Arrest Team Members began simultaneously. Officers [redacted] and [redacted] and SA

b6
b7C

[redacted] each repeatedly said in loud voices en route to and once established in their respective positions, "police," "stop," "put your hands up," and "freeze." Each Arrest Team member was wearing a dark blue police raid jacket with the words "POLICE" stenciled across the front in large white letters. Each Arrest Team Member had his weapon drawn and pointed in the direction of [redacted] vehicle. b6 b7C

Officers [redacted] and [redacted] and SA [redacted] observed [redacted] look to his right and rearward, and to his left and rearward, at the approaching law enforcement officers as orders were being given to him to surrender. SA [redacted] saw [redacted] place his left hand on the steering wheel and reach downward with his right hand. Officer [redacted] saw the back up lights on [redacted] vehicle come on and Officer [redacted] immediately began to move to safety as [redacted] vehicle began moving rearward toward the police surveillance van. Officer [redacted] moved to his right into the sights of the weapon possessed by Officer [redacted] who raised his weapon to allow Officer [redacted] to move to safety. Officer [redacted] moved forward on the right side of [redacted] vehicle as the vehicle collided into the police surveillance van and immediately accelerated forward with enough force to leave approximately eight feet of rubber tire acceleration marks on the pavement. At the time of impact against the police surveillance van Officer [redacted] was at the front of the right side door of [redacted] and began to move forward with the as the made a sharp turn to the left exposing the flat surface of the right front tire to Officer [redacted] Officer [redacted] began firing at the flat, treaded portion of the right front tire, expending a total of four rounds in rapid succession, while continuing to move forward with the accelerating vehicle. Simultaneously, Officer [redacted] discharged the first of three rapidly fired rounds into the cab or in the direction of the cab of the pickup occupied by [redacted] SA [redacted] who was stationed to the left of Officer [redacted] upon observing the aggressive actions of [redacted] and the vehicle [redacted] was operating, and upon hearing the first shot or shots, began firing seven rapidly expended rounds into the driver's side door, window, and frame of the operated by [redacted] The right front of [redacted] bounced approximately 12 inches above the elevation of the rest of the as the right front tire of the vehicle climbed over the curb while rapidly moving forward and in a southeasterly direction. The vehicle stopped abruptly b6 b7C

with aforementioned tree near the center of its front bumper and rocked backward. As the vehicle came to rest, with its front tires inside the rock/plant bed, rounds were being expended and the passenger side glass in [redacted] vehicle was observed to shatter. A flash of debris from the adjacent brick wall was observed as what appeared to be a round impacted against it (visible in the surveillance video recording of the incident).

[redacted] was being ordered out of the vehicle as Officers [redacted] and [redacted] approached Officer [redacted] position from Officer [redacted] right and Officer [redacted] approached the positions of SA [redacted] and Officer [redacted] from their left. [redacted] yelled he had been shot and followed instructions to opened the driver's door. [redacted] remained on the drever's seat until assisting officers pulled him from the vehicle and placed him in the prone position on the ground where handcuffs were applied. Each Arrest Team member thereafter removed himself to a secure area in anticipation of requests from management and investigative personnel. Lieutenant [redacted] Sergeant [redacted] and SSA [redacted] took charge of the scene ensuring appropriate medical assistance was summoned and the scene was properly secured.

Examination of [redacted] vehicle and the surrounding area disclosed five rounds penetrated the driver's side window of the vehicle from the left rear area (one bullet jacket from within [redacted] jacket was confirmed to have been fired form SA [redacted] weapon)(see the illustration marked Exhibit C), none of which exited the passenger compartment. One round penetrated the frame 3½ inches behind the driver's side window and nine inches from the top of the cab. The round passed through the passenger compartment, exited through the top front of the passenger side window, and impacted against the brick, north wall of the apartment building. Two rounds impacted in the outer door frame above the driver's side window. An additional four rounds impacted against the right front tire and rim of [redacted] vehicle and two additional rounds impacted against the north wall of [redacted] Street, one into the brick portion and one into the aluminum siding portion (confirmed to have been fired from SA [redacted] weapon by the FBI Laboratory). Fourteen impact points were identified and fourteen spent shell casings were recovered from the scene.

b6
b7C

b6
b7C

The locations of Evidentiary Items 20 through

23, 40 mm Federal casings, as noted in the APD evidence sketch (see illustration marked Exhibit D), are consistent with the witness statements and a review of the an arrest scene video tape, that indicate Officer [redacted] was initially located between the driver's side of the police surveillance van and the rear bumper of [redacted] vehicle. And, that Officer [redacted] moved to his right as [redacted] vehicle began to move rearward and took a position along the right side of the [redacted] vehicle where he fired four rounds into its right front tire. Officer [redacted] weapon was a Baretta .40 Caliber semiautomatic pistol that ejects spent shell casings to the right. b6 b7C

The location of Items One through Seven, 10 mm shell casings, on the APD Crime Scene Sketch (see illustration marked Exhibit D), are consistent with the statements of SA [redacted] Officer [redacted] and Officer [redacted] that SA [redacted] was standing to the left rear of the surveillance van when he fired seven rounds into or at the cab of [redacted] vehicle. SA [redacted] S&W Model 1076 semi automatic pistol ejects spent shell casings to the right and rear of the shooter. All of SA [redacted] 10 mm shell casings came to rest in an area at or north and east of the right rear corner of the police surveillance van.

The locations of Items Eight through Ten, .40 Caliber S & W shell casings, are consistent with the statements made by Officer [redacted] and SA [redacted] that Officer [redacted] was firing from a position at the left rear of the surveillance van. Officer [redacted] weapon, a Glock Model 23, .40 Caliber, semiautomatic pistol, ejects shell casings from its right side. These three shell casings were found in the proximity of the left rear tire of the police surveillance van.

Reviews of the photographs and sketches depicting injuries sustained by [redacted] reflected four wound areas to his upper torso and right lower arm. There was a large grazing type of wound at the front of the left shoulder joint. The direction of this elongated injury was consistent with a round penetrating the drivers side window of the vehicle from an area to the rear and left of the vehicle. b6 b7C

An entrance wound appeared just below the left armpit on the left upper torso. What appeared to be an

exit wound was located near mid chest, to the right of the left nipple. The latter two visible wounds were both elongated and are consistent with a bullet striking from the left rear, traveling through the torso from left to right. This is also consistent with a round entering the driver's side window from a position in the area of the left rear of the vehicle. The absence of injury to the left arm in this area suggests the [redacted] may have had his left arm raised, possibly on the steering wheel, at the time of the injuries. An entry wound was also located on the right forearm (no exit detected).

Review of an arrest scene video tape, made by SA [redacted] during the shooting incident, depicts a Hispanic male leaving a dark colored, Chevrolet, pickup that is parked next to what appears to be a Datsun pickup. The Datsun pickup is parked in the first parking space from the east side of [redacted] facing south toward the north wall of the building. The Hispanic male is observed to enter and exit [redacted]. The Hispanic male, later identified as [redacted] is observed entering a dark colored Chevrolet . Simultaneously, the police surveillance van was observed being driven toward and stopping behind [redacted] vehicle. The video disclosed what appeared to be the driver of the police surveillance van leaving the vehicle through the front driver's door (Officer [redacted] who was momentarily located between the police surveillance van and [redacted] vehicle. A second individual appears in the left front area of the police surveillance van (Officer [redacted] as the first individual moves to the right side of [redacted] vehicle. Simultaneously [redacted] vehicle began to move rearward. It also appeared the first individual [redacted] moved forward on the right side of [redacted] vehicle (toward the right front) as the moved rearward and struck the police surveillance van. As [redacted] vehicle moved toward the surveillance van, there appeared to be a white male wearing a dark jacket marked "POLICE," with the back of the jacket toward the video camera, moving into an area near the left rear of [redacted] vehicle. Although SA [redacted] could not positively identify the figure, the position of the figure is consistent with the position described for SA [redacted] by witnesses and is consistent with the position of shell casings expended from his weapon. The balance of the video recording is consistent with details set forth above.

b6
b7C

[redacted] through his attorney refused to be interviewed by the FBI. b6 b7C

[redacted] was charged in a six count Federal Grand Jury Indictment, on 11/8/96, with violations of the Federal Narcotics Statue and Assault on a Federal Officer. He was also charged with violation of Section 18-2-101, State of Colorado Criminal Code, Criminal Attempt to Commit First Degree Assault, and Sections 18-18-204 and 205, Distribution of Controlled Substance, Schedule II, on 11/6/96.

Details:

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Training
Date: December 11, 1996

Case ID #: 66F-19157-15

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
DETROIT DIVISION
NOVEMBER 20, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an investigation by the Detroit Division of a $1.3 million robbery of a Michigan National Bank (MNB) van on the night of 11/13/96, in Dearborn, Michigan.

On 11/13/96, at approximately 10:53 p.m., Dearborn Police responded to a 911 call that a MNB guard had been shot at a branch of MNB on Michigan avenue in West Dearborn. Upon their arrival, police observed [redacted] black male, date of birth [redacted] standing next to a MNB van, over the body of a male victim (later identified as 26 year-old bank guard MATTHEW ANTHONY GIRARDIN). GIRARDIN appeared to have a single gunshot wound to the head. [redacted] told police at the scene that he was the driver of the MNB van and that GIRARDIN was his partner and passenger. [redacted] told police that he and GIRARDIN had left the main pick-up center with approximately $1 million, and that this bank was their first drop off. [redacted] stated that only GIRARDIN was armed inasmuch as [redacted] had only been on the job for three months and had not received clearance to carry a firearm. [redacted] stated that he had pulled the van up parallel to the ATM entrance with the passenger's side of the van being the closest. [redacted] stated that as he and his partner opened the doors to exit the van he heard a single gunshot, and he observed a black male on the passenger's side of the van holding a small handgun. Dearborn Police subsequently determined that $1.3 million

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

had been taken during the robbery/murder. Several witnesses saw a dark colored Ford pickup driving through the bank parking lot, as well as briefly parked behind the bank van. [redacted] was subsequently interviewed at the police station and related substantially the same account as he had at the scene with a few additions. b6 b7C

On 11/19/96, Dearborn Police took the videotape from the ATM to the Michigan State Police for enhancement of the video image. This tape showed numerous inconsistencies with [redacted] statements as to what actually occurred. The videotape showed [redacted] briefly talking to a second individual at the rear of the bank van, as well as [redacted] pulling something out of the passenger side of the van. Dearborn Police subsequently determined from the autopsy that GIRARDIN died from a point-blank, single gunshot wound to the head, and that the shot was fired from the left, or driver's side of the van. The bank van had numerous blood spatters in it, a slug was found on the floor of the driver's side, and a .32 caliber cartridge case was found under the victim's body. A state search warrant was obtained and executed at the home of [redacted] and his parents. During the search, [redacted] father stated that [redacted] cousin, COMMITT ROWSON, III, was [redacted] best friend. A vehicle registration search determined that ROWSON owned a maroon Ford Ranger pickup truck.

On 11/15/96, [redacted] father, [redacted], was interviewed and admitted to owning a .32 caliber handgun. When asked to produce the handgun, [redacted] went to the bedroom and found that the gun was missing. [redacted] had several loose rounds of .32 caliber ammunition which he provided to police. One of the .32 caliber cartridges had been ejected from this gun sometime in the past. This cartridge was subsequently compared to the cartridge case found under GIRARDIN's body and determined to have similar ejection marks.

Local charges for first degree murder, felony murder, and possession of a firearm during commission of a felony were filed against [redacted] and ROWSON on 11/15/96 and 11/17/96, respectively.

On the morning of 11/19/96, Detroit received a telephone tip regarding an associate of ROWSON, [redacted] who allegedly received money from ROWSON and purchased a car for him. Detroit Special Operations Group (SOG) conducted a surveillance of [redacted] residence, to include following two individuals in a Cadillac from [redacted] residence in Detroit to the Knights Inn on Dequindre Avenue, Warren, Michigan. It was b6 b7C

determined through investigation at the Knights Inn that ROWSON had previously stayed there; however, he was no longer staying at the motel. FBI Agents subsequently confronted [redacted] and obtained a consent to search his residence on the evening of 11/19/96. Subsequent to the search, [redacted] was interviewed at the Detroit FBI Office. During this interview, [redacted] admitted that ROWSON had advised him that he (ROWSON) and [redacted] referring to [redacted] had been involved in the robbery on 11/13/96. [redacted] further advised that ROWSON had given him some money from the robbery to purchase a car for him. [redacted] advised that he purchased a 1983 Chevrolet Caprice for ROWSON with the money ROWSON gave him. [redacted] also admitted that he had rented a room for ROWSON at the Knights Inn on Saturday evening, 11/16/96. [redacted] stated that ROWSON was in possession of a 9mm pistol, and he had also seen ROWSON with a small semiautomatic pistol. ROWSON told [redacted] that the small semiautomatic pistol had been given to him by his father. [redacted] also had seen ROWSON in possession of an Eddie Bauer bag which appeared to be full.

b6
b7C

On the morning of 11/20/96, SA [redacted] Acting Supervisor of Squad C-4, briefed SAC JOSEPH D. MARTINOLICH, JR. regarding the status of the investigation and the activities which occurred on 11/19/96. SAC MARTINOLICH and ASAC JOHN D. STAPLETON had received periodic briefings from SA [redacted] Squad C-4 and the case agent on this investigation, and SA [redacted] regarding the progress of the investigation since the robbery/murder on 11/13/96. Although ASAC STAPLETON is currently the Administrative ASAC, he was responsible for the Violent Crime and Major Offenders (VCMO) program for approximately six years in the Detroit Division and had been involved in this case due to the current VCMO ASAC, JOHN E. BELL, JR., being temporarily out of the Division on special assignment.

After briefing SAC MARTINOLICH, SA [redacted] requested the assignment of four additional agents to assist in conducting a neighborhood investigation within a five-mile radius around the Knights Inn. Acting ASAC RAY P. CHURAY subsequently assigned SAs [redacted] and [redacted] to conduct the neighborhood investigation. After being briefed at the Detroit Office regarding this assignment and providing these agents with a photograph and physical description of ROWSON, and the fact that he was considered armed and dangerous, the agents left the office at approximately 9:30 a.m., en route to the Knights Inn, to conduct the neighborhood investigation.

b6
b7C

At approximately 10:30 a.m. on 11/20/96, SA [redacted] received a call from [redacted] who advised that ROWSON had attempted to call him three times on the evening of 11/19/96. [redacted] provided a telephone number from the caller ID on his residence telephone. Investigation determined that the telephone number from which ROWSON was attempting to contact [redacted] was at the Red Roof Inn, 26300 Dequindre Avenue, Warren, Michigan. This motel is located across the street from the Knights Inn.

Upon learning of the aforementioned caller ID information, SA [redacted] contacted Squad C-9 (SOG) and requested a surveillance around the Red Roof Inn in an effort to locate ROWSON. SA [redacted] also contacted SA [redacted] and instructed her to advise SAs [redacted] and [redacted] to meet SA [redacted] at a strip mall near the Red Roof Inn. SA [redacted] then briefed SSA [redacted] Supervisor of the Violent Crime Task Force (VCTF), who subsequently sent SA [redacted] MICHIGAN STATE TROOPER [redacted] and DETROIT POLICE OFFICER [redacted] to the vicinity of the Red Roof Inn. (TROOPER [redacted] and OFFICER [redacted] are assigned to the Detroit VCTF). Upon SA [redacted] arrival at the staging area, SA [redacted] and he advised the agents and officers of the recent identification of the Red Roof Inn as a possible location for ROWSON. Present during this briefing were SAs [redacted] OFFICER [redacted] and TROOPER [redacted] SA [redacted] was advised by SA [redacted] team leader for the SOG team and a Detroit SWAT team member, that the SOG had established an outer perimeter around the Red Roof Inn.

b6
b7C

SA [redacted] sent SAs [redacted] and [redacted] to interview the manager of the Red Roof Inn in an effort to determine if ROWSON was staying there. The manager advised that he had not seen ROWSON, and a review of motel records determined that nobody had registered under ROWSON's name. SAs [redacted] and [redacted] also obtained computerized telephone records from the motel in an effort to identify the calls that ROWSON allegedly made to [redacted]

b6
b7C

As a result of this investigation, it was determined that all but six rooms at the Red Roof Inn could be eliminated as possible locations in which ROWSON was a tenant. Included in the six rooms which were still in question was Room 248.

At approximately 11:45 a.m., a possible look alike to ROWSON was interviewed at a nearby International House of Pancakes but was determined not to be ROWSON.

SA [redacted] subsequently instructed nine (9) agents and police officers to return to the initial staging area to develop a plan for checking the six remaining rooms. This plan called for SAs [redacted] and [redacted] to obtain housekeeping attire from the Red Roof Inn in order to pose as housekeeping personnel. SAs [redacted] and [redacted] would knock on the various doors and identify themselves as housekeeping personnel in an effort to lure the occupants to the door where they could be positively identified. If nobody responded to their knock, they would utilize a pass key, given to them by the Red Roof Inn management, in an effort to open the room door to identify any occupants. Assisting SA's [redacted] and [redacted] would be eight additional agents and police officers including SA [redacted] SA [redacted] discussed this plan with SA [redacted] who concurred with this approach. SA [redacted] had also been in contact with SA [redacted] who was in the office awaiting approval of the federal arrest warrant for ROWSON, regarding the developments at the Red Roof Inn and the plan to identify the occupants of the six rooms.

b6
b7C

Prior to implementing this plan, SA [redacted] was advised that an SOG team member, SA [redacted] had stopped a pizza delivery person who had been observed by the SOG departing the Red Rood Inn. This identification occurred at approximately 1:25 p.m. according to SA [redacted] The pizza delivery driver positively identified ROWSON as the occupant of Room 248, and further indicated that another individual was also in the room. The pizza delivery person provided a general description to include clothing being worn by both these individuals.

Based on this information, SA [redacted] developed an alternate plan which called for six (6) FBI agents, including himself, and two (2) Task Force officers to approach Room 248 in an effort to effect ROWSON's arrest. Based on previous investigation, SA [redacted] was aware that the room to the south of Room 248 was empty and that on the other side of Room 248 was a breezeway. In his interview, SA [redacted] stated that his concern at this point was that ROWSON would emerge from the room, armed, and attempt to injure or kill innocent parties or agents who were outside the motel room.

b6
b7C

According to SA [redacted] at approximately 1:40 p.m. he arrived at the Red Roof Inn with his arrest team, consisting of SAs [redacted], and TROOPER [redacted] and POLICE OFFICER [redacted] The team proceeded to the second floor balcony of the Red Roof Inn via the south stairwell and continued to walk in a single file line down the balcony towards Room 248. SA [redacted] stated that he had briefed the SOG, via the Bureau radio, prior to initiating this plan.

SA [redacted] stated in his interview that the SOG was utilizing channel A5, and Squad C-4 was utilizing channel A7. However, the interview of the SOG team leader, SA [redacted] disclosed that the SOG was utilizing A7 and Squad C-4 was utilizing A5. SA [redacted] was aware of the pizza delivery identification, via radio communication from SA [redacted] and he relayed this information to his surveillance team and advised them to maintain their perimeter position. SA [redacted] stated that he was not totally aware of the arrest plan details. SA [redacted] did not advise the Detroit Office of the pizza delivery person's identification of ROWSON or his new plan to effect ROWSON's arrest; however, SA [redacted] believed that SA [redacted] who was in the office, was monitoring the radio traffic.

SA [redacted] plan called for an attempt to use a pass key to gain entrance into the room. While en route to Room 248 from the south stairwell, the arrest team encountered a motel employee who provided a pass key. If the pass key plan failed, the agents planned to knock and announce their presence.

During the approach to Room 248, SA [redacted] noted that the curtains were open and the rooms empty for the two or three rooms to the south of Room 248. Based on interviews of the agents and officers directly involved, upon reaching Room 248 the agents assumed a crouched position in order to avoid being seen through the window of Room 248 in which the curtains were drawn. SAs [redacted] and [redacted] set up on the north side of the door to Room 248 along with OFFICER [redacted]. At the north side of the door, the agents and OFFICER [redacted] were joined by SA [redacted] an SOG team member. After the pizza delivery identification, SA [redacted] had proceeded directly to the Red Roof Inn, parked his Bureau car in the west side parking lot, ran up the stairs to the second floor breezeway next to Room 248, and peered around the corner, where he observed the arrest team approaching from the south. SAs [redacted] and [redacted] positioned themselves on the south side of the door nearest the door, and to the south of SAs [redacted] and [redacted] were SAs [redacted] and [redacted] and TROOPER [redacted] SAs [redacted] and [redacted] were crouched beneath the window to Room 248, and SA [redacted] who was not wearing a bullet proof vest, was positioned to the south of Room 248.

Once the agents and officers were in position, SA [redacted] signaled SA [redacted] to attempt to utilize the pass key. This attempt was unsuccessful because the door was apparently dead bolted. SA [redacted] then initiated the backup plan, knocking and announcing law enforcement presence and ordering ROWSON to emerge from the room with his hands up. According to SA [redacted] he

b6
b7C

knocked and announced, "FBI, open the door, police open the door, FBI, open the door." SA [redacted] stated that he banged on the door several times and may have said, "Open the door or it's coming down." b6 b7C

According to SA [redacted] approximately five to ten seconds after announcing their presence, the door to Room 248 opened and a black male, subsequently identified as [redacted] exited in a crouched position. [redacted] had a wild look on his face and his eyes were wide. As [redacted] exited the room, SA [redacted] scanned him in an effort to determine if he had a weapon. SA [redacted] yelled for [redacted] to get down on the ground. As SA [redacted] took control of [redacted] SA [redacted] moved towards the doorway in an effort to observe other individuals in the room. At this point, SA [redacted] heard three or four gunshots being fired from within the room. SA [redacted] was unable to observe anybody in the room, and he thought the gunshots were coming from the back of the room or possibly from the bathroom area. SA [redacted] stated he fired five or six rounds from his Sig Sauer, Model P-228, 9mm semiautomatic pistol, in an effort to suppress the fire that was coming from the room.

According to SA [redacted] he observed the door to Room 248 open and [redacted] standing at the corner of the door at the south side. SA [redacted] pointed his pistol at [redacted] and ordered him to get his hands up. SA [redacted] then opened the door all the way, observed [redacted] hands up, and at the same time did a quick cursory scan of the room. While having his weapon and vision focused on [redacted] he observed in his peripheral vision movement at the bathroom door. According to SA [redacted] he pointed his weapon away from [redacted] toward the bathroom door, at which time he observed a subject standing at the bathroom door who had assumed a shooting position. Simultaneously, he saw a muzzle flash coming from what appeared to be a semiautomatic pistol. SA [redacted] stated that he believed he heard three or four rounds go off, and he felt something go past his thigh and fragments hit his leg. He thought he had been shot. SA [redacted] stepped back from the doorway, and at this point all the other agents had taken cover. b6 b7C

From a position of cover on the north corner of the doorway, SA [redacted] assumed a low position and SA [redacted] assumed a high position, according to SA [redacted]. SA [redacted] stated he heard SA [redacted] fire a quick burst and then he (SA [redacted] began firing towards the area of the bathroom. SA [redacted] stated that he fired in this direction because this was the area where he last saw the individual who had assumed the shooting position. SA [redacted] stated that when he first saw this individual, he had come from

the bathroom. Although he did not see him return to the bathroom, SA [redacted] did a quick scan of the room prior to firing. SA [redacted] stated he fired approximately eight rounds. After firing, SA [redacted] returned to a position of cover, dropped his magazine and reloaded a fresh magazine. Although he still had ammunition remaining in the old magazine, SA [redacted] stated he did not want to fire to the lock-back position. After reloading, SA [redacted] took a low position and SA [redacted] took a high position behind cover on the north side of the door. SA [redacted] stated he looked behind him and saw SA [redacted] with a weapon aimed at the door. During this time, SA [redacted] recalls discussions and concerns about potential crossfire. The agents were also concerned that the subject would make a run toward the door. b6 b7C

After SA [redacted] and the other agents backed away from the door, SA [redacted] radioed the agents in the Red Roof Inn area that shots had been fired. SA [redacted] also radioed the Detroit Field Office that shots had been fired and requested assistance from the Warren Police Department (PD) (1:47 p.m. according to Warren PD incident report). SA [redacted] requested additional support and back-up, as well as emergency medical service support. SA [redacted] spoke to SAC MARTINOLICH, who was en route to the scene with ASAC STAPLETON, regarding the status of the scene. He advised SAC MARTINOLICH that he had requested emergency medical service, SWAT personnel, and Evidence Response Team personnel to the scene.

At the time of the shooting, SAs [redacted] and [redacted] were returning to the motel office to obtain housekeeping uniforms and a pass key for use in the original plan. SAs [redacted] and [redacted] were not aware of the new arrest plan. Upon hearing the shots fired, SA [redacted] instructed the motel manager to notify the Warren PD. b6 b7C

After the initial volley fired by ROWSON and the agents' return fire, the agents backed away from the doorway with the door remaining open. The agents and officer who had been on the north side of the door took a position along the concrete wall in the breezeway. The agents and trooper who had been on the south side of the door beneath the window retreated to the south. From that point forward, there was no noise or response to the agents' commands for ROWSON to exit the room. The door remained open during the ensuing standoff. The agents maintained cover of the doorway and attempted to call ROWSON out of the room.

Numerous attempts were made to contact ROWSON by hostage negotiators with negative results. After consultation with hostage negotiators, SAC MARTINOLICH arranged for several relatives of ROWSON to be brought to the scene in the event that these individuals were needed in the negotiations. Attempts to make contact with ROWSON in the room included telephone, voice commands, bullhorn with the telephone, and bullhorn without a telephone. Efforts were also made to ensure that ROWSON could not climb into the rafter area of the motel and come out into another room. Eventually, ROWSON's mother was brought to the scene and provided with a bullhorn in an effort to talk ROWSON out of the motel room. These efforts were terminated after receiving no response from ROWSON.

Finally, at approximately 4 p.m., a Michigan State Police dog handler sent in a dog to determine if ROWSON was still alive in the room. The dog's response upon entering and exiting the room indicated that there was not a live moving person in the room. Thereafter, the SWAT team entered the room and found ROWSON apparently dead in the bathroom. ROWSON was slumped against the tub with a semiautomatic pistol (in the cocked position) resting on his chest underneath his hand, but not in his hand. An emergency medical team entered and confirmed that ROWSON was deceased. At that point, the crime scene was secured.

According to the autopsy report of the Macomb County Medical Examiner, it was determined that ROWSON died of two gunshot wounds to the head. There was an entry wound under ROWSON's chin in which the bullet exited through the nose. It was later determined by FBI Laboratory examiners who conducted an examination of the crime scene, that this bullet traveled through the ceiling of the bathroom, continuing through the roof of the motel. This bullet could not be located. ROWSON also had a gunshot wound which entered the right temple area and exited the left head area. Bullet fragments, presumably from this wound, were recovered from the bathroom wall, and were identified by the FBI Laboratory as having been fired from ROWSON's pistol. The medical examiner certified the death as a suicide.

b6
b7C

The FBI Laboratory examinations of the scene, as well as bullets, bullet fragments, and cartridge cases recovered from the scene, determined that ROWSON fired six (6) shots, and SAs [redacted] and [redacted] fired seven (7) shots each. One bullet fired by ROWSON passed through the open doorway of Room 248, through the second floor balcony wall, and struck a parked car in the parking lot.. This bullet could not be found.

SAC MARTINOLICH was interviewed and advised that on 11/20/96, at approximately 1:10 p.m., he was in the office on the 25th floor speaking with SA [redacted] regarding the status of the investigation. He had earlier decided to reassign six agents to the investigation, which included two agents to handle other reactive crime matters which might occur during the day. During this briefing, SA [redacted] advised SAC MARTINOLICH that the investigation had focused on the Red Roof Inn where ROWSON had possibly frequented or made telephone calls from. SAC MARTINOLICH was not advised that the investigation to locate ROWSON at the Red Roof Inn had narrowed to Room 248 based on an identification made by a pizza delivery man, or that an attempt to make entry and arrest ROWSON was eminent. SAC MARTINOLICH stated that he is not normally notified of all arrests. He is notified prior to any high-profile arrests where there is a high propensity for violence. A few minutes later, a radio dispatch on a FBI Handi-Talkie, which was in the C-4 squad area, alerted SA [redacted] of the shooting at the Red Roof Inn. SA [redacted] or one of the squad agents immediately advised SAC MARTINOLICH.

SAC MARTINOLICH immediately initiated the Detroit Division's Crisis Management Plan, contacted the Chief Division Counsel to initiate the Agent Involved Shooting Plan, and proceeded immediately with ASAC STAPLETON to the scene. While en route, SAC MARTINOLICH received updates from the scene from SA [redacted] who was instructed to seal the perimeter at the scene. SAC MARTINOLICH also initiated a call-out of the Detroit Division's SWAT team and hostage negotiators.

Upon arrival at the scene, SAC MARTINOLICH directed SWAT personnel to review and expand upon the inner perimeter surrounding the motel, and he secured two motel rooms to be utilized as a command post. SAC MARTINOLICH instructed SSA [redacted] to enhance the inner perimeter, and once the inner perimeter was secured, to then further secure the secondary perimeter at the scene. A briefing was held with the Warren Deputy Police Chief who had arrived at the scene, and an emergency assault plan was developed with the hostage negotiators, SWAT team leader, Deputy Chief, and ASAC. SAC MARTINOLICH also toured the key areas of the scene, providing directions to agents and other personnel involved in the investigation. SAC MARTINOLICH, once at the scene, removed SA [redacted] from active participation in the crisis. Later, while at the scene, SAC MARTINOLICH spoke with SA [redacted] regarding the incident. SA [redacted] was instructed to leave the scene due SA [redacted] currently operating as an undercover agent in another investigation. Both agents were later provided assistance through the Employee Assistance Program.

b6
b7C

Mr. Gore 9/6/96

D. R. Knowlton

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/3/96
LITTLE ROCK DIVISION

Reference report of Assistant Special Agent in Charge (ASAC) William C. Temple, dated 7/15/96. b6 b7C

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That Personnel Division (PD), Administrative Summary Unit (ASU) forward a letter of censure to SA [redacted] for his violation of the deadly force policy. The letter of censure should include pointed language regarding SA [redacted] failure to wait for additional assistance or attempting the arrest on another day.

66-19157-25
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1- Mr. [redacted] 5129)
2 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. Shapiro, Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted], Room 7326)
1 - Mr. Knowlton, Room 7825
1 - Mr [redacted], Room 4042
1 - Mr. Biehl, DOJ
1 - Ms. Ginsburg, DOJ
LRR:lrr (16)

1 - Mr [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted], Room 7837

b6
b7C

(CONTINUED - OVER)

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/3/96
Little Rock Division

DETAILS: On 8/20/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Chief Inspector David R. Knowlton, Office of Inspections, Inspection Division; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Jessica A. Ginsburg, Acting Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms Training Unit, Training Division; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Budget Unit, Operational Support Section, Criminal Investigative Division; and, [redacted] Supervisor, WMFO. Non-voting attendees were: William D. Gore, Assistant Director, Inspection Division; [redacted] Inspector, Office of Inspections, Inspection Division; [redacted] Immigration and International Investigations, U. S. Immigration and Naturalization Service; and, [redacted] Inspection Analyst, Office of Inspections, Inspection Division. b6 b7C

## Synopsis of the Shooting Incident

On 7/3/96, SAs [redacted] and [redacted] were involved in a search for fugitive [redacted] near Shell Knob, Missouri. This search was in response to a lead furnished by the Milwaukee Division to Little Rock dated 5/29/96.

On 7/2/96, SA [redacted] traveled to Berryville, Arkansas, to cover an "America's Most Wanted" lead regarding fugitive [redacted] Based on the lead, SA [redacted] went to Langley's Floor Covering in Berryville. He determined that [redacted] had done work for this company and was scheduled to perform work for a competitor in Missouri the following day. [redacted] walked into Langley's Floor Covering while SA [redacted] was at the business. SA [redacted] was unarmed at the time and the owner of the company took [redacted] into the back of the business out of SA [redacted] sight. SA [redacted] walked outside and got the license tag number from [redacted] van. He went to his Bureau vehicle and armed himself with his Bureau issued Sig Sauer P-228 pistol. A short time later [redacted] left the business, got into his van and drove off. SA [redacted] loosely followed [redacted] and decided not to attempt an arrest at that time. According to SA [redacted] b6 b7C

the arrest was not attempted at that time because he knew that [redacted] was carried as "Armed and Dangerous", he was alone and did not know if [redacted] was armed at that particular time, the owner of the business asked SA [redacted] not to arrest [redacted] at his business, and SA [redacted] felt that he had good information where [redacted] would be the following morning and knew that he could obtain appropriate assistance to make the arrest at that time. SA [redacted] telephonically contacted SA [redacted] who had previously covered leads in the case. SAs [redacted] and Edenfield decided they would drive to Shell Knob, Missouri, the following morning to attempt to arrest [redacted] SA [redacted] made appropriate contacts within the Little Rock and Kansas City Divisions to obtain approval for traveling to Missouri.

Each SA drove his Bureau vehicle to Shell Knob during the early morning hours of 7/3/96, and arrived prior to 6:30 a.m. A surveillance began of a business known as Totally Home, which was the business where Rowe was supposed to work that day. At approximately 8:00 a.m., a female named [redacted] pulled into the parking lot of the business. SA [redacted] spoke with her and determined that [redacted] was a contract employee. SA [redacted] requested that [redacted] page [redacted] with instructions that if [redacted] called back she was to have him come to the business at approximately 10:00 a.m.

SAs [redacted] and [redacted] spoke with [redacted] who advised that [redacted] was supposed to be working at a job site in Viola, Missouri, located approximately five miles south of Shell Knob. The Agents, accompanied by Mr. [redacted] went to Viola, however, [redacted] was not at the job site. SA [redacted] remained at the job site while SA [redacted] accompanied Mr. [redacted] to a second business location on the south side of Shell Knob. At 8:59 a.m., [redacted] assistant walked into the showroom, which was occupied by other employees and customers, while SA [redacted] was in an inner office. Mr. [redacted] went into the showroom to meet [redacted] assistant and they left through the front door. SA [redacted] went to the front door of the business and observed [redacted] sitting in the driver's seat of his van. Mr. [redacted] came back inside and stated that they needed to go to the business' north location to get carpet tape. SA [redacted] followed their vehicles and called SA [redacted] on the Bureau radio and told him to get to his location as soon as possible. As SA [redacted] was parked approximately 500 yards away from the business location, SA [redacted] advised that he was enroute to this location but was blocked by trucks.

b6
b7C

b6
b7C

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/3/96
Little Rock Division

SA [redacted] retrieved his Remington 870 shotgun from the trunk, placed it in the vehicle seat beside him and continued his observation of [redacted] and two additional individuals at the business.

SA [redacted] observed the individuals preparing to leave the location, drove down a hill to the business, and blocked the exit of the van. [redacted] assistant was in the passenger seat and [redacted] was standing outside the business talking to Mr. [redacted] SA [redacted] left his vehicle with his shotgun and announced to [redacted] that he was with the FBI. [redacted] ran across the highway into a heavily wooded area behind another business. SA [redacted] chased him for a short time and then returned to his Bureau vehicle. He contacted SA [redacted] on the radio and advised that [redacted] had fled into the woods. SA [redacted] drove his car to the area where he saw [redacted] enter the woods and walked into the woods for approximately 150 to 200 yards but never sighted [redacted] SA [redacted] arrived on the scene and walked into the woods to join SA [redacted] They discussed the situation and decided to split up to search for [redacted] The search lasted for approximately five minutes when they met on a nearby road. At that time, they observed a pickup truck coming toward them from the northwest and also saw a man, believed to be [redacted] standing in the road directly in front of the truck. He was waiving his arms, apparently in an attempt to stop the vehicle. The driver went around [redacted] and did not stop. [redacted] turned and looked at the Agents and ran back into the woods. The SAs drove their vehicles to the area that [redacted] entered the woods. SA [redacted] stayed in this area while SA [redacted] proceeded back to the main highway where [redacted] initially entered the woods. SA [redacted] drove to a house located across the highway and asked the occupant to contact the Barry County Sheriff's Office for assistance.

b6
b7C

SA [redacted] entered the woods next to the house and walked approximately 200 yards carrying his shotgun. He saw a movement and observed [redacted] approximately 40 to 60 feet away. [redacted] turned and walked rapidly toward a convenience store and SA [redacted] followed him. When [redacted] realized that he was being pursued, he began running. SA [redacted] announced that he was with the FBI and advised [redacted] to stop. [redacted] made a slight turn around some of the undergrowth in the woods and as SA [redacted] made the same turn he lost sight of [redacted] and could not hear anything. Realizing that he was in a potential ambush situation, SA [redacted] fired one round of Federal 00 buck from the shoulder position into the thicket that he thought could be the potential ambush site. According to SA [redacted] the shot was not a warning shot as he

b6
b7C

was attempting to neutralize the subject who he perceived to be lying in wait for an ambush.

After taking the shot, SA [redacted] observed [redacted] coming up a slight ravine about 30 to 40 feet on the other side of the thicket. [redacted] ran across the highway to a convenience store and unsuccessfully attempted to steal two vehicles then ran to the front of the convenience store and entered a Chevrolet pickup with a boat in tow. As the truck sped off, SA [redacted] was running and was approximately 20 feet behind. He observed the head of a small child coming up in the cab through the rear cab window. He also saw a man run out of the store and jump on the rear bumper of the truck. The man managed to crawl into the bed and move forward to the cab, reached through the rear window and grabbed [redacted] by the throat or head. [redacted] struggled with the man and slowly came to a stop shortly before entering the highway. The man pulled the child out of the cab through the rear window and SA [redacted] ordered [redacted] out of the truck. [redacted] was placed under arrest and turned over to the custody of the Barry County Sheriff's Office.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The first item discussed by SIRG members about this incident was the fact that it was an intentional discharge on the part of SA [redacted] Members pointed out that the "imminent danger" element contained in the deadly force policy was not present during this incident; therefore, the use of deadly force by SA [redacted] was not justified. Members recommended that SA [redacted] be given a letter of censure for his violation of the deadly force policy.

b6
b7C

The second issue discussed involved the safety of SAs during this incident. Members unanimously agreed that there was no urgency in arresting the subject on that particular day and that SA [redacted] could have waited for backup or could have obtained assistance from local law enforcement authorities in the area. The discussion centered on the fact that the area was unknown to the SAs involved and that solo arrests place law enforcement officers

in great jeopardy. It was also noted by SIRG members that a request was made for an agent in the Joplin, Missouri RA to assist; however, the office was too busy with applicant and other matters to lend assistance. Members reiterated the fact that since the location of [redacted] was known, the arrest could have been attempted on another day or at a minimum, SA [redacted] should have waited for other law enforcement personnel to arrive on the scene. b6 b7C

FD-204 (Rev. 12-1-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: Chicago
Date: September 24, 1996

Case ID #: 66-191576

b6
b7C

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
BUFFALO DIVISION
AUGUST 15, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis:

This shooting incident was a result of an investigation of a suspected bank robber and his accomplice wife who were suspected of committing bank robberies in the Syracuse, New York, area. The Syracuse RA out of the Albany Division had advised the Rochester RA, Buffalo Division that the suspects were casing banks in the Henrietta, New York area, which is a southern suburb of Rochester.

Over a period of years, the Syracuse RA had developed information that the subjects were the prime suspects in a number of bank robberies. The investigation involved up to nine bank robberies going back over a five year period.

The bank robberies committed by PETERSEN had become progressively more violent with subject PETERSEN, utilizing and firing a weapon on several occasions and using military smoke grenades to effect his escape on at least two occasions.

For several days prior to August 15, 1996, the Buffalo Office, Rochester RA, in close coordination with the Albany Office, Syracuse RA, had surveilled the subjects in the area of Henrietta, New York. The Buffalo SWAT team had been called out on four separate occasions

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

b6
b7C

in preparation for an anticipated arrest of the subject PETERSEN prior to his attempting another bank robbery. Surveillance units anticipated making the arrest of his wife and accomplice [redacted] who would be in a separate vehicle, some distance from the victim bank, and in two-way radio contact with PETERSEN.

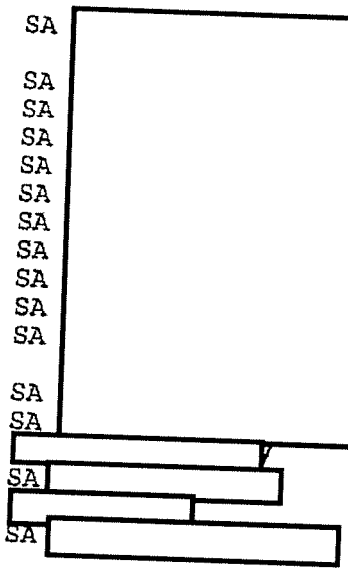
At approximately 10:00 AM to 10:30 AM August 15, 1996, SSRA [redacted] Rochester RA, received a call from the Syracuse RA alerting him that surveillance units were following the subjects and they appeared to be traveling back to Rochester's territory. SSRA [redacted] notified ASAC WOOLLEY, as SAC WOLFINGER was in San Diego for the Republican National Convention, and the SWAT and surveillance teams were alerted and briefed with the updated information. The SWAT Team practiced felony car stops while surveillance units monitored the subject's activities throughout the day. Preferable locations for making the felony car stop were identified and numerous briefings were held to plan the arrest, provide intelligence, and give instructions to all participants.

PETERSEN and his wife had been under observation for several days by the Rochester and Syracuse surveillance teams and specificaly observed throughout the day of August 15, 1996, preparing to rob a bank in the vicinity. These observations included seeing him place a stolen switch vehicle in a parking lot, changing license plates, dressing up in preparation for a robbery to include seeing him put on a bullet proof vest and a two way radio which he was known to have previously utilized. By monitoring his movements and observing his activities, enough probable cause was developed to arrest the subjects for attempted bank robbery.

The shooting incident occurred when the Buffalo SWAT team effected a felony car stop at approximately 4:30 PM and attempted to arrest subject RONALD ERIC PETERSEN while he was parked in a stolen van. Upon being confronted by the SWAT Agents, PETERSEN was non-compliant. After what was described as approximately one to one and a half minutes, during which he was observed looking around, claiming he couldn't hear the commands and lowering his hands after continuously being directed to keep them up, PETERSEN suddenly chose to rapidly accelerate his vehicle directly at several Agents positioned in front of the van. This caused the Agents to direct their fire at PETERSEN in order to protect themselves and/or their fellow Agents. The statements obtained, unanimously recounted that the shooting began almost instantaneously with the sudden movement of the van and that all the Agents began firing within moments of each other so that it was indistinguishable as to who fired first.

PETERSEN's van lunged forward 10-15 feet, then suddenly turned sharply, making almost a 90 degree right turn. The van traveled approximately 75 yards when it came to rest upon striking a brick wall of a building. It was estimated that the van was traveling at 30-40 mph when it hit the building. Approximately 87 to 89 shots were fired by the Agents. PETERSEN did not fire any of his weapons. Subject PETERSEN was pronounced dead on the scene, the cause of death was later determined to be multiple gun shot wounds.

The following is a list of Special Agents involved in the shooting and the weapons and number and type of rounds they fired:



| | | |
|---|---|---|
| SA | Remington 870 Shotgun 14" barrel | 2 gas ferret rounds |
| SA | H&K, MP-5 10 mm. | No rounds |
| SA | Sig Sauer 228 9 mm. | 3 rounds |
| SA | Sig Sauer 226 9 mm. | 1 round |
| SA | Sig Sauer 226 9 mm. | 6 rounds |
| SA | Sig Sauer 9 mm. | 14 rounds |
| SA | H&K, MP-5 9 mm. | 23 rounds |
| SA | Sig Sauer 228 9 mm. | 11-13 rounds |
| SA | H&K, MP-5 10 mm. | 6 rounds |
| SA | Sig Sauer 228 9 mm. | 5 rounds |
| | Remington 870 shotgun 14" barrel | No rounds |
| SA | H&K, MP-5 10 mm. | 12 rounds |
| SA | Sig Sauer 226 | 2 rounds |
| SA | Remington 870 shotgun 14" barrel (.00 buck) | 4 rounds |
| SA | Sig Sauer 228 9 mm. | No rounds |

b6
b7C

Total rounds fired 87-89 (does not include 2 gas rounds)

| | |
|---|---|
| 9 mm. | 65-67 rounds |
| 10 mm. | 18 rounds |
| .00 buck | 4 rounds |

All personnel utilized Bureau issued ammunition and all weapons functioned properly. All personnel were qualified with their respective weapons. All personnel were members of the Buffalo SWAT Team, alternate SWAT team members, or firearms instructors.

The ASAC was on the scene and immediately made appropriate notifications. Local law enforcement entities were also contacted as the New York State Police processed the scene and the Monroe County Sheriff's Department, New York, Bomb Squad responded when explosive devices were located in the van. PETERSEN's wife, [redacted] was arrested by surveillance personnel at another location without incident. Her subsequent interview confirmed that PETERSEN was about to rob a bank and was involved in several previous robberies. [redacted] also noted that PETERSEN was committed to resisting if confronted by law enforcement.

Search warrants were executed for all the vehicles, PETERSEN's residence and storage unit. Searches recovered a cache of weapons and explosives, as well as notebooks, maps, masks, license plates, and clothing linking PETERSEN to previous robberies. b6 b7C

[redacted] was arrested on one count of conspiracy to commit bank robbery. Pursuant to Rule 40 prosecution will be deferred to the Northern District of New York (Syracuse) from the Western District of New York (Rochester).

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 10/21/1996

To: Inspection Division Attn: William D. Gore

From: Inspection Division
Contact: [redacted] Extension 1837

Approved By: Gore William D
Lusby Thomas

Drafted By: [redacted] lrr

Case ID #: 66-19157-31

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/6/96
NEWARK DIVISION

Synopsis: To advise of a shooting incident involving SA [redacted] SA [redacted] who is assigned to the Washington Field Office, shot and killed a dog while on vacation in New Jersey.

Details: Reference report of Supervisory Senior Resident Agent (SSRA) [redacted] dated 9/18/96. b6 b7C

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

On 10/9/96, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; Dana D. Biehl, Deputy Section

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. [redacted] Room 4340)
3 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. [redacted] Room 6050)
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. Knowlton, Room 7825
1 - Mr. [redacted] Room 4147

1 - Mr. Biehl, DOJ
1 - Ms. Ginsburg, DOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

To: Inspection Division From: Inspection Division
Re: 66-19157-31, 10/21/1996

Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Jessica A. Ginsburg, Acting Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; [redacted], Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted], Unit Chief, Policy Planning and Analysis Unit, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted], Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted], Supervisor, Washington Field Office. The two non-voting attendees were: SSA [redacted], Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted], Inspection Analyst, Office of Inspections.

## Details of the Shooting Incident

At approximately 10:45 a.m, on 9/6/96, SA [redacted] and his wife returned from the Department of Motor Vehicles in Lakewood, New Jersey, to a family home located at [redacted] SA [redacted] took his dog for a walk in the backyard. The dog was on a leash and upon entering the backyard SA [redacted] heard the neighbor's two Rottweiler dogs began barking and saw them run from the side of the neighbor's house. The larger Rottweiler was running towards the fence between the properties, ran up a woodpile next to the fence, jumped the fence, and charged snarling and baring his teeth at SA [redacted] and his dog. SA [redacted] drew his Bureau Sig Sauer P226 from his fanny pack holster and fired three rounds at the Rottweiler. The dog staggered about 30 feet and died.

b6
b7C

Appropriate local authorities were contacted and responded to the scene of the shooting, as did members of the Red Bank Resident Agency. All witnesses were interviewed and the scene was photographed. The deceased Rottweiler was removed to the Jersey Shore Animal Hospital.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational

standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The SIRG unanimously agreed that this shooting incident involved an intentional discharge of SA [redacted] weapon and that the use of deadly force was justified.

LEAD(s):

b6
b7C

Set Lead 1:

ALL RECEIVING OFFICES

That no administrative action be taken against SA [redacted] as a result of this shooting incident.

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 1/21/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William [redacted]
Lusby Thomas [redacted]

**Drafted By:** [redacted] :lxr

**Case ID #:** 66-19157-31

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/16/96
NEWARK DIVISION

**Synopsis:** To advise of a shooting incident on 9/16/96, in the Newark Division. SA [redacted] fired two rounds striking a dog that he believed to be an immediate threat to inflict serious bodily injury.

**Details:** Reference report of Supervisory Special Agent [redacted] dated 10/31/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
3 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 4147

1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO
1 - Mrs. [redacted] Room 7861

## Details of the Shooting Incident

SA [redacted] was a member of an arrest team assigned to assist in the execution of an arrest warrant in Jersey City, New Jersey on 9/16/96. The arrest was part of "OPERATION NORLOCK", a multi-state undercover truck hijacking case involving 85 subjects.

SA [redacted] along with several task force members, was assigned to cover the rear of the Courtesy Truck Stop located on Duncan Avenue in Jersey City. After exiting their vehicle and proceeding to the rear of the building, SA [redacted] and his partner, Detective [redacted] of the Port Authority Police of New York and New Jersey, were confronted by two large dogs. One of the dogs lunged at SA [redacted] When the dog lunged at him, SA [redacted] fired two rounds from his Bureau issued Smith and Wesson 10mm semi-automatic pistol striking the dog at least once. The dog yelped, spun around and ran out of sight. The owner of the dog was subsequently located and advised that the dog did not die nor was medical attention provided to the animal as a result of being shot by SA [redacted]

b6
b7C

On 1/16/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted], Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted], Supervisor, Washington Field Office. The only non-voting attendee was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2)

provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified. The only observation made by the SIRG involved the fact that SA [redacted] fired two rounds from his weapon; however, only one round hit the lunging animal. Members noted that the second round was not located or documented in the shooting report, nor did the on-scene personnel ascertain if any persons were injured as a result of this shooting incident. The SIRG recommended that no administrative action be taken against SA [redacted] as a result of this shooting incident. b6 b7C

LEAD(s):

Set Lead 1:

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

♦♦

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: FBIHQ
Date: April 18, 1996

Field Office File #:

Bureau File #: 66F-HQ-19157-37

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
PHILADELPHIA DIVISION
MARCH 22, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis:

In February of 1994, [redacted] white/male, DOB [redacted] was arrested in a Landsdale Resident Agency (LRA) case involving the sale of 1,900 pounds of marijuana. He was convicted and is facing a long sentence.

In January of 1996, [redacted] the name JONATHAN M. CRAMER came up as having access to multi kilograms of cocaine. SA [redacted] was named the case Agent. b6 b7C b7D

On 1/30/96 [redacted] met with CRAMER at his (CRAMER's) office in Philadelphia and discussed the purchasing of cocaine from CRAMER. CRAMER discussed his sources and indicated that he had access to kilograms of cocaine.

On 2/13/96, [redacted] telephone conversation to CRAMER. CRAMER stated he would wait for [redacted] to come up with the money before he would contact his source for the cocaine.

On 2/14/96, [redacted] meeting with CRAMER at his (CRAMER's) home in Philadelphia. CRAMER appeared to be smoking marijuana and stated he was not clear on how much a kilo of cocaine sold for, since he hadn't bought one in two years. [redacted] stated that his sources would put someone on a train with the money to make the purchase. They discussed going to a hotel room to make the deal. CRAMER exhibited a GLOCK pistol and

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

stated that he just obtained it, for his protection. They discussed charging $30,000 for one kilo of cocaine. They then discussed doing the deal in CRAMER's home, rather then in a hotel. [redacted] suggested doing it in the food court at the 30th Street station in Philadelphia. CRAMER wanted to do it in a hotel room. They decided that [redacted] would take his money man from the train station to a hotel, and he would then go to CRAMER's house with the money. After checking out the quality of the cocaine, a price would be arrived at, and they would split the difference between the $30,000 and the sale price. [redacted] asked CRAMER (who had continued smoking marijuana during this time) to get "straightened out so you're not too confused here movin' around." [redacted] would advise CRAMER when they would do the deal.

On 3/11/96, [redacted] with CRAMER in his [redacted] car. The details were worked out for the Friday 3/15/96 drug buy to be conducted in a hotel room. CRAMER asked [redacted] numerous questions about [redacted] earlier arrest and why he is out. CRAMER indicated a lack of trust in [redacted] and told him that he carries a gun during drug transactions.

b6
b7C

During the week of 3/11-15/96, various meetings were held to plan the 3/15/96 buy/bust operation. They culminated in a written plan dated 3/13/96. This plan called for [redacted] to contact CRAMER and advise him that the $30,000 had arrived. CRAMER and [redacted] would then meet on 3/15/96 at 1:00PM and discuss the transaction. The conversation would be recorded, and they would be under surveillance. [redacted] would be instructed not to travel in any vehicle provided by CRAMER or anyone else. [redacted] would tell CRAMER that the money was at the 30th Street train station, and they had to take the cocaine there. CRAMER was to be further told that the courier's time was limited in that he had to board a train at 4:05PM en-route to Washington, D.C. The SA assigned to the money would not leave the public area of the train station for any reason. The subject, who was considered Armed and Dangerous, was to be arrested after the transaction was consummated. Due to the absence of SSRA [redacted], this plan was sent by SA [redacted] the acting SSRA, to ASAC BERNARD A. TOLBERT for approval. ASAC TOLBERT instructed SA [redacted] that the train station was a public place, and, therefore, he did not want the buy/bust to occur there. The arrest was to take place in a hotel room. It was decided that SA CHARLES L. REED would play the role of the drug purchaser and would carry the $30,000 of show money to the meet. [redacted] was advised to set up a meeting with CRAMER for early afternoon on 3/15/96 to be held in a room in the Holiday Inn. He did so, and it was set for 1:00PM.

b6
b7C

On 3/15/96, CRAMER called [redacted] in mid-morning and stated that he had a kilogram of cocaine to sell but not until 4:00PM. [redacted] said that was too late in the day, and the deal was going to fail. At noon, CRAMER called back and said he had another seller named [redacted] and they agreed to meet outside the MULBERRY RESTAURANT at 1:30PM. [redacted] advised SA [redacted] of this change. In addition to SA REED, eight other SAs participated in this meet. [redacted] and SA REED drove to the meeting spot in [redacted] car. SA REED got in the back seat and CRAMER in the front. SA REED showed CRAMER the money, which was in the same briefcase utilized by [redacted] in the 3/11/96 meet. At this point, CRAMER directed [redacted] to drive to GARGOYLES RESTAURANT. During the course of this meet, [redacted] believed he spotted surveillance and told his associate, [redacted] The deal then went from a kilo to only an ounce of cocaine. During the negotiations, CRAMER told SA REED, "I could rip you off very easily." SA REED later stated that he believed CRAMER was carrying a gun. SA REED declined the offer to buy less then a kilo and the deal terminated. On the way back to the assembly point, CRAMER called [redacted] up and offered to sell half a kilo of cocaine. [redacted] was instructed by SA REED to say no, that SA REED had to catch his train, and he would get back with him. At the assembly point, [redacted] was instructed to call CRAMER back to keep him interested in future deals. When CRAMER got on the line, [redacted] turned over the phone to SA REED. CRAMER stated that he had a kilo to sell and that he was at the train station. CRAMER then asked where he and [redacted] were. SA REED handed the phone to [redacted] who said they would meet at the train station's McDONALD'S. No meet was attempted.

On 3/17/96, [redacted] made an unrecorded call to CRAMER and told him that the reason they had not met at McDONALD'S was that [redacted] was nervous. [redacted] went on to say that he had to drive all the way home to Virginia.

b6
b7C

During 3/18-19/96, a series of meetings took place concerning how to proceed next in this case. SSRA [redacted] decided that more information needed to be gained as to CRAMER's cocaine sources. It was decided there would be a lunch meeting with CRAMER. The purpose of the meeting was to gather intelligence prior to deciding whether to proceed with the case or refer the investigation. At the meeting CRAMER was to be instructed not to carry a gun to any future meetings. Along with the CW, SA REED would attend the meeting in order to develop a direct relationship with CRAMER and ease the [redacted] out. [redacted] was instructed to set up a lunch meeting with CRAMER. The lunch date was set for noon on Friday.

On 3/22/96, SA [redacted] SA REED, and SA [redacted] met with [redacted] and went over the purpose of the meeting. A transmitter was placed on SA REED and [redacted] The same briefcase

that had been used by [redacted] on 3/11/96 and SA REED on 3/15/96 was given to SA REED with a NAGRA tape recorder concealed inside. It was decided that instead of lunch they would hold the meeting in a quiet spot to ensure a good recording and, for the same reason, SA REED would sit in the back seat with the briefcase sitting upon the drive shaft hump. The parking lot of the COMFORT INN was chosen. At this point, [redacted] with SA REED as a passenger, left in his car to pick up CRAMER. SAs [redacted] and [redacted] followed them.

b6
b7C

CRAMER was picked up by [redacted] at 2nd and Vine Streets in Philadelphia. SA REED moved to the rear right passenger seat and CRAMER got into the front passenger seat. [redacted] then proceeded to the predesignated parking lot at the COMFORT INN. SAs [redacted] and [redacted] followed them and parked behind the hotel out of eye sight, and attempted to monitor the conversations taking place in [redacted]'s car. CRAMER asked about the purpose of this meeting. When [redacted] attempted to answer, CRAMER cut him off and said to SA REED, "Maybe you ought to speak for yourself this time." SA REED replied that they were surprised when CRAMER showed up at the train station at the last meet. CRAMER then asked a series of questions regarding SA REED's cover story. SA REED admitted he did not have a Virginia driver's license but one from Pennsylvania. CRAMER then revealed his reason for suspicion by stating that at the 3/15/96 meeting, "the first thing that happened is [redacted] nickname) and I was supposed to meet and then all the sudden somebody who I've never met before (SA REED) is now in the back of the car. And you're telling me you have to go to Virginia. You don't have a Virginia license and you're not on the train to get to Virginia. Doesn't sound to me like your going to Virginia." SA REED countered with, "But you have to trust [redacted]" CRAMER replied, "I don't have any reason to...at this point. I haven't seen him with any product. I've never seen him with any money." CRAMER then asked to "frisk" SA REED to see if he was wearing a "WIRE." This conversation took place in the very first part of the meeting, and then the talk turned to drugs. They started talking about a future deal and then CRAMER asked to go somewhere in order to check each other for "wires." He asked SA REED if he had ever been arrested. SA REED replied no. CRAMER seemed surprised that SA REED had not been involved as a subject in the case in which [redacted] was arrested. CRAMER then inquired as to the ownership of the briefcase and [redacted] told him that it was SA REED's case. CRAMER apparently recognizing the case from the 3/15/96 meet, said to SA REED, "And there is not money in it this time?" Both [redacted] and SA REED replied "NO." CRAMER responded with, "So why are you bringing a case? I mean it strikes me as a little bit..." CRAMER then asked SA REED to open the case. SA REED replied that he would. Shortly thereafter, while

b6
b7C

apparently opening the case, SA REED announced his intention to arrest CRAMER. At this point, [redacted] exited his vehicle, and the gun fight occurred, unobserved by him.

SA [redacted] heard over SA REED's transmitter SA REED's arrest announcement but thought that SA REED was joking until he heard the gun shots. SAs [redacted] and [redacted] responded to the scene where they saw [redacted] walking towards the rear of his car. [redacted] stated that "they shot each other." SA REED and CRAMER were rushed to hospitals where they were pronounced dead.

b6
b7C

What led SA REED to attempt the arrest is unknown. A holster was recovered from the waist of CRAMER, and it is possible that CRAMER reached for his weapon a .40 caliber GLOCK Model 27 pistol with his right hand (CRAMER's dominant hand). The front seat would have obscured SA REED's vision of this movement by CRAMER. On the recording SA REED is heard shouting, "Hold it! Hold it! Get your hand (singular) up!" Based upon the recorded commands of SA REED, it is apparent that CRAMER was not compliant. SA REED warned CRAMER one last time before the gun fight.

The gun fight lasted approximately three seconds, and in that time, SA REED fired all five rounds from his .38 caliber SMITH and WESSON Model 60 revolver, and CRAMER fired three of the ten rounds he had in his pistol. Due to the short duration of the gun fight, it seems likely that both weapons had been drawn. SA REED's clip-on holster was found on the floor of the vehicle behind the driver's seat. It is unknown where SA REED was carrying his weapon. It is unknown who fired first. It is technically impossible to make that judgement from a NAGRA recording.

Based on witness accounts, a crime scene sketch and photographs, and an autopsy report and photographs, the following reconstruction of the events is suggested. CRAMER was firing from a low crouch in the front passenger seat, possibly between the gap in the front seats. Four bullets hit CRAMER. He was struck in the top of the left shoulder and the upper left arm, which indicates he may have been reaching or blocking with the arm. Two bullets struck CRAMER in the head. One was a split bullet which made two distinct wounds on the right side of the head. The other struck in the middle of the front crown of the head. The bullets struck CRAMER in a downward trajectory indicating that SA REED was firing from a slightly higher position.

SA REED appears to have moved from his earlier position, in the rear seat directly behind CRAMER, to the driver's side, possibly to get a better view of CRAMER. He was found lying across the back seat with his left leg raised in a defensive position. SA REED was struck by three bullets. One bullet struck SA REED in the left thigh, exited the thigh and entered his abdomen. One bullet entered the left side of the abdomen and lodged in his spine. One bullet entered the left side of the abdomen and passed through the heart. The bullets struck SA REED in an upward trajectory, indicating that CRAMER had been firing from a slightly lower position.

Both weapons were fired between one and two feet from entry of the bullets into the bodies. Both weapons were found, side by side, on the passenger side rear floor.

Mr. Gore 9/3/96

D. R. Knowlton

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/2/96
TAMPA DIVISION

Reference report of Supervisory Special Agent (SSA) [redacted] dated 7/16/96.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: (1) That no administrative action be taken against SSA [redacted] as a result of this shooting incident.

b6
b7C

66-19157-64
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1- Mr. [redacted] 5129)
2 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Knowlton, Room 7825
1 - Mr. Doyle, Room 4042
1 - Mr. Biehl, DOJ
1 - Ms. Ginsburg, DOJ
LRR:lrr (16)

1 - Mr [redacted] Quantico
1 - Mr [redacted] MFO
1 - Mrs. [redacted] Room 7837

(CONTINUED - OVER)

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/2/96
Tampa Division

DETAILS: On 8/20/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Chief Inspector David R. Knowlton, Office of Inspections, Inspection Division; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Jessica A. Ginsburg, Acting Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms Training Unit, Training Division; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Budget Unit, Operational Support Section, Criminal Investigative Division; and, [redacted] Supervisor, WMFO. Non-voting attendees were: William D. Gore, Assistant Director, Inspection Division; [redacted] Inspector, Office of Inspections, Inspection Division; [redacted] Immigration and International Investigations, U. S. Immigration and Naturalization Service; and, [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

## Synopsis of the Shooting Incident

At approximately 3:15 p.m., on 7/2/96, SSA [redacted] traveled to the Zack Street News (ZSN) to purchase personal items after a day-long supervisors meeting. While in ZSN, SSA [redacted] observed Freddie Lee Williams arguing with the clerk over change due to him from a twenty dollar bill. Williams and SSA [redacted] had a short verbal exchange and Williams asked [redacted] "Why are you in my face?" SSA [redacted] advised Williams to stop causing trouble, go get a police officer, and settle the dispute. Williams departed the store telling the clerk he would get his money and the clerk would be sorry. b6 b7C

After approximately 30 seconds, Williams reappeared at the front door with a revolver held about waist high. He fired one round which struck SSA [redacted] in the right leg. SSA [redacted] drew his Bureau approved .357 Smith and Wesson revolver and fired two .38 rounds at Williams. One of the rounds struck Williams in the left chest area and he immediately slumped to the ground. Medical personnel, Tampa Police Department Officers and Deputy United States Marshals responded from the courthouse across the street.

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/2/96
Tampa Division

The Tampa Special Agent in Charge and the Assistant Special Agent in Charge were on the scene within 10 minutes of the shooting.

SSA [redacted] was taken to the hospital, treated for his gunshot wound to the leg, and released on 7/3/96. Medical tests show that SSA [redacted] was struck by a bullet which penetrated the fleshy part of his right leg, but did not injure joint capsules or enter the abdominal cavity. Williams was admitted to Tampa General Hospital and died on 7/8/96, of complications from the gunshot wound. Williams was struck in the left chest area by a projectile which struck and broke his collarbone, traveled downward through the upper lobe of his left lung and stopped just under the skin of his lower left back. The second round discharged from SSA [redacted] weapon was located across the street in a gutter.

Freddie Lee Williams was interviewed by the FBI prior to his death. He claimed to have been cheated out of $580.00 in winning lottery tickets held by the clerk at ZSN. Williams admitted that he was carrying a concealed weapon despite the fact that he was a convicted felon. He further admitted being angry after the clerk kept his lottery tickets and was returning to the ZSN with a gun to obtain his money or his lottery tickets. However, Williams advised that he had no recollection of his verbal dispute with SSA [redacted], his firing at [redacted] nor [redacted] shooting him. Witnesses to the incident confirmed that Freddie Williams shot SSA [redacted] and that SSA [redacted] returned fire only after being shot. b6 b7C

It should be noted that the Florida State Attorney declined prosecution in this case advising that SSA [redacted] use of deadly force was justified under Florida law.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that this shooting incident involved an intentional discharge of SSA [redacted] weapon and that the shooting was consistent with the deadly force policy and justified.

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/2/96
Tampa Division

The only observation made by SIRG members pertained to SSA [redacted] statement about his kicking the subject's gun. According to SSA [redacted] as he shot Williams, the subject fell back approximately two feet from where he was standing and landed on his back. The gun, which had previously been in the subject's right hand, landed approximately three inches from his opened hand. SSA [redacted] covered Williams with his weapon not knowing if he had been hit. [redacted] saw Williams' face and observed his open eyes and movement in his hands. At that point, SSA [redacted] kicked the gun away from the subject's hand and walked towards his head. While SIRG members fully concurred that SSA [redacted] followed proper procedures throughout this incident, a comment was made that the subject's weapon should have been secured and not kicked.

b6
b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: Asst Inspector [redacted] Office: INDIANAPOLIS
Date: July 12, 1996

Field Office File #: 66F-19157-21
Bureau File #:

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT,
INDIANAPOLIS DIVISION
JULY 2, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis: This shooting incident was the result of an investigation of two fugitives who had escaped from the custody of an Alabama Deputy Sheriff on 5/20/1996. An investigation had been opened on the disappearance of David James Graham Nichols, a British Army officer who was in the United States for two weeks of training, and who had been reported missing following his rental of a Hertz Rental Car in Denver, Colorado. The shooting occurred at approximately 1:15 PM on 7/2/1996, as Special Agents and other state and local law enforcement officers attempted to arrest [redacted] one of the fugitives. [redacted] exited a pickup truck following a felony vehicle stop. [redacted] failed to apply with commands to halt or stop, and three rounds were fired at him as he attempted to evade capture by fleeing into a heavily wooded area adjacent to where the truck stopped. [redacted] escaped capture for approximately one hour when a canine unit located him in these woods.

b6
b7C

On 6/27/1996, the Indianapolis Office of the FBI was advised that a Ford Taurus automobile rented by the Hertz Corporation in Denver, Colorado, had been located in a lake near Terre Haute, Indiana. An inventory search of this vehicle revealed items belonging to David James Graham Nichols, a Major in the British Armed Forces. Information was also developed that the Terre Haute Police had stopped a truck from which two individuals fled, and left behind extensive items of an evidentiary nature. Included in the items in this truck were the passport and many personal effects of David James

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

then positively identified as being one of the individuals they had just spoken with at the salvage yard.

At this time, SSA [redacted] was en route to the Terre Haute Resident Agency to meet at a staging area at the Indiana State Police Post, to brief the Indiana State Police and the Vigo County Sheriff's Office on the latest developments. SSA [redacted] was advised that a positive identification of subject [redacted] had been made. SSA [redacted] then requested that the SAC deploy the SWAT Team to the area for possible assault on the trailer where both subjects had been located.

SSA [redacted] also made arrangements for the Bureau airplane to conduct an aerial surveillance of the area, for the Indiana State Police to provide a helicopter, and for the Vigo County Sheriff's Office to provide a canine unit in the event a search would be necessary.

As all these plans were being put into motion, and as the SAC, ASAC, and SWAT Team were en route to the staging area at the Indiana State Police Post, SA [redacted] the Bureau pilot circling the area, radioed to all units that three individuals were leaving the salvage yard/trailer area, entering a pickup truck, and departing the area.

b6
b7C

This action by one or more of the subjects caused an immediate change in plans, and SSA [redacted] obtained all information about units available to respond, and access roads to and from the general area of the trailer and salvage yard.

At approximately 1:15 PM, SSA [redacted] decided to execute a felony car stop on the pickup truck driven by an individual known to be a boyhood friend of subject [redacted]. Based on observations by SA [redacted] it was believed that subject [redacted] was a passenger in this truck. Accordingly, SSA [redacted] and SA [redacted] took the lead in following this truck and initiated a felony car stop, with Detective [redacted] and Corporal [redacted] from the Marion County Sheriff's Office immediately behind them, followed by SAs [redacted] and [redacted]. Also at the scene was an Indiana State Police vehicle which had just passed the truck from the opposite direction. This Indiana State Police vehicle was occupied by Indiana State Trooper [redacted] and [redacted] the Chief Deputy of the Vigo County, Indiana Sheriff's Office. As the driver of the truck pulled the truck to the side of this narrow rural road, the passenger jumped out of the truck and immediately began running toward the cover of woods. This individual was immediately identified as subject [redacted] and ordered to halt and stop, with both police and FBI being named. Subject [redacted] failed to heed these commands, and Corporal [redacted] fired one round at subject [redacted] followed by SA [redacted] firing two rounds at subject [redacted] All three rounds missed [redacted] and he was able to

escape into the woods for approximately one hour. Subject [redacted] was later captured following a canine unit locating him and attacking him. No weapons were found on the person of [redacted] at the time of his arrest.

SA [redacted] fired two rounds from the personally owned Sig Sauer P228 Bureau approved weapon assigned to SSA [redacted] SA [redacted] had left his Bureau assigned weapon, a Sig Sauer P226, by mistake in the Indianapolis Office of the FBI in his rush to get to the site and deliver updated photographs of both subjects and deliver an undercover vehicle for possible use there. Corporal [redacted] fired one round from a Glock .40 millimeter weapon, which is the weapon assigned to him by the Marion County Sheriff's Office. b6 b7C

SSA [redacted] was on the scene at the shooting and in charge pending the arrival of SAC Alford and ASAC Ratliff. ASAC Ratliff arrived within five minutes of the shooting, while SAC Alford arrived approximately one-half hour later. Following the shooting, SSA [redacted] took possession of the weapon SA [redacted] had fired. SSA [redacted] later turned this weapon over to ASAC Ratliff, who, in turn, turned it over to SAC Alford. SAC Alford maintained this weapon in his Bureau vehicle until the next day, when he turned it into SA [redacted], the Principal Firearms Instructor for the Indianapolis Division.

Subject [redacted] evaded capture on 7/2/1996, but was arrested without incident on the next day, 7/3/1996, by the Indiana State Police and Vigo County Sheriff's Office, who received a tip from the driver of the pickup truck in which subject [redacted] had been riding the previous day, that subject [redacted] was sleeping in the back of a salvage vehicle at the salvage yard. Unlawful Flight to Avoid Confinement (UFAC) charges had been filed against those subjects, and were the basis for the arrest, coupled with the local warrants filed in Alabama. Federal kidnapping and/or murder charges will be filed either in Indiana or New Mexico, where it is believed that subject [redacted] and [redacted] killed British officer David James Graham Nichols. b6 b7C

It is noted that subject [redacted] following his capture on 7/2/1996, confessed to not only the escape from the Alabama State Prison, the commandeering of a truck, and flight to New Mexico, but also to the kidnapping and murder of British officer Nichols. [redacted] advised that he and [redacted] had fled to New Mexico, had run out of money, and nearly out of gas in the truck that they had stolen. They decided to wait at a rest stop north of Albuquerque, and to rob the next person who came into the rest stop. Although two vehicles came into the rest stop ahead of British officer Nichols, these vehicles did not stop. When Nichols entered the rest area, he got out of his vehicle, went to the trunk, opened the trunk and was getting something out of it when subjects [redacted] and [redacted] approached him with one of the

nine millimeters stolen from the Alabama Deputy Sheriff, and robbed him at gunpoint. They then threw him into the trunk of the vehicle, drove around for awhile before coming back to the rest area, and then took Nichols out of the trunk. They had him walk a short distance into some woods where, according to [redacted] then fired one round into the back of Nichols' head. After Nichols fell on the ground, [redacted] fired one additional round between Nichols' eyes. [redacted] then drug Nichols' body a short distance and tried to bury him by covering him up with rocks. Subject [redacted] tentatively has agreed to testify against [redacted] and is asking for leniency in not having the death penalty sought against him if he does testify and locates the body of Major Nichols for the FBI. This matter is being discussed between the United States Attorney's Office in New Mexico and Indianapolis. b6 b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: Inspector [redacted] Office: FBIHQ
Date: February 6, 1996

Field Office File #: 66-19157-10 Bureau File #:

Title:
SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
CINCINNATI DIVISION
JANUARY 18, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis:

This shooting incident was a result of an investigation of a multi-faceted investigation involving bank robberies and an Unlawful Flight to Avoid Prosecution (UFAP) warrant for [redacted] and his associate [redacted] The shooting incident occurred at 9:49 a.m. on 1/18/96, as Special Agents and Safe Streets Task Force members of the Cincinnati Division attempted to arrest [redacted] He left the residence at [redacted] Columbus, Ohio, and entered a van parked in the back yard near a garage. [redacted] failed to comply with commands to surrender, and moved from the driver's seat toward the back of the van. He was observed in a shooting position and approximately 46 shots were fired resulting in the minor wounding of [redacted]

During December, 1995, [redacted] and [redacted] were identified as prime suspects in the "BOMROB" major bank robbery investigation, Major Case #124. This investigation involved the robbery of 18 banks located in seven midwestern states. In these bank robberies, the robbers left behind improvised explosive devices and frequently deployed a military smoke grenade to cover their escape. [redacted] and [redacted] were both Federal fugitives based on UFAP warrants in the Atlanta Division. By teletype dated 1/5/95, FBIHQ notified all offices of the significance of this investigation and that [redacted] and [redacted] were possible suspects. It also set forth information regarding their possible involvement with white supremacy and militia groups and that they were armed and dangerous.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

The Atlanta Division also sent a teletype to these ices dated 1/5/95, advising that both individuals should be sidered armed and extremely dangerous. The teletype provided the lowing cautions: Vowed Not To Be Taken Alive; Utilizes Body or; Uses Police Scanners and Knows Federal and Police Frequencies; lizes Inert Hand Grenades as Booby Traps; Survivalist; White remacist; Skin Head Associate; Anti-Government; Anti-Military; i-Law Enforcement. All available background relative to their ntities and aliases was provided.

On 1/15/96, information was received by the Cincinnati ision leading to the location of [redacted] was identified surveillance units and he attempted to elude FBI Agents resulting a foot chase. He ultimately surrendered and was arrested. He was ed with a weapon at the time of his arrest. He agreed to perate and assist the FBI in locating [redacted] The Cincinnati SWAT m traveled to Indianapolis, Indiana, on January 16 and 17, in er to locate and arrest [redacted] was attempting to locate [redacted] though an involved network utilizing paging devices, however, meet never occurred January 16, or 17.

On January 17, at approximately 8:00 p.m., the estigation in Indianapolis was discontinued and Agents were patched to Columbus, Ohio. This was based on information [redacted] vided indicating that he had a "safe house" in Columbus, Ohio. He ovided a consent to search and advised that [redacted] was the only her person with a key to this "safe house." Agents and Safe reets Task Force (SSTF) members in Columbus, Ohio, located the sidence and determined that there were lights on and it was cupied by a lone white male. Additional information from [redacted] d investigation by the surveillance units determined that there was strong likelihood [redacted] was in the residence.

b6
b7C

Members of the SSTF and others maintained surveillance roughout the night. All SWAT Team members went to the Columbus RA d held a briefing upon their arrival after midnight on the evening 1/17/96. SWAT Team leaders personally surveilled the residence d formulated a plan and provided detailed instructions including adly force policy while Agents were in attendance. They met again e following morning at 6:00 a.m. and were updated relative to the tuation and again went over the plan for the arrest.

Throughout this planning, SAC THEODORE JACKSON and AC HENRY E. RAGLE, III, were aware of the progress and providing structions as needed. Due to the propensity for violence and tential for explosives in the residence, the decision had been made at [redacted] would not be arrested in the residence. The plan quired that [redacted] be arrested as he departed the residence to ter the van parked in the rear of the residence. The detailed plan t forth individual roles and responsibilities for all arrest team mbers with the primary objective of arresting [redacted] after he tered his van which was facing an alley south of the residence.

Agents would block the exits east and west and other Agents would position themselves at the back of residence to prevent [redacted] from returning to the residence. The following morning the arrest teams were in place at 7:00 a.m. The SAC and ASAC traveled from Cincinnati, Ohio, to be on the scene.

At approximately 9:45 a.m. [redacted] exited the residence and slowly proceeded to the van. SA [redacted] had a view of the backyard and provided radio instructions to arrest team members detailing the movements of [redacted]. After [redacted] entered the van, SWAT Team Leader, SA [redacted] ordered the Agents in the front of the residence to move in to prevent the subject from re-entering the residence. When those Agents were in place, he ordered all units to move in to effect the arrest. Four vehicles entered from the east and four vehicles entered from the west. Several Agents immediately exited the vehicles, took a position of cover, and ordered [redacted] to raise his hands and come out of the van. Several Agents noted the subject begin to comply and raise his hands, however, abruptly move his hands downward and rolled from the driver's seat into the middle of the van. As he reappeared, Agents observed a weapon in his hands. Immediately thereafter, seven FBI Agents and SSTF members fired into the van. This burst of approximately 46 rounds lasted less than ten seconds and ceased with no more shots being fired during the incident. Agents again commanded [redacted] to exit the vehicle and he reappeared with his hands up. He was bleeding from the face and complied with the commands to place his hands and then extend himself through the driver's side window. Deputy U. S. Marshal [redacted] approached [redacted] and placed him in handcuffs. He was pulled to the ground and searched without further incident. A .22 caliber Beretta handgun was found on the person of [redacted] at the time of his arrest. b6 b7C

The following personnel fired their weapons:

1. SA [redacted] - fired four rounds of buckshot from a 12-gauge Remington shotgun, model 870 magnum.

2. SA [redacted] - fired three rounds of "OO Buck" shotshell from a 12-gauge Remington shotgun.

3. SA [redacted] - fired two rounds from a 9mm Luger Sig Sauer pistol, model P226.

4. SA [redacted] - fired approximately 11 rounds from a 9mm Luger H & K submachine gun, model MP5-A3.

5. SA [redacted] fired 15 rounds from a .223 Remington caliber Colt rifle, model M-16A1.

6. DUSM/TFO [redacted] - fired six rounds from a .45 auto caliber Sig Sauer pistol, model P220.

7. TFO [redacted] - fired approximately five founds .n H & K, model MP 5 - SP.

All personnel used law enforcement-issued ammunition. .boratory examination determined all weapons functioned .ly. All had qualified with their respective weapon within the hree months with the exception of SA [redacted] SA [redacted] is a ied firearms instructor, sniper instructor, primary sniper for nd had won a Silver medal in the 1995 Ohio Police Olympics for :ipation in the M-16 combat course.

The SAC and ASAC immediately came to the arrest scene. ulance was called for [redacted] Agents maintained a state of did a search of the van finding additional weapons, however, :d no other suspects. They then turned their attention to a of the residence. [redacted] had indicated there were explosives bathtub, however, subsequently changed that statement. The us Bomb Squad was contacted, however, awaited a clearing search : Cincinnati SWAT team which was conducted without incident. us weapons, seven grenades and 13 pipe bombs were located in sidence. b6 b7C

The white van bearing Iowa license [redacted] was examined nt to a search warrant on 1/20/96. Among evidence obtained ne pipe bomb, one hand grenade (both exploded by the Columbus : Department for safety precautions), one 9mm Luger Taurus ., T99AF model, one .380 auto caliber Bersa pistol, model 383-A, ie .223 Remington SGW carbine, model XM15A1. FBI Laboratory .ation determined all were loaded and functioned normally when in the Laboratory. All had been fired since last cleaned.

[redacted] refused to be interviewed by the FBI. He did make ts to the media denying he fired any shots. Investigation at :ene and the FBI Laboratory failed to establish that [redacted] a weapon.

One witness who resided in the upstairs residence at inhard Avenue, alleged that excessive force was utilized during rrest. Subsequent interviews of two witnesses determined that legations were unfounded. None of the 21 Agents on the scene ted there was any resistance during the arrest of [redacted] has not alleged any brutality.

[redacted] was charged with assault of a Federal officer on 6 and is currently incarcerated without bond. The UFAP warrant smissed 1/19/96.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: FBIHQ
Date: April 12, 1996

Field Office File #:
Bureau File #: 66-HQ-19157-65

Title: SHOOTING INQUIRY,
REPORT OF SHOOTING INCIDENT,
LAS VEGAS DIVISION,
3/21/96

Character: ADMINISTRATIVE MATTERS - SHOOTING INQUIRY

Synopsis: This 3/21/96 shooting incident occurred during a planned arrest of FBI subject [redacted] for whom a federal arrest warrant had been issued by the U.S. District Court, District of Nevada, the previous day. The arrest was to take place following an undercover purchase of drugs (the fifth such purchase in a series) orchestrated by an undercover police officer participating in this Weed and Seed Task Force initiative. Plans for the arrest of subject [redacted] were essentially finalized during the evening of 3/20/96, and were the subject of a thorough briefing of all personnel on the morning of 3/21/96. Agents and officers deployed at the scene of the planned arrest, the CASTAWAY'S CASINO parking lot, Las Vegas, Nevada, for the anticipated 11:00 AM arrest.

b6
b7C

Following the arrival of subject [redacted] the completed purchase of cocaine by the undercover officer and the signal given for the arrest of subject [redacted] FBI Agents and police officers converged in an attempt to block [redacted] vehicle and effect his arrest. Subject [redacted] then executed an extremely dangerous and aggressive driving maneuver, in the process striking both blocking vehicles, and FBI Agent [redacted] knocking him to the ground. [redacted] continued, driving directly into FBI Agent [redacted] sending him careening across the escaping vehicle's hood and smashing the vehicle's windshield before SA [redacted] was able to roll off during [redacted] rapid acceleration. As [redacted] vehicle sped through the CASTAWAY'S CASINO parking lot, three FBI Agents and two police officers fired at [redacted] who was crouched in the driver's seat. As [redacted] effected his escape onto Decatur Boulevard, both marked and unmarked units of the LAS VEGAS METROPOLITAN POLICE DEPARTMENT

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

(LVMPD) and FBI vehicles gave pursuit and attempted to locate [redacted] vehicle. [redacted] successfully eluded capture for the balance of that day.

On 3/22/96, [redacted] attorney, [redacted] surrendered [redacted] to the custody of the U.S. MARSHAL'S SERVICE in Las Vegas. Following negotiations with [redacted] attorney, [redacted] vehicle was recovered, impounded, and processed by the LVMPD. [redacted] received medical treatment for "cuts on his back and right hand and a cut on his left proximal elbow". Medical records for [redacted] reveal that he suffered "several scratches and superficial puncture wounds posterior back" and that "palpable buckshot is felt in the skin". Further, [redacted] experienced a "small puncture wound over the right thenar eminence (fleshy area below the thumb) and tenderness in the thenar muscle group". Regarding the elbow wound, a "full range of motion of the elbow" and "no evidence of joint involvement" were noted. [redacted] was given an antibiotic and recommended to seek follow-up care.

b6
b7C

During the planning and attempted arrest of subject [redacted] ASAC WALTER B. STOWE was acting in place of SAC BOBBY L. SILLER, who was out of the division. ASAC STOWE approved a verbal presentation of the arrest plan. The written arrest plan, approved by SSA [redacted] sets forth the authority to arrest [redacted] details [redacted] violent history and past attempt to flee during a prior arrest, and sets forth a thorough plan with individual and team assignments for the anticipated arrest of [redacted] The plan, and an all-hands meeting on the morning of the planned arrest, emphasized the FBI Deadly Force Policy and the requirement for participating personnel to wear appropriate body armor and identification. Participating personnel were so equipped, and issued verbal identification and commands during the attempt to arrest [redacted]

Interview and ballistics examination determined that SA [redacted] fired three rounds of service ammunition from his Bureau-authorized pistol, following SA [redacted] being struck and knocked to the ground by [redacted] vehicle. Following the shooting incident, SA [redacted] was treated by paramedics at the scene, determined to have only superficial injuries, and released.

b6
b7C

Ballistics examination determined that SA [redacted] fired one round of service ammunition from his Bureau-authorized pistol after having been struck directly by subject [redacted] vehicle. SA [redacted] was unaware that he fired a round, believing that he withheld firing for fear of hitting a police van. Following the shooting incident, SA [redacted] was taken to a medical facility complaining of multiple abrasions and lower back pain. Medical records indicate that SA [redacted] indicated he dug out metallic fragments from three areas in his right thigh. He was determined to have multiple abrasions on his upper extremities and puncture wounds in his right thigh. He was issued medication for pain, inflammation and possible infection, then released.

Interview and ballistics examination determined that SA [redacted] fired fifteen rounds of service ammunition from his Bureau-authorized Colt AR-15 A3 after [redacted] and SA [redacted] escaping vehicle struck SA [redacted]

Investigation determined that LVMPD Sergeant [redacted] fired two shotgun rounds (00 buck) and that LVMPD Officer [redacted] fired ten rounds of 9mm ammunition from his pistol.

Crime scene examination resulted in the recovery of spent shell casings and numerous bullet fragments. Crime scene examination and follow-up investigation determined that a round of undetermined origin struck a telephone line elevated on a telephone pole across the street from the CASTAWAY'S CASINO, disrupting telephone service in the area. Also, one round, determined to have been fired by LVMPD Officer [redacted] struck the rear right quarter panel of NORTH LAS VEGAS POLICE DEPARTMENT (NLVPD) surveillance van parked in the casino parking lot, intended to act as a backup blocking vehicle. b6 b7C

Ballistics examination of [redacted] recovered vehicle details numerous impact rounds of both known and undetermined origin.

Witnessing agents, officers and civilians interviewed. Two officers and one agent did not fire their weapons due to the fact that they did not have a clear, unobstructed line of fire.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: IIP [redacted] Office: HEADQUARTERS
Date: March 14, 1996

Field Office File #:
Bureau File #: 66H-HQ-19157-24

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
KNOXVILLE DIVISION
MARCH 6, 1996

Character: ADMINISTRATIVE INQUIRY

Synopsis:

Approximately one month before this shooting incident, the Chattanooga Safe Streets Task Force consisting of four Special Agents, five local police officers and one Deputy U. S. Marshal, began working on the apprehension of [redacted] a Parole Violator. [redacted] an armed and dangerous fugitive, had previously served 17 years for bank robbery and was now wanted for numerous local armed robberies and aggravated assaults. b6 b7C

On March 6, 1996, at about 12:15 p.m., Task Force Officers spotted a U-Haul truck at a residence in Soddy Daisy, Tennessee, known, through informant information, to be frequented by [redacted] step-daughter and step-son drove off in the U-Haul truck at about 1:00 p.m. and the Task Force established a surveillance. The truck crossed into Georgia on I-75 and at about 2:30 p.m. parked in the "Flying J Truck Stop" south of Rossville, Georgia. Four Agents from the Rossville Resident Agency joined the surveillance. In hopes that [redacted] would meet the truck, an arrest plan was developed that focused on blocking and arresting [redacted] in the parking lot. All the participants continued the surveillance in their assigned locations.

At 6:20 p.m. a red 1986 Oldsmobile Calais with two occupants pulled into the space next to the U-Haul truck. The Oldsmobile was facing east and was parked driver door to driver door with the truck.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] and Task Force Officer [redacted] drove by the Oldsmobile and positively identified [redacted] as the driver. At that point the signal was given to execute the arrest plan.

The blocking vehicles began moving into position. SA [redacted] pulled his vehicle in front of [redacted] vehicle and exited. He leveled his shotgun at [redacted] identified himself and advised [redacted] he was under arrest. [redacted] immediately began backing up in an easterly direction at a high rate of speed. He swung the car around, shifted into forward gear, and accelerated northward out the parking lot. At this point, however, he spotted two FBI vehicles coming at him, cutting off his escape. SA [redacted] had begun running east towards [redacted] car. [redacted] quickly braked and shifted into reverse and backed fishtailing and sliding in a wide arc, finally ending up backing west directly towards SA [redacted]

SA [redacted] asserted that he feared for his life. He thought he would be pinned against the U-Haul truck. He was also aware that the Agents behind him were in danger. He could not shoot the driver because the car sat so low his view was obstructed. Further, he did not know who [redacted] passenger was. As the car's right rear brushed against him, he discharged his shotgun into the right rear tire, in a last effort to stop the vehicle. The car did stop and then shifting into forward gear accelerated in a southeasterly direction. It was bumped twice by one of the Task Force vehicles, spun completely around and ended up heading south.

As [redacted] accelerated south, SA [redacted] the threat now diminished, moved towards him taking aim with his shotgun. On two occasions, a few seconds apart, he had a shot but refrained from firing because he did not want to endanger bystanders and [redacted] was no longer a threat to him. [redacted] did a 180 degree turn around a light pole island and headed north again for the parking lot exit. He was rammed twice by the vehicle driven by Deputy U. S. Marshal [redacted] and finally forced to a stop against a curb. [redacted] and his wife, [redacted] were pulled from the vehicle and arrested. A 9mm pistol was found on the vehicle's floorboard and a semi-automatic rifle in the trunk.

At the next Federal Grand Jury convened in the Northern District of Georgia, [redacted] will be indicted for AFO and Felon in Possession of Firearm. The United States Attorney is also considering charging him as an Armed Career Criminal.

A review of criminal history records for [redacted] disclosed that he has a criminal history dating to January 8, 1972, with convictions for burglary, larceny, armed robbery and bank robbery. There are currently outstanding warrants for parole violation, aggravated robbery, aggravated assault and five counts of armed robbery. There are warrants for aggravated robbery and carjacking outstanding on [redacted]

As [redacted] was running toward the woods, the driver and female passenger in the truck were removed from the vehicle, handcuffed and searched. An infant baby was also taken from the truck and secured in a safe location. A canine unit was immediately called in, along with a State Police helicopter, to conduct an aerial and ground search for [redacted]. After approximately one hour, [redacted] was found hiding under leaves and bushes. Detectives and SAs responded and arrested [redacted] without incident. b6 b7C

Following the arrest of [redacted] attention was turned to subject [redacted] who was believed to be hiding in the trailer. A decision was made to tighten the perimeter around the trailer and request FBIHQ approval for the insertion of CS gas. After approval was given for the insertion of gas, 10 canisters of gas were inserted into the trailer by the Indiana State Police. Approximately one hour later, the trailer was cleared, however, [redacted] was not located. A ground search was conducted until dark when SAC Alford called off the search due to the threat posed to SAs and detectives on the scene. [redacted] was found sleeping in the back seat of a salvage vehicle on the morning of 7/3/96, and was arrested without incident. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The first issue discussed by the SIRG involved the application of deadly force used by SA [redacted] in this shooting incident. SIRG members held a lengthy discussion regarding this issue. The OGC representative presented the facts of this case as it relates to the current FBI deadly force policy. According to OGC, although the subject was fleeing from the arrest site, SA [redacted] had no on-the-scene sighting of a weapon and, therefore, had insufficient information to establish that he was in fact armed at that time. A DOJ representative opined that in this particular situation probable cause was justified, however, the "imminent danger" definition was not met. Conversely, other SIRG members initially believed that the use of deadly force was

b6
b7C

justified in this shooting. This decision was made based on the fact that the subjects had recently overpowered a correctional officer taking three weapons, had kidnapped and in all likelihood murdered a British Army officer. The subjects' propensity for violence in the past was also considered. It was also noted by SIRG members that the subjects were considered armed and extremely dangerous and that this information had been repeated several times during briefings.

Additionally, it was noted that the SAC, Indianapolis, and the Assistant Inspector-in-Place (who is also an attorney) reached different conclusions on the correct use of deadly force after reviewing the same set of facts now before the SIRG. The confusion in interpretation and practical application of the deadly force policy by the Agent, AIIP, SAC, and members of the SIRG was readily apparent.

Discussion also centered around scenarios provided in a training package on the new deadly force policy dated 11/1/95. Members opined that the creation of additional scenarios to include this type of incident could be beneficial to agent personnel in the future. The final consensus of the SIRG members was that the deadly force policy was violated in this incident although SA [redacted] believed that the use of deadly force was reasonable. As a result of this discussion, SIRG members recommended that additional scenarios be added or that current scenarios be fine-tuned to assure compliance with the deadly force policy. Discussion included the fact that scenarios cannot specifically address each shooting incident. This discussion resulted in the members recommending that the Director be advised of the findings of the SIRG, and of the recommendation that the OGC implement a review of the deadly force policy to ensure proper interpretation of the policy.

b6
b7C

Although no formal recommendations were made regarding training or safety issues, several observations were made by SIRG attendees. The first observation concerned the use of better communication to formulate an arrest plan and to implement a felony vehicle stop. Members concurred that a better plan could have been formulated to ensure a more successful stop of the vehicle. Members believed that the supervisor should have had more complete dialogue with all participants involved in the incident. The TD attendee also commented on his concern for the lack of attention provided to the crime scene. As indicated in the shooting report, there were several recollections of the number of rounds fired by individuals at the scene. The total number of rounds ranged from

b6
b7C

one to four. However, a search of the area resulted in the recovery of two shell casings from one weapon and no casings from the second weapon. Information provided indicated that the felony car stop took place on a gravel road with an area of very long grass and weeds and was surrounded by a heavily wooded area, none of which was conducive for retrieving shell casings. Although photographs were taken of the scene, there were no sketches or notations on the photographs, which limited their value to the SIRG.

Another observation made by SIRG members involved the request made to FBIHQ for approval to use CS gas. Members unanimously agreed that telephone contact with FBIHQ in this situation was unnecessary and certainly not required. Members reiterated the fact that the decision to use gas is a decision that is made by the SAC.

The last observation made by the SIRG resulted in the opinion that the use of deadly force was most likely reasonable in this incident, however, outside the deadly force policy. The TD representative emphasized that the surveillance of the subjects could have been continued until additional assistance arrived on the scene and that the car stop was implemented with minimum resources available.

b6
b7C

The last recommendation of the SIRG pertained to SA [redacted] neglect to be properly armed. As noted in the report, SA [redacted] left his Bureau assigned weapon in the Indianapolis Office by mistake. SA [redacted] sworn statement indicated that his weapon was in a fanny pack which he left under the mail slot on his desk. Members considered the fact that SA [redacted] had recently graduated from the Academy; however, noted that he violated two of the FBI's most basic firearms policies, i.e., SAs must be armed or have immediate access to a firearm at all times when on official duty unless good judgment dictates otherwise, and each SA is personally responsible for the security of weapons under his/her control. SIRG members recommended that SA [redacted] be given a letter of censure for his violation of the deadly force policy and his failure to be appropriately armed. It was also recommended that he be given additional training in the FBI deadly force policy.

Memorandum from [redacted] to Mr. Gore dated 9/17/96
Re: Administrative Inquiry
Shooting Incident
7/2/96
Indianapolis Division

b6
b7C

ADDENDUM: OFFICE OF THE GENERAL COUNSEL (OGC) 10/29/96 AAA:tdj

On 8/20/96, the SIRG met to discuss the above-captioned shooting incident, and differing views were reached concerning whether the use of deadly force in that instance was in compliance with the FBI's current policy. There was also a failure to reach a consensus opinion in the field office: the Assistant Inspector who directed the investigation indicated in the Observation Section of the report that the use of deadly force was justified; the SAC took the opposite position. As a result, recommendations were made by the SIRG that the Office of the General Counsel (OGC) revisit the policy and the current training package in an effort to eliminate the confusion that has developed concerning the use of deadly force against a fleeing felon.

For the record, it is our view that the deadly force policy was violated in the Indianapolis incident because of the failure to establish "imminent danger" to the Agents or others: (1) there was no on-the-scene or recent evidence that the subject was armed; (2) the facts indicate that the subject was fleeing into a wooded area to escape capture rather than seeking the tactical advantage of cover; and (3) given the presence of several vehicles available to the Agents during the time the subject was fleeing, a safer alternative was available to them than using deadly force.

Nevertheless, because of the difficulties being experienced in interpreting the policy and the training package, we are submitting to the SIRG, via this addendum, a proposed revision to a portion of the training package which we hope will more clearly illustrate the parameters of the policy as it applies to the fleeing fugitive. We have focused our attention on issues found to be troublesome in the Indianapolis case:

(1) Can a fleeing fugitive be presumed to be armed and dangerous based on past history, or is contemporaneous, on-the-scene evidence of a weapon required?

(2) Must the fugitive be fleeing to a specific position of cover, or is the fact that cover of some type is available sufficient.



Savage-1539

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 5/30/97

**To:** Inspection Division **Attn:** [redacted]

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** [redacted]
Lusby Thomas

**Drafted By:** [redacted] lrr

b6
b7C

**Case ID #:** 66-19157-6

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/15/96
BUFFALO DIVISION

**Synopsis:** To advise of a shooting incident on 8/15/96, involving agents of the Buffalo Division. This incident resulted in the death of a suspected bank robber.

**Details:** Reference report of Inspector-in-Place [redacted] dated 9/24/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7835 (Enclosure)
2 - Mr. [redacted], Room 7116
2 - Mr. [redacted] Room 7129
(1 - Adjudication Unit)
1 - Ms. [redacted] Room 5991
1 - Mr. [redacted] Quantico
1 - Mr. Foran, Room 6646
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted], Room 7837
1 - Mr. [redacted] Room 4147

b6
b7C

1 - Mr. [redacted] DOJ
1 - Ms [redacted] DOJ
1 - Mr [redacted] Room 3787F
1 - Mr [redacted] Quantico
1 - Mr. [redacted] WFO
(1) - Mrs. [redacted] Room 7861

**Details of the Shooting Incident**

This shooting incident was a result of an investigation of a suspected bank robber and his accomplice wife who were suspected of committing bank robberies in the Syracuse, New York, area. The Syracuse Resident Agency (SRA) had developed information that these two individuals were prime suspects in a number of bank robberies committed over a five year period. It was also known that the bank robberies committed by the subject, Ronald Eric Petersen, had become progressively more violent. Petersen had utilized and fired a weapon on several occasions and used military smoke grenades to effect his escape on at least two occasions.

The Albany Division had advised agents in the Rochester RA that the suspects were casing banks in the Henrietta, New York area. For several days prior to the shooting incident on 8/15/96, agents of the Rochester RA, in coordination with the Syracuse RA, had surveilled the subjects in the Henrietta area. The Buffalo Special Weapons and Tactics (SWAT) Team had been called out on four occasions in preparation for an anticipated arrest of Petersen prior to his attempting another bank robbery. Surveillance units anticipated making the arrest of Petersen's wife and accomplice, [redacted] who would be in another vehicle some distance from the bank. It was also known that [redacted] would be in two-way radio contact with Ronald Petersen.

On 8/15/96, at approximately 10:00 a.m., Supervisory Senior Resident Agent (SSRA) [redacted] of the Rochester RA received a call from the SRA alerting him that surveillance units were following the subjects. According to Syracuse agents, it appeared that the subjects were traveling into Rochester's territory. Due to the absence of SAC Wolfinger, SSRA [redacted] notified ASAC Virgil D. Woolley, Jr., of the situation. The SWAT and surveillance teams were alerted and briefed with the updated information. Throughout the day, the SWAT Team practiced felony car stops while surveillance units monitored the subjects' activities. Preferable locations for making the felony car stop were identified and numerous briefings were held to plan the arrest, provide intelligence, and give instructions to all participants.

b6
b7C

Petersen and his wife were observed for several days by the Rochester and Syracuse surveillance teams and were specifically observed throughout the day on 8/15/96, preparing to rob a bank in the vicinity. Petersen was seen placing a stolen switch vehicle in a parking lot, changing license plates,

dressing up in preparation for a robbery including the fact that he put on a bullet proof vest and possessed a two-way radio. By monitoring Petersen's movements and activities, enough probable cause was developed to arrest Petersen and his wife for attempted bank robbery.

The Buffalo SWAT Team effected a felony car stop at approximately 4:30 p.m., and attempted to arrest Petersen while he was parked in a stolen van. Upon being confronted by SWAT agents, Petersen was non-compliant and for a period of one to two minutes Petersen was observed looking around, claiming he could not hear the commands and lowering his hands after continuously being directed to keep them up. Petersen suddenly chose to rapidly accelerate his vehicle directly at several agents positioned in the front of the van. This caused the agents to direct their fire at Petersen in order to protect themselves and their fellow agents. According to all statements, the shooting began almost instantaneously with the sudden movement of the van and since all agents were firing within moments of each other it was unknown who fired first.

Petersen's van lunged forward 10 to 15 feet, suddenly turned sharply, and made almost a 90 degree right turn. The van traveled approximately 75 yards before hitting a brick wall of a building and stopping. Approximately 87 to 89 shots were fired by agents; however, the subject did not fire any of his weapons. Petersen was pronounced dead on the scene. Subsequently, the cause of death was determined to be multiple gun shot wounds.

The ASAC, who was on the scene, made appropriate notifications. [redacted] was arrested by surveillance personnel in another location and charged with one count of conspiracy to commit bank robbery. During an interview, [redacted] confirmed that Petersen was going to rob a bank and also stated that he was involved in several previous robberies. [redacted] further noted that Petersen was committed to resisting if confronted by law enforcement. b6 b7C

Search warrants were executed for all of the subject's vehicles, his residence and storage unit. Searches recovered a cache of weapons and explosives, as well as notebooks, maps, masks, license plates, and clothing linking Petersen to previous robberies.

To: Inspection Division From: Inspection Division
Re: 66-19157-6, 5/30/1997

This shooting incident was scheduled for discussion by SIRG members at its 10/8/96, meeting. Due to information needed by the SIRG and not contained in the original shooting report, a limited discussion of this shooting incident was held.

SIRG members noted the fact that all shots fired were intentional discharges by the SAs and members unanimously concurred that the use of deadly force was justified in this incident.

Training and safety issues discussed at the 10/8/96, meeting included the following facts: 1) SWAT Team members should have worn SWAT gear to ensure that the subject knew who controlled the situation; 2) the absence of command and control at the scene resulted in confusion to SAs; 3) the creation of a crossfire in a felony vehicle stop after numerous practice scenarios to avoid this situation; 4) standard protocol for felony car stops was not adhered to; 5) containment of the subject's vehicle was discussed but not accomplished; 6) the choice of weapons used in the incident was questionable; 7) the lack of coordination between the arrest and SOG teams; and, 8) the abandonment of the arrest plan without exigent circumstances contributed to confusion and left an escape route for the subject's vehicle. Members also noted that at least one SA was not advised of the arrest plan and therefore disregarded instructions.

Based on a request of the SIRG Chairman, further interview of ASAC Virgil D. Woolley, Jr., and Senior Supervisory Resident Agent [redacted] was conducted by [redacted] to clarify issues relating to the arrest plan and information provided to the participants about the arrest plan.

The SIRG met again on 10/25/96, to further discuss this shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Acting Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Unit Chief, Policy Planning and Analysis Unit, Criminal Investigative Division;

b6
b7C

[redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office. The two non-voting attendees were: SSA [redacted] Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Inspection Analyst, Office of Inspections. b6 b7C

Members again began discussion of this shooting incident and again reiterated the fact that "command and control" were two elements missing in this incident. The SIRG Chairman advised that additional information was needed to conclude discussion of this incident and advised that specific information would be obtained from Buffalo and this incident would be discussed at a December SIRG meeting.

By electronic communication dated 11/4/96, the SIRG Chairman specifically addressed four areas that required clarification by the Buffalo Division. The first issue specifically addressed by the SIRG Chairman to the Buffalo Division was: (1) Were ASAC Woolley, SSRA [redacted] and SSA [redacted] armed and wearing protective vests? Buffalo responded that the three individuals were armed and that ASAC Woolley and SSRA [redacted] were wearing protective vests; however, SSA [redacted] admitted that he was not wearing his protective armor. SSA [redacted] acknowledged that all participants had been directed by the ASAC on several occasions to wear their protective vests and further, that he had reminded and directed the SAs involved in this incident to wear their vests. The original shooting report also indicated that SAs [redacted] and [redacted] did not utilize protective armor. This information resulted in the recommendation by SIRG members that SSA [redacted] SA [redacted] and SA [redacted] receive letters of censure for not wearing protective vests. b6 b7C

The second question pertained to the arrival time of the ASAC in Rochester after notification was made that the subject was under surveillance and was believed to be headed from Syracuse to Rochester. Based on the Buffalo Division's response, there was no delay in the arrival of the ASAC. Once notification was made to the ASAC, an immediate departure was made for Rochester.

The third issue requiring clarification was the previous issue discussed involving the lack of "control and

command". Based on a thorough response by the Buffalo Division, it was apparent that the ASAC was intimately involved in the decision making and the planning of this arrest and assumed appropriate command, control and operational oversight of the situation upon his on-scene arrival.

The last question pertained to the use of alternate SWAT members in the arrest of Petersen. The SIRG Chairman asked why alternate members were utilized in the arrest and asked Buffalo to define the level of training provided to the alternates. The Buffalo Division indicated that in an effort to have available two six-man teams, and with the absence of three full-time SWAT members, they utilized two First Office Agents (FOAs). One FOA had prior military experience and both SAs had trained at monthly SWAT training sessions for six months with the permanent SWAT Team members. The third alternate was a full-time member of the division's SWAT Team but had not attended basic SWAT training at the time of the shooting incident.

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The SIRG met again on 12/30/96, to finish discussion of this incident. As previously mentioned, members had several lengthy discussions on this shooting incident. The first issue discussed involved the felony car stop attempted by the SWAT team. As noted by SIRG members, considerable emphasis was placed on avoiding potential crossfire during the planning stages for the felony car stop. However, SA [redacted] had positioned himself on the right side of the subject's van and SWAT agents and perimeter personnel were unaware of his location. Discussion also centered around the fact that although not part of the plan, SA [redacted] was attempting to assist the arrest team. Members noted that it appeared there was confusion about the arrest plan to all participants except SWAT team members which ultimately resulted in participation of other individuals not fully aware of the plan.

b6
b7C

The second issue related to the adequacy of planning in this incident. Members reiterated the fact that an absence of command and control at the scene resulted in confusion to SAs. It was noted that SA [redacted] was not aware of the arrest plan and did not know that this was intended to be a SWAT team arrest. SIRG members recognized the fact that SA [redacted] actions could have created crossfire problems; however, it was also recognized that his actions saved the day since he was credited with firing the shots that killed the subject. The following areas were identified by SIRG members as problems with the adequacy of planning: 1) containment of the subject's vehicle was discussed, however, never accomplished since the right flank was left open; 2) the felony car stop video was not adhered to and a suggestion was made by SIRG members that all SACs and Principal Firearms Instructors be reminded to view the film regarding car stops made after the Miami shooting; 3) a definite lack of coordination existed between the SOG and arrest teams; 4) although a single command structure was practiced during training exercises, this structure was not adhered to on sight; and, 5) a proper perimeter was not established to initiate a felony car stop. The Special Agent in Charge of the Buffalo Division is being advised of these issues for an in-depth review to ensure they do not recur.

b6
b7C

Members discussed the number of rounds fired during the incident and noted the lack of fire discipline by the SAs involved. Members recommended that the Training Division, incorporate appropriate training regarding fire discipline in connection with mandated quarterly firearms training.

The next issue involved the weapons used by participants initiating the car stop. Members noted the fact that no SWAT team member had slugs to use and that few shoulder weapons were available.

A short discussion was held regarding the continual problems with communications. A statement was made by participants that difficulty existed in radio communications. Specifically mentioned was the fact that two divisions were involved in the incident and there was only one common compatible channel with the Buffalo car-to-car channel having limited range and capabilities. This resulted in the recommendation of the SIRG that the Information Resources Division (IRD) determine the problem with the Buffalo car-to-car channel capabilities.

To: Inspection Division From: Inspection Division
Re: 66-19157-6, 5/30/1997

**LEAD(s):**

**Set Lead 1:**

That the Adjudication Unit, Office of Professional Responsibility forward letters of censure to SSA [redacted] SA [redacted] and SA [redacted] for their neglect in utilizing protective vests during this incident.

b6
b7C

**Set Lead 2:**

That the Training Division, Firearms Training Unit, remind all SACs and Principal Firearms Instructors to view the film regarding car stops made after the Miami shooting.

**Set Lead 3:**

That the Training Division incorporate appropriate training regarding fire discipline in connection with mandated quarterly firearms training.

**Set Lead 4:**

That IRD determine the problem with the Buffalo car-to-car channel capabilities. Upon resolution of the communication problem, IRD should follow-up information with the Buffalo Division and advise all field offices.

♦♦

Electronic Communication (EC) from ID to ID, dated 5/30/97.
RE: [redacted]
BUFFALO DIVISION
SHOOTING INCIDENT

**ADDENDUM: OFFICE OF PROFESSIONAL RESPONSIBILITY (OPR); ADJUDICATION UNIT (AU) JEM:tds, 8/13/97**

**SUMMARY OF ALLEGATIONS**

This inquiry was predicated on a shooting incident which occurred in the Buffalo Division during the arrest of a suspected bank robber on 8/15/96. SSA [redacted] and SA [redacted] participated in the attempted arrest of the subject without the protection of their body armor. b6 b7C

**PERSONNEL HISTORY**

[redacted]

**SUMMARY OF FACTS**

The details of the events leading to the shooting incident and the activities of the Agents involved, are outlined in EC from ID to ID, 5/30/97, and in the three volume Shooting Incident report from FBIHQ to ID, Attn: SIRG, dated 9/24/96. The allegation that SA [redacted] was not wearing his body armor at the time of the arrest was unfounded. ID forwarded a no action letter, dated 8/7/97, to SAC, Buffalo. b6 b7C

(1) - SIRG



Savage-1548

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 1/9/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William D
Lusby Thomas

**Drafted By:** [redacted]

**Case ID #:** 66-19157-50

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/20/96
SEATTLE DIVISION

b6
b7C

**Synopsis:** To advise of a shooting incident involving SA [redacted] of the Vancouver, Washington, Resident Agency. SA [redacted] shot and fatally wounded a subject involved in extortion, bomb threat, and Hobbs Act violations.

**Details:** Reference report of Supervisory Special Agent (SSA) [redacted] dated 10/30/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Owens, Room 3823)
3 - Mr. [redacted] Room 6012
(1 - Mr. [redacted], Room 7903)
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
(1) - Mr. [redacted], Room 7837
1 - Mr. Blitzer, Room 5223

1 - Mr. [redacted] OJ
1 - Ms. [redacted], DOJ
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] O
1 - Mrs. [redacted], Room 7861

b6
b7C

## Details of the Shooting Incident

At approximately 4:00 p.m., on Sunday, 10/20/96, three tourists at the Bonneville Lock and Dam, North Shore Visitor Center, in North Bonneville, Washington, provided a small tape cassette player to a visitor center Ranger. The cassette player was found in a telephone booth adjacent to the visitor center building. A handwritten note stating "play me" was taped to the cassette player. The message on the tape was a male voice stating, among other things, that there was a bomb in the building and threatening to blow up the Dam. The message further stated, "I want fifteen thousand dollars, two semi-automatic nine millimeter Uzis and I want a car with a female officer, unarmed and unwired....You follow us, she dies. Like I said, I find a wire or an armed weapon on her, she will die and then the dam will blow. .You got two hours my friends." The FBI was notified at approximately 5:00 p.m., and SA [redacted] responded to the scene at approximately 6:30 p.m. SA [redacted] Oregon State Police Trooper [redacted] and others listened to the extortion tape. At approximately 6:45 p.m., while exiting the closed visitor center to examine the telephone booth where the tape cassette was found, SA [redacted] and Trooper [redacted] were confronted by an assailant. The assailant was later identified as Nathaniel Wayne Enricky Milligan. Milligan pointed a silver-barreled rifle at SA [redacted] from a distance of approximately seven yards. The rifle, which was outfitted with a scope, resembled a Ruger, Mini 14, semi-automatic weapon, however, was later identified as a Ruger .22 caliber rifle. The rifle was in Milligan's right hand held against his waist. In his left hand, which he held in the air, was what appeared to be a portable police radio or scanner. This object was subsequently identified as a Bearcat police scanner. Milligan asked where his money was and stated that he had the bomb. Milligan also advised SA [redacted] that he had been watching them since their arrival. Under the pretext of obtaining the demanded items, SA [redacted] and Trooper [redacted] backed into the visitor center, leaving the subject outside in the dark. [redacted] and [redacted] alerted employees that a man was outside with a rifle and a Dam employee called 911 to request assistance for SA [redacted]

b6
b7C

b6
b7C

Trooper [redacted] watched the front entrance for the subject and radioed his dispatch for assistance. Skamania County Sheriff's Unit and the Washington State Patrol responded. [redacted] Chief of Security at the Dam, led SA [redacted] down one level and out the back door, accidentally locking himself out. SA [redacted] moved around the area east of the visitor center to

his Bureau vehicle and obtained his Bureau shotgun and put on his protective vest and his FBI baseball cap. SA [redacted] observed police cars responding to the locked front gate and called 911 by cellular phone to report his location, but the police left the area before he could contact them.

[redacted] walked around the area east of the visitor center and was confronted by Milligan at gun point from a distance of 15 to 20 yards. Milligan ordered [redacted] to drop his gun and Milligan advised that he was not armed. Milligan then ordered [redacted] to "Go tell them to get the cars out of here. Hurry. Move." [redacted] followed by SA [redacted] entered the visitor center front door, and reported his encounter with Milligan. SA [redacted] and Trooper [redacted] exited the visitor center in an effort to locate and isolate the subject. SA [redacted] spotted Milligan near the fish viewing building which is east of the visitor center and he and Trooper [redacted] worked their way towards the building. Milligan moved around the building where he spotted and orally challenged Trooper [redacted] at gun point from approximately 36 yards away. Milligan repeatedly ordered Trooper [redacted] to put down his weapon and come out from his position of concealment. SA [redacted] heard Milligan's voice and moved along the west side of the building towards the sound of his voice. SA [redacted] also heard Trooper [redacted] say that he was putting down his weapon. SA [redacted] believed that the subject had disarmed [redacted] and that the trooper was in imminent danger. At that point, Milligan spotted SA [redacted] shadow and orally challenged him. SA [redacted] moved away from the building attempting to see Milligan and was confronted by him from a distance of about nine yards. Milligan was holding his rifle with both hands with the barrel pointed directly at SA [redacted] Fearing that he would be shot, SA [redacted] fired one 00 Buck round from his shotgun, striking Milligan in the torso area. When Milligan did not fall, SA [redacted] immediately fired a second round, which was a rifle slug, again striking Milligan in the torso area. Milligan fell down and stated, "Why did you shoot me? I'm a manic depressive. There isn't a bomb."

b6
b7C

b6
b7C

Trooper [redacted] handcuffed the subject and SA [redacted] called Skamania County 911 to notify them of the shooting and requested immediate medical emergency service. The subject's weapon, which contained a loaded magazine, was rendered safe by Trooper [redacted] who ejected one live round from the chamber. Milligan was identified by a responding Skamania County Sheriff's Deputy. Ambulance and helicopter medical personnel responded and provided trauma care; however, Milligan died at the scene.

Security sweeps at the Dam and at Milligan's residence revealed no actual bomb material. Materials located at Milligan's residence included paper, duct tape, and audio-cassettes consistent with the tape cassette player and note left inside the telephone booth at the visitor center. The extortion demand cassette tape was subsequently played for two of the subject's parole counselors, who positively identified the voice as Milligan's. Milligan had also left a recorded telephone message on a probation counselor's voice mail at 1:42 p.m., on 10/20/96, advising that he had a .22 caliber weapon and ammunition. Further investigation revealed that Milligan was a convicted sex offender and child molester who was released from juvenile detention in February 1996.

On 12/30/96, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted], Acting Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; Robert M. Blitzer, Section Chief, Domestic Terrorism Operations Section, NS-7, National Security Division; Charles L. Owens, Section Chief, Financial Crimes Section, Criminal Investigative Division; [redacted] Unit Chief, Employee Assistance Unit, Personnel Administration and Benefits Section, Personnel Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; and, [redacted] Supervisor, Washington Field Office. The only non-voting attendee was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that the use of deadly force by SA [redacted] was justified. Members noted the fact that

To: Inspection Division From: Inspection Division
Re: 66-19157-50, 1/9/97

SA [redacted] actions were appropriate and that the use of two shots in this shooting incident was warranted. The SIRG commented on the fact that SA [redacted] was appropriately armed and in control of the situation. The only observation made by the SIRG involved the submission of SA [redacted] weapon for examination. The Training Division representative indicated that weapons should be submitted for examination only when information is needed for forensic purposes.

**LEAD(s):**

b6
b7C

**Set Lead 1:**

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 1/21/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William D
Lusby Thomas

**Drafted By:** [redacted] drr

b6
b7C

**Case ID #:** 66-19157-19

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/21/96
HOUSTON DIVISION

**Synopsis:** To advise of a shooting incident on 10/21/96, involving Special Agent (SA) [redacted] of the Houston Division. SA [redacted] shot and wounded a subject who had fired inside a restaurant killing one person and had also fired at SA [redacted]

**Details:** Reference report of Assistant Inspector-in-Place [redacted] dated 11/15/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
3 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 4147

1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 3787P
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WRO
1 - Mrs [redacted] Room 7861

b6
b7C

**Details of the Shooting Incident**

On 10/21/96, while conducting a surveillance of drug subject [redacted] a Houston Special Operations Group (SOG) team consisting of five agents followed the subject to a local restaurant where he remained for approximately two and one half hours. At approximately 8:45 p.m. [redacted] exited the restaurant carrying a black object in his right hand and walked to his vehicle. After a moment at his vehicle, he returned to the restaurant with a handgun. [redacted] actions were viewed through binoculars by SA [redacted] who was one of the SOG members. SA [redacted] radioed the information to the entire SOG team. After a few seconds, the subject exited the restaurant and fired two rounds into the lock and frame of the opened restaurant door, shattering its glass. SA [redacted] continued to radio events to team members as [redacted] re-entered the restaurant and SA [redacted] heard four or five more shots fired inside the restaurant. SOG members were alerted to the shooting and began moving towards the restaurant. [redacted] departed the restaurant and began walking easterly towards an adjacent bowling alley parking lot. SA [redacted] had positioned himself in the parking lot of a Diamond Shamrock Service Station east of the restaurant and north of the bowling alley. While passing through the parking lot, [redacted] was challenged by an armed security guard. The subject immediately fired upon the guard striking him on a bullet pouch on his belt. SA [redacted] who was wearing body armor, exited his vehicle and took cover behind his open driver side door. [redacted] fired at SA [redacted] who returned fire with five rounds, striking the subject once in the left leg above the knee.

The subject fled to an adjacent street where he was found unconscious between two residences. [redacted] was arrested by the Houston Police Department (HPD) and transported to the hospital where he was treated for a wound to his left leg and subsequently released into the custody of the HPD. [redacted] was charged by the Harris County District Attorney with murder and aggravated assault.

On 1/16/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted], Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel

b6
b7C

b6
b7C

Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted], Supervisor, Washington Field Office. The only non-voting attendee was [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

**Observations and Recommendations of the SIRG**

b6
b7C

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that the use of deadly force by SA [redacted] in this incident was justified. Members noted that SA [redacted] had a reasonable belief that the subject posed an imminent danger of death or serious physical injury to him and to other persons, the subject would flee if possible, and the subject had left the scene of a violent crime. Members commended the actions of SA [redacted] and agreed that if he had not incapacitated the subject more injuries would most likely have occurred during this incident. Additionally, SIRG members noted that each SOG team member was wearing protective body armor and unanimously agreed that the SOG team should be commended for being prepared for this event.

b6
b7C

**LEAD(s):**

**Set Lead 1:** That no administrative action be taken against any employee as a result of their involvement in this shooting incident.

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 3/31/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
Contact: [redacted] Extension 1837

**Approved By:** Gore William D
Lusby Thomas J

**Drafted By:** [redacted] rr

**Case ID #:** 66-19157-28 b6 b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/26/96
MEMPHIS DIVISION

**Synopsis:** To advise of a shooting incident on 10/26/96, in the Memphis Division. [redacted], a fugitive wanted for murder from the State of Virginia, was shot and injured by agents during an attempted arrest.

**Details:** Reference report of Assistant Special Agent-in-Charge Richard A. Marquise, dated 11/21/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
3 - Mr. [redacted], Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. Dillard, Room 4042

1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WFO

b6 b7C

## Details of the Shooting Incident

On 10/26/96, at approximately 10:00 p.m., the FBI received information that [redacted] a fugitive wanted for murder from the State of Virginia, had been in telephonic contact with his mother in Oklahoma. Information was provided that the telephone being used by [redacted] was located in Lakeland, Tennessee. SA [redacted] determined that the Tennessee Bureau of Investigation (TBI) was also attempting to locate and arrest [redacted] for a murder committed in Nashville in October of 1996. [redacted] was also on the TBI's Top Ten Most Wanted Fugitives list. b6 b7C

SA [redacted] located five additional agents and met the TBI and the Shelby County Sheriff's Department (SCSD) to formulate an arrest plan.

[redacted] may be located at an address believed to be Surplus Steel. Upon arriving at the location provided by TBI, it was determined that Surplus Steel was approximately three miles away from their location. Participants traveled to the appropriate location and the SCSD deputies closed the highway which fronted the business. The location consisted of three buildings, including a trailer located to the rear. FBI and TBI agents believed that if [redacted] was at the location, he would probably be in the trailer.

For a period of 10 to 20 minutes, SA [redacted] and other individuals attempted to call individuals out on the public address system located in the law enforcement vehicles. Law enforcement officials received no response from inside any of the buildings or the trailer. Additionally, attempts to get someone to answer the telephone met with negative results.

SA [redacted] plan, formulated in conjunction with TBI officials, was to send FBI and TBI Agents to the back of the property to monitor activities in the trailer as the other two buildings were cleared. After it was apparent that no one was located in the first building, attention was turned to the second building. Because of lights coming through the window, it became obvious that someone was probably in the building. b6 b7C

Each of the agents who moved to clear the building was armed with a shotgun or an MP-5. SA [redacted] moved to the center of the building and both he and SA [redacted] observed an individual laying on a cot in the building. After calling in to the subject

and announcing their identity and the fact that if he was [redacted] he was to be arrested and was ordered to put his hands up. As this information was announced, [redacted] flipped onto his stomach, hiding his hands under a pillow by his head. As the agents continued to talk to him for several minutes, the subject made a motion toward them, bringing his hands from under the pillow. As the subject made these movements, FBI SAs [redacted] and [redacted] and TBI ASAC [redacted] fired rounds from their weapons resulting in [redacted] being wounded. At that point, they determined that [redacted] had been hit and that SA [redacted] had been wounded by a ricochet shotgun pellet to the face and ear. A determination was also made that [redacted] gun, which was located in the cabin on the floor, had not been fired; however, an examination of the weapon indicated that a live round with an indented primer was under the hammer.

b6
b7C

[redacted] was arrested and transported to the Regional Medical Center in Memphis. SA [redacted] was treated and released for a superficial wound to his face.

This shooting incident was planned for discussion at the 1/16/97, SIRG meeting; however, due to time constraints discussion was delayed until the SIRG met on 1/28/97.

On 1/28/97, the SIRG convened at Quantico to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Steven W. Dillard, Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office.

b6
b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations,

and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously agreed that this incident involved intentional discharges of weapons of all participants who fired. Additionally, members concurred that the use of deadly force was in accordance with the current deadly force policy. Members noted that the subject posed a danger to SAs and officers, verbal warning was given to the subject and the subject made movements as if he were getting a weapon from under a pillow.

Additionally, the SIRG commended SA [redacted] for his actions prior to and during this shooting incident. Particularly noted was his discipline and the fact that he asserted strong leadership and control of the situation. Members noted that a thorough arrest plan was prepared, discussed and adhered to by the participants. All members concurred that SA [redacted] should be commended for his actions. The SIRG also commented on the fact that all participants utilized protective body armor in accordance with Bureau policy.

b6
b7C

**LEAD(s):**

**Set Lead 1:**

That no administrative action be taken against any employee as a result of their involvement in this shooting incident.

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 4/8/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William [redacted]
Lusby Thomas [redacted]

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-13

b6
b7C

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/6/96
DENVER DIVISION

**Synopsis:** To advise of a shooting incident in the Denver Division on 11/6/96, during an attempted arrest of a subject who was observed and audio recorded completing a narcotics transaction.

**Details:** Reference report of Inspector-in-Place [redacted] dated 12/5/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7825 (Enclosure)
2 - Mr. [redacted] Room 7116
(1 - Mr. Marquise, Room 5155)
3 - Mr. [redacted], Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
3 - Mr. [redacted], Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted], Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted], Room 7837
1 - Mr. Dillard, Room 4042

1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] FO

b6
b7C

**Details of the Shooting Incident**

Based upon information provided by a credible cooperating witness and his attorney, on 11/6/96, [redacted] was observed and audio recorded completing a felonious narcotics transaction by FBI agents, Aurora Police Department (APD) officers, and members of the Metro Gang Task Force.

[redacted] was permitted to re-enter his vehicle before an attempt was made to arrest him. As soon as the police surveillance van came to a stop, blocking [redacted] escape from his parking space, Officer [redacted] exited the driver's side door of the police surveillance van with his weapon drawn and placed himself between the police surveillance van and the rear bumper of [redacted] vehicle. Officer [redacted] exited the cargo doors on the right side of the police surveillance van first and moved to his left to take a position at the left front of the police surveillance van covering the right side of the subject's truck. Officer [redacted] was second to exit the van and moved to his right to take a position at the left rear of the police surveillance van to cover the driver's side of [redacted] truck, and SA [redacted] was last to exit the surveillance van. SA [redacted] moved to his right to take a position in the area of the left rear of the surveillance van. Officers [redacted] and [redacted] and SA [redacted] wearing police raid jackets with the words "Police" stenciled across the front and each having his weapon drawn and pointed in the direction of [redacted] vehicle, repeatedly said in loud voices, "police", "stop", "put your hands up", and "freeze".

[redacted] was observed looking to his right, left and rearward at the approaching law enforcement officers as orders were being given to him to surrender. [redacted] was observed placing his left hand on the steering wheel and reaching downward with his right hand. The back up lights came on in [redacted] vehicle and Officer [redacted] immediately began to move to safety as the subject began moving rearward toward the police surveillance van. While moving backward, [redacted] vehicle collided into the van forcing [redacted] to flee from his location between the vehicles. [redacted] immediately accelerated forward while surrounded on the right, left and rear by law enforcement personnel, parked vehicles, an apartment building and a tree at his front.

b6
b7C

b6
b7C

At the time of impact with the surveillance vehicle, Officer [redacted] was at the front of the right side door of the pick up and began to move forward with the accelerating vehicle.

As the truck made a sharp turn to the left, the flat surface of the right front tire was exposed. Officer [redacted] began firing at the flat, treaded portion of the right front tire. Officer [redacted] discharged three rounds in the direction of the cab of the subject's vehicle. While observing the aggressive actions of [redacted] SA [redacted] began firing seven rounds into the driver's side door, window, and frame of [redacted] vehicle.

[redacted] yelled that he had been shot and subsequently followed instructions to open the driver's door at which time he was subdued and arrested. [redacted] suffered non-life threatening injuries receiving four wound areas to his upper torso and right lower arm. Law enforcement officials took charge of the scene ensuring appropriate medical assistance was obtained and the scene was properly secured. [redacted] was found to have had a Glock, Model G23 semiautomatic pistol with a fully loaded magazine within his reach in the passenger compartment of the vehicle.

b6
b7C

Fourteen impact points were identified and fourteen spent shell casings were recovered from the scene.

On 1/28/97, the SIRG convened at Quantico to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Steven W. Dillard, Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Washington Field Office.

b6
b7C

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational

standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

SIRG members unanimously concurred that this involved an intentional discharge of weapons by law enforcement participants. Members also concurred that the use of deadly force was justified and within the current deadly force policy guidelines.

The SIRG recognized the fact that Officer [redacted] would have violated the deadly force policy by shooting at the tire of the vehicle; however, members noted that his actions were not within the realm of discussion by the SIRG.

Members agreed that although not very specific, an operational plan, procedures and tactics were in place and adequate for the circumstances surrounding this incident. This plan resulted in the confinement of the subject.

The only safety issue discussed by the SIRG regarded Officer [redacted] placing himself in grave danger by aligning himself between the surveillance van and the subject's vehicle. SIRG members iterated the fact that even with the best planning, one must continue to factor in human nature, i.e., individuals may abandon cover and put themselves in harms way. b6 b7C

Lastly, the SIRG members discussed the review of the Denver Division's crisis management plan. Members expressed a desire to have this plan provided to all offices for their personal review and planning.

**LEAD(s):**

**Set Lead 1:**

That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

♦♦

(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 4/3/97

**To:** Inspection Division **Attn:** William D. Gore

**From:** Inspection Division
**Contact:** [redacted] Extension 1837

**Approved By:** Gore William B
Lusby Thomas

**Drafted By:** [redacted] lrr

**Case ID #:** 66-19157-15

**Title:** ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/20/96
DETROIT DIVISION

b6
b7C

**Synopsis:** To advise of a shooting incident on 11/20/96, in the Detroit Division during an attempted arrest of a subject wanted in connection with a $1.3 million robbery of a Michigan National Bank armored security car.

**Details:** Reference report of Inspector-in-Place [redacted] dated 12/11/96.

This communication is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7825 (Enclosure)
2 - Mr. [redacted], Room 7116
(1 - Mr. Marquise, Room 5155)
3 - Mr. [redacted] Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. Carter, Room 6050)
1 - Mr. [redacted] Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. Lusby, Room 7825
1 - Mr. [redacted] Room 7837
1 - Mr. Dillard, Room 4042

1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] WFO

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-15, 4/3/1997

## Details of the Shooting Incident

On 11/13/96, at approximately 10:53 p.m., Dearborn Police responded to a 911 call that a Michigan National Bank (MNB) guard had been shot at a branch of the MNB in West Dearborn. Upon arrival, police observed [redacted] standing next to a MNB van, over the body of the bank guard who appeared to have a single gunshot wound to the head.

[redacted] advised police that he was the driver of the MNB van and that the deceased bank guard was his partner and passenger. [redacted] advised that he and his partner had left the main pick-up center with approximately one million dollars, and that this bank was their first drop off. [redacted] stated that only his partner was armed since [redacted] had only been on the job for three months and had not received clearance to carry a firearm. According to [redacted] he pulled the van parallel to the ATM entrance with the passenger's side of the van being the closest. [redacted] advised that he and his partner opened the doors to exit the van and he heard a single gunshot and observed a black male on the passenger's side of the van holding a small handgun. Dearborn Police subsequently determined that $1.3 million had been taken during the robbery/murder.

b6
b7C

On 11/14/96, Dearborn Police took the videotape from the ATM to the Michigan State Police for enhancement of the image. The tape showed numerous inconsistencies with [redacted] previous statements as to what actually happened during the robbery. The videotape showed [redacted] briefly talking to a second individual at the rear of the bank van, as well as [redacted] pulling something out of the passenger side of the van. Police subsequently determined that the bank guard died from a point-blank, single gunshot wound to the head, and that the shot was fired from the left which was the driver's side of the van. A .32 caliber cartridge case was found under the victim's body. Subsequent investigation lead to a search warrant being obtained and executed at the home of [redacted] and his parents. During the search, information was gathered from [redacted] regarding Committ Rowson, III, who was [redacted] best friend and also his cousin. A vehicle registration search determined that Rowson owned a maroon Ford Ranger pickup truck.

b6
b7C

On 11/15/96, [redacted] was interviewed and admitted to owning a .32 caliber handgun. When asked to produce the handgun, [redacted] went to the bedroom and found that the gun was missing. He had several loose rounds of .32 caliber ammunition

which was provided to the police. One of the .32 caliber cartridges had been ejected from his gun sometime in the past. The cartridge was compared to the cartridge case found under the deceased bank guard's body and determined to have similar ejection marks.

Local charges for first degree murder, felony murder, and possession of a firearm during the commission of a felony were filed against [redacted] and Rowson on 11/15/96 and 11/18/96, respectively. b6 b7C

On the morning of 11/19/96, the Detroit Division received a telephone tip regarding an associate of Rowson. The name of the associate was [redacted] and he had allegedly received money from Rowson and purchased a car for him. Detroit Special Operations Group (SOG) conducted a surveillance of [redacted] residence including following two individuals in a Cadillac from [redacted] residence in Detroit to the Knights Inn in Warren, Michigan. It was determined that although Rowson had previously stayed at the Knights Inn, he was no longer at the motel.

SAs subsequently confronted [redacted] and obtained a consent to search his residence on the evening of 11/19/96. After the search, [redacted] was interviewed at the Detroit Office. During the interview, [redacted] admitted that Rowson had advised him that he and [redacted] referring to [redacted] had been involved in the robbery on 11/13/96. [redacted] further advised that Rowson had given him some money from the robbery to purchase a car for him. [redacted] advised that he purchased a 1983 Chevrolet Caprice for Rowson. [redacted] admitted that he rented a room for Rowson at the Knights Inn on Saturday evening, 11/16/96. According to [redacted] Rowson possessed a 9mm pistol and he had also seen Rowson with a small semiautomatic pistol. Rowson told [redacted] that the small semiautomatic pistol was given to him by his father.

On the morning of 11/20/96, SA [redacted] b6 b7C Acting Supervisor of Squad C-4, briefed the SAC regarding the status of the investigation and the activities that had occurred on 11/19/96. After briefing the SAC, SA [redacted] requested the assignment of four additional SAs to assist in conducting a neighborhood investigation within a five-mile radius around the Knights Inn. Four agents were assigned to conduct the neighborhood investigation. After being briefed at the Detroit Office regarding this assignment and being provided a photograph and physical description of Rowson, and advised of the fact that he was

considered armed and dangerous, the agents left the office at approximately 9:30 a.m., enroute to the Knights Inn, to conduct the investigation.

At approximately 10:30 a.m., on 11/20/96, SA [redacted] received a call from [redacted] who advised that Rowson had attempted to call him three times on the evening of 11/19/96. [redacted] provided a telephone number from the caller ID on his residence telephone. Investigation determined that the phone number from which Rowson was calling [redacted] was located at the Red Roof Inn in Warren, Michigan, which is located across the street from the Knights Inn. b6 b7C

Upon learning this information, SA [redacted] contacted the SOG squad and requested a surveillance around the Red Roof Inn in an effort to locate Rowson. After calling the SOG squad, SA [redacted] requested four additional agents to meet SA [redacted] at a strip mall near the Red Roof Inn. SA [redacted] also briefed SSA [redacted], supervisor of the Violent Crime Task Force. SSA [redacted] subsequently sent one additional agent and two task force members to the vicinity of the Red Roof Inn. Upon his arrival at the staging area, SA [redacted] and SA [redacted] advised the other agents and officers of the possibility of Rowson being at the Red Roof Inn. SA [redacted] was also notified by the SOG team leader, SA [redacted], that the SOG had established an outer perimeter around the Red Roof Inn.

Two SAs were sent to interview the manager of the Red Roof Inn to determine if Rowson was staying in the motel. According to the manager, he had not seen Rowson and a review of motel records determined that no individual had registered under the name of Rowson. The agents obtained computerized telephone records from the motel in an effort to identify the calls that Rowson allegedly made to [redacted] A determination was made that all but six rooms in the motel could be eliminated as possible locations in which Rowson could be the tenant. b6 b7C

At approximately 11:45 a.m., a possible look alike to Rowson was interviewed at a nearby International House of Pancakes; however, a determination was made that it was not Rowson.

SA [redacted] instructed nine agents and police officers to return to the initial staging area to develop a plan for checking the six remaining rooms. The plan called for SAs [redacted] and [redacted] to obtain housekeeping attire from the motel in order to pose as housekeeping personnel. The SAs would knock on the

various doors and identify themselves as housekeeping personnel in an effort to lure the occupants to the door for a positive identification. If there was no response to the knock, the plan was to utilize a pass key, provided by the motel management, in an effort to open the room door to identify any occupants. The plan called for SA [redacted] and seven additional agents and police officers to assist SAs [redacted] and [redacted] in this task. SA [redacted] discussed this plan with SA [redacted] the SOG team leader. SA [redacted] had also been in contact with SA [redacted] who was in the office awaiting approval of the federal arrest warrant for Rowson, regarding the developments at the Red Roof Inn and the plan to identify the occupants of the six rooms. b6 b7C

Prior to the implementation of the plan, SA [redacted] was advised that an SOG team member had stopped a pizza delivery person who was observed by the SOG departing the Red Roof Inn. The pizza delivery driver positively identified Rowson as the occupant of Room 248 and also advised that another individual was in the room. He provided a general description of the individuals in the room as well as providing a description of the clothes being worn by these individuals.

Based on the information provided by the delivery person, SA [redacted] developed an alternate plan that called for six agents, and two task force officers to approach Room 248 in an effort to effect Rowson's arrest. Previous investigation had determined that the room to the south of Room 248 was empty and that on the other side of Room 248 was a breezeway.

At approximately 1:40 p.m., SA [redacted] arrived at the Red Roof Inn with the arrest team consisting of six SAs including himself and two task force members. The team proceeded to the second floor balcony of the motel and continued to walk in a single file line down the balcony towards Room 248. According to SA [redacted] he briefed the SOG, via the Bureau radio, prior to initiating this plan. b6 b7C

SA [redacted] was aware of the pizza delivery identification, via radio communication from SA [redacted] and he relayed this information to his surveillance team and advised them to maintain their perimeter position. According to SA [redacted] he was not totally aware of the arrest plan details. It was further determined that SA [redacted] did not advise the Detroit Office of the pizza delivery person's identification of Rowson or his new plan to effect the arrest of Rowson. According to SA [redacted] he believed that SA [redacted] was monitoring the radio traffic in the office.

SA [redacted] plan called for an attempt to use a pass key to gain entrance into the room. While enroute to Room 248, the arrest team encountered a motel employee who provided a pass key. It had been decided that if the pass key plan failed, the agents would knock and announce their presence.

During the approach to Room 248, SA [redacted] noted that the curtains were open and the rooms empty for the two or three rooms to the south of Room 248. Upon reaching Room 248, the agents assumed a crouched position in order to avoid being seen through the window. SAs [redacted] and [redacted] set up on the north side of the door along with Officer [redacted] and were subsequently joined by SA [redacted] an SOG team member. b6 b7C

After the pizza delivery identification, SA [redacted] had proceeded to the Red Roof Inn where he observed the arrest team approaching from the south. SAs [redacted] and [redacted] positioned themselves on the south side of the door.

At the point of everyone assuming their position, SA [redacted] signaled SA [redacted] to attempt to utilize the pass key. The attempt was unsuccessful because the door was apparently dead bolted. At that point, SA [redacted] initiated the backup plan, knocking and announcing law enforcement presence and ordering Rowson to exit the room with his hands up. According to SA [redacted] he knocked and announced, "FBI, open the door, police open the door, FBI, open the door". SA [redacted] stated that he banged on the door several times and may have said, "Open the door or it's coming down". b6 b7C

According to SA [redacted] approximately five to ten seconds after announcing their presence, the door to Room 248 opened and a black male with a wild look on his face who was subsequently identified as [redacted] exited in a crouched position. SA [redacted] stated that at the time [redacted] began exiting the partially opened door of the room, he opened the door all the way and quickly scanned the room. He observed movement at the bathroom door. SA [redacted] pointed his weapon away from [redacted] toward the bathroom door at which time he observed a subject standing at the bathroom door who had assumed a shooting position. At that time, he saw a muzzle flash coming from what appeared to be a semiautomatic pistol. SA [redacted] stepped back from the doorway and all agents took cover.

According to SA [redacted] at the time of [redacted]s exit from the room, he scanned [redacted] in an effort to determine if he had a weapon. SA [redacted] yelled for [redacted] to get down on the

ground and as [redacted] took control of [redacted], SA [redacted] moved towards the doorway in an effort to observe other individuals in the room. At that time, SA [redacted] heard three or four gunshots being fired from within the room. He was unable to observe anyone in the room and thought that the gunshots were coming from the back of the room or possibly the bathroom area. According to SA [redacted], he fired five or six rounds from his 9 mm semiautomatic pistol in an effort to suppress the fire that was coming from the room. SA [redacted] who had assumed a high position, stated that he heard SA [redacted] fire a quick burst and then he began firing towards the area of the bathroom. SA [redacted] advised that he fired in that direction because it was the area where he last saw the individual who had assumed the shooting position. b6 b7C

After SA [redacted] and other agents backed away from the door, SA [redacted] radioed the agents in the Red Roof Inn area that shots had been fired. SA [redacted] also radioed the office that shots had been fired and requested assistance from the Warren Police Department (WPD). SA [redacted] requested additional support and back up as well as emergency medical service support.

SA [redacted] also spoke to SAC Joseph D. Martinolich, Jr., who was enroute to the scene with ASAC John D. Stapleton. SA [redacted] advised SAC Martinolich that he had requested emergency medical service, SWAT personnel, and Evidence Response Team personnel to the scene.

At the time of the shooting, SAs [redacted] and [redacted] were returning to the motel office to obtain housekeeping uniforms and a pass key for use in the original arrest plan. It should be noted that these two agents were never informed of the alternate arrest plan. Upon hearing shots fired, SA [redacted] instructed the motel manager to notify the WPD. b6 b7C

After the initial shots fired by Rowson and the agents' return fire, the agents backed away from the doorway with the door remaining open. The agents and officer who had been on the north side of the door took a position along the concrete wall in the breezeway. The agents and trooper who had been on the south side of the door beneath the window retreated to the south. From that point forward, there was no noise or response to the agents' commands for Rowson to exit the room. The motel room door remained open while the agents maintained cover of the doorway and attempted to call Rowson out of the room.

Numerous attempts were made to contact Rowson by hostage negotiators with negative results. After consultation

with hostage negotiators, SAC Martinolich arranged for several of Rowson's relatives to be brought to the scene in the event that they were needed in the negotiations. Attempts to make contact with Rowson in the room included telephone, voice commands, bullhorn with the telephone, and bullhorn without a telephone. Efforts to talk Rowson out of the motel room were terminated after receiving no response.

At approximately 4:00 p.m., a Michigan State Police dog handler sent in a dog to determine if Rowson was alive in the room. The dog's response upon entering and exiting the room indicated that there was not a live moving person in the room. Subsequently, the SWAT team entered the room and found Rowson apparently dead in the bathroom. Rowson was slumped against the tub with a semiautomatic pistol in the cocked position resting on his chest underneath his hand. An emergency medical team entered and confirmed that Rowson was deceased and the crime scene was secured.

According to the autopsy report of the Macomb County Medical Examiner, it was determined that Rowson died of two gunshot wounds to the head. The medical examiner certified the death as a suicide.

On 1/16/97, the SIRG met to discuss the above captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted], Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted], Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted], Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted], Supervisor, Washington Field Office. The only non-voting attendee was [redacted], Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

To: Inspection Division From: Inspection Division
Re: 66-19157-15, 4/3/1997

**Observations and Recommendations of the SIRG**

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Discussion of this shooting by the SIRG concluded that the incident involved the intentional discharge of weapons by law enforcement personnel and that the use of deadly force was justified and within the current deadly force policy guidelines.

SIRG members made several observations regarding the lack of basic actions by personnel involved in the incident. These actions included the lack of notification to local authorities, failure to share information between the arrest team members, no clear operational or arrest plan, lack of management oversight on the scene and, the neglect of one SA to utilize protective armor as well as other participants not wearing raid jackets to identify themselves as law enforcement officers. One representative concluded that if this incident had been a practice session, it would have been considered a failure. Members noted that the local authorities were notified subsequent to the shooting incident. Although numerous issues were identified, this discussion resulted in a recommendation that SA [redacted] be censured for his neglect in utilizing protective body armor.

Further discussion of this shooting incident was held by the SIRG on 1/28/97. The following voting members of the SIRG were in attendance: Chairman, Thomas Lusby, Deputy Assistant Director, Inspection Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Steven W. Dillard, Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Richard A. Marquise, Section Chief, Operational Support Section, Criminal Investigative Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, b6 b7C

Laboratory Division; and, [redacted] Supervisor, Washington Field Office.

b6
b7C

A presentation was made to the SIRG by Inspector-in-Place [redacted] who conducted the shooting investigation.

SIRG members reiterated that adequacy of planning was lacking in this event. Particularly noted by the members was the fact that although the SAC and the ASAC were briefed about the possibility of the subject being at one location, they were not advised when a positive identification of the subject was made by the pizza delivery employee. Also noted by the SIRG were the following facts: 1) one first office agent wore no protective armor, 2) FBI identification was not visible, 3) one SOG member who joined the team had no idea of the arrest plan, and, 4) no contingency plan was made to use the SOG in this situation.

Members also discussed the fact that ASAC Stapleton advised that the SAC is not notified of all arrests being made; however, he is advised when a high profile case is involved or a propensity for violence exists. Additionally, attendees discussed the fact that policy dictates that if a propensity for violence exists the SAC should be on the scene or designate a management official to be present. Members noted the fact that no direction was provided on-scene, an acting supervisor was in control of the on-scene incident, and that no evacuation was made until shots had been fired. Discussion focused on the fact that although this incident did not involve a Safe Streets Task Force, individuals making arrests that are potentially dangerous on a routine basis become complacent and neglect to notify office management. SIRG members unanimously opined that although these instances occur, armored car robberies should always be considered dangerous and not routine. The SIRG emphasized that the SAC should ensure that the necessity for adequate planning when conducting arrests is emphasized to all personnel. Further, SAC Detroit should, when appropriate, ensure local law enforcement is notified prior to arrests being made. Members also agreed that in the future management should invoke a management crisis plan at an early stage during high profile, possibly violent instances.

To: Inspection Division From: Inspection Division
Re: 66-19157-15, 4/3/1997

**LEAD(s):**

**Set Lead 1:**

That no administrative action be taken against SAs [redacted] and [redacted] as a result of their involvement in this shooting incident.

b6
b7C

**Set Lead 2:**

That the Administrative Summary Unit, Office of Professional Responsibility forward a letter of censure to SA [redacted] for his neglect to use protective body armor during this incident.

**Set Lead 3:**

That SAC, Detroit, be advised of the necessity for adequate planning when conducting arrests, particularly when violent offenders are involved; reemphasize the use of ballistic body armor and raid jackets by FBI agents conducting arrests; the need for notification to local authorities, when appropriate, prior to making arrests; and, the need for management to invoke a management crisis plan earlier in high profile possibly violent situations.

♦♦

# 1996

Mr. Gore 4/16/96

W. D. Thompson, III

b6
b7C

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/18/96
CINCINNATI DIVISION

Reference report of Inspector [redacted] dated 2/8/96.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no administrative action be taken against any Special Agent (SA) involved in this shooting incident.

b6
b7C

66-19157-10
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted], Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. [redacted] oom 6646)
1 - Mrs. [redacted] Room 5829
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
LRR:lrr (21)

1 - Ms. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] OJ
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

(CONTINUED - OVER)

(2) That the Information Resources Division (IRD) contact the Cincinnati Division to determine the problem that existed with radio communication between the ground personnel and the aircraft. Upon resolution of the communication problem, IRD should follow-up information with the Cincinnati Division and advise all field offices.

(3) That the Training Division (TD) encourage additional training for Safe Streets Task Forces and non Swat SAs as well as other Task Force participants.

(4) That the TD send a reminder to all offices that qualification is necessary for M-16 use.

b6
b7C

DETAILS: On 3/12/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; J. C. Carter, Section Chief, Personnel Management

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
1/18/96
Cincinnati Division

Section, Personnel Division; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, WMFO. Non-voting attendees consisted of [redacted], U.S. Marshals Service (USMS), Enforcement Division, Arlington, Virginia; [redacted] Inspection Analyst, Office of Inspections, and [redacted] Computer Specialist, Information Resources Division (IRD). A presentation regarding this shooting incident was provided by Inspector [redacted]. Since this shooting inquiry was a joint investigation with the USMS, one representative from the USMS was also present.

b6
b7C

## Synopsis of the Shooting Incident

This shooting incident was a result of an investigation involving bank robberies and an Unlawful Flight to Avoid Prosecution (UFAP) warrant for [redacted] and his associate [redacted]. The shooting incident occurred on 1/18/96, as SAs and Safe Streets Task Force (SSTF) members of the Cincinnati Division attempted to arrest [redacted]. The subject left his residence at [redacted] Columbus, Ohio, and entered a van parked in the back yard near a garage. [redacted] failed to comply with commands to surrender, and moved from the driver's seat toward the back of the van. The subject was observed in a shooting position and approximately 46 shots were fired resulting in the minor wounding of [redacted].

b6
b7C

In December 1995, [redacted] and [redacted] were identified as prime suspects in the "BOMROB" major bank robbery investigation. This investigation involved the robbery of 18 banks located in seven midwestern states. In these robberies, the robbers left behind improvised explosive devices and frequently deployed a military smoke grenade to cover their escape. Both [redacted] and [redacted] were Federal fugitives based on UFAP warrants in the Atlanta Division. By teletype dated 1/5/95, FBIHQ notified all offices of the significance of this investigation and that [redacted] and [redacted] were possible suspects. The teletype also contained information regarding their possible involvement with

white supremacy and militia groups and that they should be considered armed and dangerous. An Atlanta Division teletype dated 1/5/95, also advised that both individuals should be considered armed and extremely dangerous. The teletype provided the following cautions: Vowed not to be taken alive; utilizes body armor; uses police scanners and knows federal and police frequencies; utilizes inert hand grenades as booby traps, survivalist, white supremacist, skin head associate, anti-Government, anti-military, and anti-law enforcement.

b6
b7C

On 1/15/96, information was received by the Cincinnati Division leading to the location of [redacted] was identified by surveillance units and he attempted to elude FBI SAs resulting in a foot chase. He ultimately surrendered and was arrested and was found to be armed with a weapon at the time of his arrest. He agreed to cooperate and assist the FBI in locating [redacted] The Cincinnati Special Weapons and Tactics (SWAT) Team traveled to Indianapolis, Indiana, on 1/16 and 1/17/96, in an attempt to locate and arrest [redacted] attempted to locate [redacted] through an involved network utilizing paging devices, however, the meet never occurred.

On January 17, 1996, the investigation in Indianapolis was discontinued and SAs were dispatched to Columbus, Ohio. This move was based on information provided by [redacted] indicating that he had a "safe house" in Columbus. He provided a consent to search and advised that [redacted] was the only other person with a key to this "safe house." SAs and SSTF members located the residence and determined that lights were on and the residence was occupied by a lone white male. Information from [redacted] and investigation by the surveillance units determined that there was a strong possibility that [redacted] was inside the residence.

Members of the SSTF and others maintained a surveillance throughout the night. All SWAT Team members went to the Columbus Resident Agency and held a briefing upon their arrival after midnight on the evening of 1/17/96. SWAT Team leaders surveilled the residence and formulated a plan and provided detailed instructions including deadly force policy while FBI SAs were in attendance. They met again the following morning and were updated regarding the situation and again went over the plan for arrest.

b6
b7C

Throughout the planning, SAC Jackson and ASAC Ragle were aware of the progress and provided instructions as needed. Due to the propensity for violence and the potential for explosives in the residence, the decision was made that [redacted] would not be arrested

inside the residence. The plan required that he be arrested as he departed the residence to enter the van parked in the rear of the residence. The detailed arrest plan specified individual roles and responsibilities for all arrest team members with the primary objective of arresting [redacted] after he entered his van which was facing an alley south of the residence. SAs were to block the east and west exits and other SAs would position themselves at the back of the residence to prevent the subject from returning to the residence. The following morning the arrest teams were in place at 7:00 a.m. The SAC and ASAC traveled from Cincinnati to be on the scene. b6 b7C

At approximately 9:45 a.m., [redacted] exited the residence and slowly proceeded to the van. SA [redacted] had a view of the backyard and provided radio instructions to other arrest team members detailing the movements of the subject. After [redacted] entered the van, SA [redacted] ordered the SAs in the front of the residence to move in to prevent the subject from re-entering the residence. When those SAs were in place, SA [redacted] ordered all units to move in to effect the arrest. Four vehicles entered from the east and four entered from the west. Several Agents immediately exited the vehicles, took a position of cover, and ordered [redacted] to raise his hands and come out of the van. Several Agents noted that the subject begin to comply and raise his hands; however, he abruptly moved his hands downward and rolled from the driver's seat into the middle of the van. As he reappeared, Agents observed a weapon in his hands. Immediately, seven FBI Agents and SSTF members fired into the van. The burst of approximately 46 rounds lasted less than ten seconds. Agents again commanded [redacted] to exit the vehicle and he reappeared with his hands up. He was bleeding from the face and complied with commands to place his hands and extend himself through the driver's side window. Deputy U.S. Marshal [redacted] approached [redacted] and placed him in handcuffs. [redacted] was pulled to the ground and searched without further incident. [redacted] had, in his possession, a .22 caliber Beretta handgun at the time of his arrest. b6 b7C

The SAC and ASAC immediately reported to the arrest scene and an ambulance was called for [redacted] A search of the van was conducted with additional weapons being found; however, no other suspects were located. Subsequently, a search of the residence was conducted. [redacted] had indicated there were explosives in the bathtub, however, changed that statement. The Columbus Bomb Squad was contacted and awaited a clearing search by the Cincinnati SWAT team which was conducted without incident. Numerous weapons, seven grenades and 13 pipe bombs were located in the residence.

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
1/18/96
Cincinnati Division

The white van bearing Iowa license [redacted] was examined subsequent to a search warrant on 1/20/96. Among evidence obtained was one pipe bomb, one hand grenade, (both exploded by the Columbus Police Department for safety precautions), a .22 caliber Beretta handgun on his person, one 9mm Luger Taurus pistol, one .380 automatic caliber Bersa pistol, one .223 Remington SGW carbine, model XM15A1. The FBI Laboratory examination determined that all were loaded and functioned normally when tested in the Laboratory. Additionally, all had been fired since the weapons were last cleaned. b6 b7C

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Members of the SIRG unanimously agreed that deadly force was justified in this shooting incident and that the planning of the incident was more than adequate. The group recognized that the surveillance and arrest was fast moving, SAs and Task Force members involved in the incident had been working on the situation for three days, body armor was used due to the knowledge that the subject would possibly be heavily armed, numerous briefings were held with SAs to emphasize the danger involved with the situation, and that the incident basically went according to the arrest plan. It was also noted that proper verbal warnings were made to the subject prior to shots being fired. This resulted in the recommendation that no administrative action be taken against any Bureau personnel involved in this shooting incident.

According to SAC Theodore Jackson, he arrived in Columbus at approximately 7:45 a.m., on the morning of January 18, 1996. After receiving a briefing from ASAC Ragle, SAC Jackson was taken to the arrest site. After driving by the residence, SAC Jackson and ASAC Ragle attempted to contact the Bureau plane on the radio; however, were unable to do so. In order to make contact with the airplane, a return trip to the office was attempted to get a hand-held radio to assist in communicating with the plane.

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
1/18/96
Cincinnati Division

b6
b7C

Based on ASAC Ragle's statement, he and SAC Jackson stopped to confer with SWAT Team Leader [redacted] and SA [redacted]. At this time, recontact with the Bureau plane was attempted. SA [redacted] succeeded in contacting the plane which was overhead. An attempt was made to return to the office to obtain additional hand-held radios, when radio traffic indicated that [redacted] was exiting the residence which precluded the acquisition of additional radios.

Based on these statements, SIRG members recommended that the IRD contact the Cincinnati Division, determine the problem with radio communications between ground units and the aircraft, resolve the problem in order to eliminate any recurrence and advise all offices of the results. One SIRG member stated that the least expensive resolution to this problem may involve the use of planes with repeaters installed.

A lengthy discussion was held regarding the use of "body bunkers" by participants in this incident. One member emphasized that "body bunkers" are not only for SWAT personnel and that all SAs should be trained to use bunkers. According to one SIRG member, continuous training for body bunkers is necessary and is not available to SAs who are not SWAT Team participants. Therefore, the SIRG recommended that the TD encourage additional training regarding body bunker use to SSTF members, non-SWAT Team SAs as well as other task force participants.

The last issue resulting in a recommendation involved the use of an M-16 Rifle by one SA during this shooting incident. Members noted that according to the SA's statement, he last qualified with this weapon in August 1995. Therefore, the recommendation was made that all SAs be reminded that qualification is necessary for M-16 use.

Additional observations made by the SIRG included the following:

One participant possessed a weapon with five shots. Members unanimously agreed that this participant was under-armed and should have been more heavily armed. Additionally, it was noted that some SA participants in this incident did not know what ammunition was in the magazine.

The second observation by the SIRG involved the "boxing in" of the subject's vehicle during this incident. The TD representative advised that the van was not effectively "boxed in" and could have been driven out by the subject. Additionally, one

member added that perhaps an attempt could have been made to disable the vehicle to draw the subject outside of the van such as flattening the tire.

SIRG members also observed that at the time of arrest, several SAs and SSTF members gave oral instructions to the subject. All members concurred that the responsibility to designate a "spokesman" to order the subject to surrender should have been included in the planning.

The last observation of the SIRG was the inappropriate language used by one participant at the time of the arrest. It should be noted that this issue has been previously discussed during SIRG meetings, and the TD representative advised that the language issue will be addressed during Principal Firearms Instructors training.

Mr. Gore 6/13/96

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/6/96
KNOXVILLE DIVISION

b6
b7C

Reference report of Inspector-in-Place [redacted] dated 3/13/96.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That SAC, Knoxville orally admonish SA [redacted] for his violation of the deadly force policy. However, SA [redacted] should be advised of his use of good judgement for abstaining from shooting into the vehicle due to the presence of an unidentified passenger.

66-19157-24
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
1 - Mr. [redacted] Quantico
4 - Mr. [redacted] Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Foran, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
LRR:lrr (20)

1 - Mr. [redacted] DOJ
1 - Mr. [redacted], Quantico
1 - Ms. [redacted] A Division
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] BA Division
1 - Mrs. [redacted] Room 7837

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/6/96
Knoxville Division

b6
b7C

(2) That SAC, Knoxville, ensure that the Chief Division Counsel of the Knoxville Division provides SA [redacted] with a review of the deadly force policy, and that this additional training is documented.

(3) That the Training Division (TD), develop training scenarios for proper vehicle blocks, including instructions on action to take if a vehicle block fails, and disseminate copies of the scenarios to all offices for training purposes.

DETAILS: On 5/7/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] SA, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] nit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted], Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Baltimore Division. Non-voting attendees consisted of [redacted] General Counsel's Office, U.S. Marshals Service (USMS); [redacted] USMS, General Counsel's Office; [redacted] Inspection Analyst, Office of Inspections, [redacted]

b6
b7C



Savage-1509

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/6/96
Knoxville Division

Writer-Editor, Firearms Training Unit, and [redacted] Computer Specialist, Information Resources Division.

b6
b7C

## Synopsis of the Shooting Incident

On 3/6/96, at approximately 12:15 p.m., Task Force (TF) officers spotted a U-Haul truck at a residence in Soddy Daisy, TN. Information obtained from an informant indicated that this residence was frequented by [redacted] a parole violator being sought by members of the Chattanooga Safe Streets TF. [redacted] an armed and dangerous fugitive, had previously served 17 years for bank robbery and was now wanted for numerous local armed robberies and aggravated assaults.

[redacted] step-daughter and step-son drove off in the truck at approximately 1:00 p.m., and the TF officers established a surveillance. The truck crossed into Georgia and at approximately 2:30 p.m., parked in the parking lot of the "Flying J Truck Stop" south of Rossville, GA. Four Special Agents (SAs) from the Rossville Resident Agency (RA) joined the surveillance. Hoping that [redacted] would meet the truck, an arrest plan was developed that focused on blocking and arresting [redacted] in the parking lot.

At 6:20 p.m., a red Oldsmobile with two occupants pulled into the space next to the U-Haul truck. The Oldsmobile was facing east and was parked driver door to driver door with the truck. SA [redacted] and TF Officer [redacted] drove by the Oldsmobile and positively identified [redacted] as the driver. Once the identification was made, the signal was given to execute the arrest plan.

b6
b7C

The blocking vehicles began moving into position. SA [redacted] pulled his vehicle in front of [redacted] vehicle and exited. He leveled his shotgun at [redacted] identified himself and advised [redacted] that he was under arrest. [redacted] immediately began backing up in an easterly direction at a high rate of speed. He swung the car around, shifted into forward gear, and accelerated northward out of the parking lot. At that point [redacted] saw two FBI vehicles coming at him, cutting off his escape. SA [redacted] had started running east towards [redacted] car. [redacted] quickly braked and shifted into reverse and backed fishtailing and sliding in a wide arc, ending up backing west directly towards SA [redacted]

SA [redacted] thought that he would be pinned against the U-Haul truck and feared for his life as well as the SAs behind him.

b6
b7C

SA [redacted] could not shoot the driver because the car sat low and his view was obstructed. Additionally, he did not know the identity of the passenger in [redacted] car. As the car's right rear brushed against him, SA [redacted] discharged his shotgun into the right rear tire in a final effort to stop the vehicle. The car stopped and then shifting into forward gear accelerated in a southeasterly direction. The car was bumped twice by one of the TF vehicles, spun completely around and subsequently headed south.

As [redacted] accelerated, SA [redacted] moved towards him taking aim with his shotgun. On two occasions, SA [redacted] had a shot but refrained from firing because he did not want to endanger bystanders and at that point [redacted] was no longer a threat to him. [redacted] completed a 180 degree turn around a light pole island and again headed north for the parking lot exit. [redacted] was rammed twice by a vehicle driven by Deputy U.S. Marshal [redacted] and finally forced to a stop against a curb. [redacted] and his wife, [redacted] were pulled from the vehicle and arrested. A 9 mm pistol was found on the vehicle's floorboard and a semi-automatic rifle in the trunk.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

The first observation made by the SIRG members was the unanimous conclusion that SA [redacted] violated the deadly force policy by attempting to disable a vehicle by shooting the tire. However, members felt that the violation was mitigated by factors unique to this particular shooting incident. Members opined that SA [redacted] who was in fear of his life as well as other SAs and TF members, took the only action that he believed could possibly stop the vehicle. Further, the SIRG noted SA [redacted] use of good judgement in not shooting the driver considering the fact that an unknown, possibly innocent victim occupied the vehicle. This discussion resulted in the recommendation that SA [redacted] be orally admonished for his violation of the deadly force policy while taking into account his good judgement for abstaining from additional gunshots. Additionally, the SIRG recommended that the

b6
b7C

deadly force policy be reiterated to SA [redacted] to ensure his understanding of the policy.

The second issue discussed by the SIRG involved training issues relating to this incident. Members noted that although an arrest plan was developed, the subject's car was not properly blocked. Therefore, SIRG members recommended that the TD develop training scenarios for vehicle blocks and ensure dissemination to all offices.

Although not part of a formal recommendation, SIRG members noted that protective body armor was not utilized by all SAs involved in this incident.

Mr. Gore 6/24/96

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/21/96
LAS VEGAS DIVISION

b6
b7C

Reference report of Inspector-in-Place [redacted] dated 4/12/96.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no administrative action be taken against Special Agents (SAs) [redacted] and [redacted] as a result of their involvement in this shooting incident.

66-19157-65
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
1 - Mr. [redacted] Quantico
4 - Mr. [redacted], Room 6012
(1 - Mr. [redacted], Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Foran, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] oom 7825
LRR:lrr (20)

1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] OJ
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] oom 3849
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted], BA Division
1 - Mrs. [redacted] Room 7837

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/21/96
Las Vegas Division

(2) That the Administrative Summary Unit (ASU), Personnel Division (PD) prepare and forward a letter of censure to SA [redacted] as a result of his involvement in this shooting incident. The letter should advise SA [redacted] that he is being decertified as a firearms instructor and is being prohibited from the Special Weapons and Tactical (SWAT) program pending the results of further review by the PD. Additionally, the PD should review the previous shooting incident involving SA [redacted] as well as the one he witnessed involving SA [redacted] During the incident involving SA [redacted], SA [redacted] continued a shooting demonstration after SA [redacted] seriously wounded himself and two spectators were slightly wounded. Thereafter, in consultation with the SAC, Las Vegas, determine if a fitness for duty examination is needed.

b6
b7C

(3) That the Assistant Director (AD), Training Division (TD) decertify SA [redacted] as a firearms instructor and remove him from the SWAT program pending the outcome of PD's review of SA [redacted] involvement in previous shooting incidents and discussions with SAC, Las Vegas.

(4) That the TD prepare and disseminate car blocking procedures including the fact that these procedures should be addressed during operations planning.

(5) That the AD, Inspection Division (INSD), provide instructions to all personnel responsible for the completion of shooting incident reports regarding the need for detailed information regarding field of fire during initial shooting inquiries.

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/21/96
Las Vegas Division

DETAILS: On 5/7/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Division, USDOJ; [redacted], Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] SA, Firearms Training Unit, Training Division; [redacted], Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, Baltimore Division. Non-voting attendees consisted of [redacted] General Counsel's Office, U.S. Marshals Service (USMS); [redacted] USMS, General Counsel's Office; [redacted] Inspection Analyst, Office of Inspections, [redacted] Writer-Editor, Firearms Training Unit, and [redacted] Computer Specialist, Information Resources Division.

b6
b7C

## Synopsis of the Shooting Incident

On 3/21/96, during a planned arrest of FBI subject [redacted] Las Vegas Division SAs were involved in a shooting incident. The shooting incident occurred as [redacted] attempted to flee the area to avoid his arrest.

b6
b7C

A federal arrest warrant had been issued for [redacted] by the U.S. District Court, District of Nevada, on 3/20/96. Plans called for the arrest of the subject following an undercover purchase of drugs. This drug purchase was the fifth purchase in a series which had been orchestrated by an undercover police officer participating in the Weed and Seed Task Force initiative. Arrest plans for [redacted] were essentially finalized during the evening of 3/20/96, and were the subject of a thorough briefing of all personnel involved in the arrest on the morning of 3/21/96. SAs and officers deployed at the scene of the planned arrest, the Castaway's Casino parking lot, Las Vegas, Nevada, for the anticipated 11:00 a.m., arrest.

Following the arrival of [redacted] the completed purchase of cocaine by the undercover officer and the signal given for [redacted]

arrest, FBI SAs and police officers converged in an attempt to block the subject's vehicle and effect his arrest. At that point, [redacted] executed an extremely dangerous and aggressive driving maneuver in which he struck both blocking vehicles and FBI SA [redacted] who was knocked to the ground. [redacted] continued, driving directly into SA [redacted] sending him careening across the escaping vehicle's hood and smashing the vehicle's windshield before SA [redacted] was able to roll off during [redacted] rapid acceleration. As [redacted] vehicle sped through the Castaway Casino parking lot, three FBI SAs and two police officers fired at [redacted] who was crouched in the driver's seat. As [redacted] attempted his escape onto Decatur Boulevard, both marked and unmarked units of the Las Vegas Metropolitan Police Department (LVMPD) and the FBI gave pursuit and attempted to locate the subject's vehicle. [redacted] successfully eluded capture for that day.

b6
b7C

On 3/22/96, [redacted] attorney, surrendered [redacted] into the custody of the U.S. Marshals Service in Las Vegas. Following negotiations with [redacted] vehicle was recovered, impounded, and processed by the LVMPD. [redacted] received medical treatment for "cuts on his back and right hand and a cut on his left proximal elbow". Medical records for [redacted] reveal that he suffered "several scratches and superficial puncture wounds posterior back" and that "palpable buckshot is felt in the skin". Further, [redacted] experienced a "small puncture wound over the right thenar eminence (fleshy area below the thumb) and tenderness in the thenar muscle group". Regarding the elbow wound, a "full range of motion of the elbow" and "no evidence of joint involvement" were noted. [redacted] was given an antibiotic and recommended to seek follow-up care.

During the planning and attempted arrest of subject, Assistant Special Agent-in-Charge (ASAC) Walter B. Stowe was acting in place of Special Agent-in-Charge Bobby L. Siller, who was out of the division. ASAC Stowe approved a verbal presentation of the arrest plan. The written arrest plan which was approved by Supervisory Special Agent (SSA) [redacted] sets forth the authority to arrest [redacted] details of [redacted] violent history and past attempt to flee during a prior arrest. Additionally, the written plan included a thorough plan with individual and team assignments for the anticipated arrest of the subject. The plan, and an all-hands meeting on the morning of the planned arrest, emphasized the Department of Justice Deadly Force Policy and the requirement for participating personnel to wear appropriate body armor and identification. Participating personnel were equipped

b6
b7C

with both body armor and identification, and issued verbal identification and commands during the attempt to arrest [redacted]

Interviews and ballistics examinations determined that SA [redacted] fired three rounds of service ammunition from his Bureau authorized pistol after being struck and knocked to the ground by [redacted] vehicle. After the shooting incident, SA [redacted] was treated by paramedics at the scene, determined to have only superficial injuries, and released.

b6
b7C

Ballistics examinations determined that SA [redacted] fired one round of service ammunition from his Bureau authorized pistol after being struck by [redacted] vehicle. SA [redacted] was unaware that he fired a round, believing that he withheld firing for fear of hitting a police van. SA [redacted] was transported to a medical facility complaining of multiple abrasions and lower back pain. Medical records indicate that SA [redacted] indicated he dug out metallic fragments from three areas in his right thigh. He was determined to have multiple abrasions on his upper extremities and puncture wounds in his right thigh. SA [redacted] was issued medication for pain, inflammation and possible infection, and released.

Interview and ballistics examinations determined that SA [redacted] fired 15 rounds of service ammunition from his Bureau authorized Colt AR-15 A3 after [redacted] escaping vehicle struck SAs [redacted] and [redacted] It was also determined that LVMPD Sergeant [redacted] fired two shotgun rounds (00 buck) and that LVMPD Officer [redacted] fired 10 rounds of 9 mm ammunition from his pistol.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

The first issue discussed by the SIRG related to the application of deadly force by persons involved in this shooting incident. Members unanimously agreed that SA [redacted] use of deadly force was justified in this shooting incident. A lengthy discussion ensued regarding SA [redacted] firing his weapon.

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/21/96
Las Vegas Division

Members noted that SA [redacted] assignment involved the blocking of the subject's vehicle in order to prevent his escaping the scene. However, when SA [redacted] attempted to block the subject's vehicle, the subject reversed his vehicle and then started forward directly towards SA [redacted] SA [redacted] was struck by the vehicle, rolled across the hood and struck the windshield. He then rolled off of the hood and onto the pavement. Although his weapon was drawn, SA [redacted] saw a North Las Vegas Police Department van in the background and did not fire for fear of hitting the van or some of the other officers on the scene. Subsequent ballistic examinations determined that SA [redacted] did fire his weapon although he does not recall firing the shot. Based on the shooting incident report, SIRG members were unable to determine if SA [redacted] shot was an intentional shooting. SIRG members unanimously agreed that if the shot fired by SA [redacted] was intentional, the use of deadly force was certainly justified. As a result, the SIRG recommended that no administrative action be taken against SAs [redacted] and [redacted]

b6
b7C

The last issue regarding the use of deadly force pertained to the shots fired by SA [redacted] Members agreed that SA [redacted] shots were intentional and that deadly force was also justified. However, members were concerned about the type of weapon as well as the selection of ammunition used by SA [redacted] Although approval had been issued by the FBI Gunvault for the use of [redacted] Colt AR-15 A3 .223 caliber rifle with a 16 inch barrel, SIRG members agreed that this weapon was not appropriate for use in an urban, populated development. According to SA [redacted] SSA [redacted] was aware that [redacted] was going to be armed with this particular weapon because SSA [redacted] asked [redacted] during the pre-arrest briefing if Bureau approval had been received to use the weapon. Upon hearing that Bureau approval had been issued SSA [redacted] voiced no objections to [redacted] using the weapon. Members noted that the weapon selection should have been included in the planning of the arrest. Further discussion by SIRG members related to the ammunition used by SA [redacted] SA [redacted] loaded his weapon with 20 FBI issued Winchester .223 caliber rounds on top and left a combination of approximately eight 55 grain U.S. miliary issue ball and tracer rounds on the bottom. According to SA [redacted] the military rounds which were interlaced with tracer rounds in a belt had previously been issued by an FBI Principal Firearms Instructor for training purposes. All SIRG participants acknowledged that the tracer rounds are not FBI approved or issued. Members were concerned about the use of the ammunition especially taking into consideration that SA [redacted] is a certified FBI Firearms Instructor and a SWAT team member. Members also discussed the number of shots fired by SA [redacted] during this incident. Ballistics examinations

b6
b7C

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/21/96
Las Vegas Division

revealed that SA [redacted] fired 15 rounds of ammunition from his weapon within approximately four seconds. SIRG members opined that SA [redacted] could not have obtained proper target acquisition by firing 15 rounds within four seconds. As a result of this discussion, SIRG members recommended that SA [redacted] receive a letter of censure for using non-Bureau approved or issued ammunition and for the manner in which the rounds were fired. The SIRG further recommended that the PD review the previous shooting incident involving SA [redacted] as well as the one he witnessed involving SA [redacted] Thereafter, in consultation with the SAC, Las Vegas, determine if a fitness for duty examination is needed. Additionally, members recommended that SA [redacted] be decertified as a firearms instructor and be prohibited from SWAT team participation until the ASU review is completed.

b6
b7C

Members discussed the fact that the field of fire was not detailed in the shooting incident report. The SIRG recommended that the AD, INSD, ensure instructions are issued requiring that in-depth detail is captured during initial shooting inquiries regarding the field of fire.

All SIRG members agreed that the arrest and operations plan for the incident were adequate. SIRG members noted that the blocking of the subject's vehicle could have been improved, and recommended that the TD prepare and disseminate car blocking procedures including the fact that these procedures should be addressed during operations planning. The SIRG also noted the absence of a contingency plan for a car chase if one was needed and the fact that regular traffic was not controlled during the incident.

Although not a part of any recommendation, members discussed the fact that all officers participating in this type of situation should be properly identified. Specifically noted was the fact that SA [redacted] was dressed in black attire with his FBI badge on the left side of his belt. According to SA [redacted] the badge was visible when he was standing; however, more easily recognizable clothing indicating that he was a law enforcement officer was not used.

b6
b7C

Mr. Gore 6/14/96

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/22/96
PHILADELPHIA DIVISION

b6
b7C

[redacted] Reference report of Inspector-in-Place (IIP) [redacted] dated 4/22/96.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no administrative action be taken against any employee as a result of their involvement in this shooting incident.

66-19157-37
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enc.)
1 - Mr. [redacted] Room 7116 (Enc.)
4 - Mr. [redacted], Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Foran, Room 6646)
1 - Ms. [redacted] Room 5829
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted], CIRG (Enc.)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Room 4147
LRR:lrr (20)

1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico
1 - Mr. Whitehead, Rm 1B224
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/22/96
Philadelphia Division

(2) That the Undercover Sensitive Operations Unit (USOU), Criminal Investigative Division (CID), and the Undercover Safeguard Unit (USU), Critical Incident Response Group (CIRG), carefully review this shooting incident for its training value. Following a review of this incident, it is recommended that any "lessons learned" be disseminated to all undercover coordinators and incorporated into the training curriculum for Undercover Agents (UCAs), and new SSAs.

(3) That the Information Resources Division (IRD) conduct a fieldwide survey of the availability and serviceability of concealed recording devices currently used by all field divisions; review the results of this survey, and thereafter take any action necessary to ensure that UCAs are equipped with the best available recording equipment.

DETAILS: On 6/11/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; [redacted], Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; Donald B. Whitehead, Section Chief, Special Projects Section, Laboratory Division; and, [redacted] Supervisor, WMFO. Non-voting attendees consisted of [redacted] Computer Specialist, Information Resources Division; [redacted]

b6
b7C

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/22/96
Philadelphia Division

[redacted] Inspection Analyst, Office of Inspections; and [redacted] FBI Honors Intern, Office of Inspections.

## Synopsis of the Shooting Incident

This shooting incident resulted in the tragic death of SA Charles L. Reed by Jonathan M. Cramer. Cramer had been introduced to SA Reed (acting in an undercover capacity) by [redacted] b6 b7C b7D

[redacted]

On 1/30/96, [redacted] met with Jonathan M. Cramer at Cramer's office in Philadelphia and discussed the purchasing of cocaine. During the recorded conversation, Cramer discussed his sources and indicated that he had access to kilograms of cocaine.

On 2/13/96, [redacted] telephone conversation to Cramer who stated that he would wait for [redacted] to obtain the needed money before he made contact with his source for the cocaine. b6 b7C b7D

On 2/14/96, [redacted] meeting at Cramer's home in Philadelphia. Cramer appeared to be smoking marijuana and stated he did not know the price of a kilo of cocaine since he hadn't bought one in two years. [redacted] advised that his sources would have someone on a train with the money to make the purchase. [redacted] and Cramer discussed going to a hotel room to make the deal. During this meeting, Cramer exhibited a Glock pistol and stated that he had just obtained it for his protection. They discussed the price of $30,000 for one kilo of cocaine and also discussed doing the deal in Cramer's house rather than a hotel room. [redacted] suggested that the deal be made in the food court at the 30th Street station in Philadelphia; however, Cramer wanted to complete the deal in a hotel room. At that point, a decision was made that [redacted] would take his money man from the train station to a hotel and then go to Cramer's house with the money. It was further agreed that after checking the quality of



Savage-1522

the cocaine, a price would be determined and they would split the difference between the $30,000 and the sale price. [redacted] asked Cramer, who had continued smoking marijuana throughout the meeting, to get "straightened out so you're not too confused here movin' around." This meeting ended with the agreement that [redacted] would advise Cramer when the deal would be completed. b6 b7C b7D

On 3/11/96, [redacted] met Cramer in his [redacted] car. [redacted] recorded the meeting. It was agreed that the drug buy would take place on 3/15/96, in a hotel room. During this meeting, Cramer asked [redacted] numerous questions about his earlier arrest and why he was out of jail. Cramer indicated a lack of trust in [redacted] and told him that he carries a gun during drug transactions. He stated "I'm worried about somebody being a cop....I carry a gun. So somebody tries to jump me (UI) they get shot."

Various meetings were held in the LRA during the week of 3/11-15/96, to plan the buy/bust operation scheduled for 3/15/96. The meetings culminated in a written plan dated 3/13/96. The plan called for [redacted] to contact Cramer and advise him that the $30,000 had arrived. The plan further called for a meeting between Cramer and [redacted] on 3/15/96, at 1:00 p.m., to discuss the transaction. It was planned that the 3/15/96 conversation would be recorded and a surveillance would be conducted. A decision was also made that Agents were to advise [redacted] not to travel in any vehicle provided by Cramer or anyone else. [redacted] would advise Cramer that the money was at the 30th Street train station and they had to take the cocaine to that location. Cramer was also to be advised that the courier's time was limited because he had to board a train at 4:05 p.m., enroute to Washington, DC. The SA assigned to the money was not to leave the public area of the train station for any reason. Cramer, who was considered armed and dangerous, was to be arrested after the transaction was consummated. b6 b7C b7D

Due to the absence of Supervisory Senior Resident Agent (SSRA) [redacted], SA [redacted] the acting SSRA, forwarded the plan to ASAC Bernard A. Tolbert for approval.

ASAC Tolbert instructed SA [redacted] that he did not want the buy/bust to occur in the train station since it was a public place. At this point, it was decided that the arrest was to take place in a hotel room. SA Charles L. Reed would play the role of the drug purchaser and carry the $30,000 of show money to the meeting. [redacted] was instructed to set a meeting with Cramer for

b6
b7C
b7D

early afternoon on 3/15/96, in a room at the Holiday Inn. The meeting was set by [redacted] for 1:00 p.m. on that date.

In mid-morning of 3/15/96, Cramer called [redacted] and stated that he had a kilogram of cocaine to sell, but it would not be sold until 4:00 p.m. [redacted] advised Cramer that 4:00 p.m., was too late in the day and the deal was going to fail. At noon, Cramer recontacted [redacted] and said that he (Cramer) had another seller named [redacted] and they agreed to meet outside the Mulberry Restaurant at 1:30 p.m. [redacted] advised SA [redacted] the case Agent, of this change. It should be noted that in addition to SA Reed, eight other SAs participated in this meet. [redacted] and SA Reed drove to the meeting spot in [redacted] car. Upon arrival, SA Reed moved to the back seat and Cramer sat in the front. SA Reed showed Cramer the money, which was contained in the same briefcase that [redacted] had used in his 3/11/96, meeting with Cramer. At this point, Cramer directed [redacted] to drive to Gargoyles Restaurant. During the course of this meet, [redacted] an associate of Cramer's, believed that he spotted surveillance and told his other associate, [redacted] The deal then went from a kilo to only an ounce of cocaine. During the negotiations, Cramer told SA Reed, "I could rip you off very easily". SA Reed declined the offer to buy less than a kilo and the deal terminated. On the way back to the assembly point, Cramer called [redacted] and offered to sell half a kilo of cocaine. [redacted] was instructed by SA Reed to say no, that SA Reed had to catch his train, and he would get back with him. At the assembly point, [redacted] was instructed to call Cramer in order to keep him interested in future deals. When [redacted] contacted Cramer on the phone, [redacted] turned the phone over to SA Reed. Cramer advised SA Reed that he had a kilo to sell and that he was at the train station. Cramer asked where SA Reed and [redacted] were located. SA Reed turned the phone over to [redacted] who said they would meet at the train station's McDonalds; however, no meet was attempted.

b6
b7C
b7D

Although not recorded, on 3/17/96, [redacted] telephonically contacted Cramer and told him that the reason they had not met at McDonalds was because "Chuck" was nervous. [redacted] further advised Cramer that he had to drive "Chuck" all the way home to Virginia.

During the days of 3/18-19/96, a series of meetings were held at the LRA to determine how to proceed with the case. SSRA [redacted] decided that additional information was needed regarding Cramer's cocaine sources. A decision was made to hold a lunch meeting with Cramer. The purpose of this meeting was to gather intelligence prior to making a decision whether to proceed with the

case or refer it to another agency. The plan included the fact that Cramer would be instructed not to carry a gun to any future meetings. Additionally, a decision was made that SA Reed would attend the meeting with [redacted] in an attempt to develop a direct relationship with Cramer and subsequently ease [redacted] out of the picture. [redacted] was instructed to set a lunch meeting with Cramer on Friday, 3/22/96, at noon.

On 3/22/96, SAs [redacted] Reed and [redacted] met with [redacted] to review the purpose of the meeting. A transmitter was placed on SA Reed and [redacted]. The same briefcase that had been used by [redacted] on 3/11/96, and again by SA Reed on 3/15/96, was given to SA Reed with a NAGRA tape recorder concealed inside. A decision was made to hold the meeting in a quiet spot instead of having lunch, to ensure a good recording. For this same reason, a decision was made that SA Reed would sit in the back seat with the briefcase sitting on the drive shaft hump. The parking lot of the Comfort Inn was chosen as the meeting place. At this point, [redacted] and SA Reed left in [redacted] car to pick up Cramer with SAs [redacted] and [redacted] following. b6 b7C b7D

Upon their arrival at 2nd and Vine Streets in Philadelphia to pick up Cramer, SA Reed moved to the rear right passenger seat and Cramer sat in the front passenger seat. [redacted] proceeded to the predesignated Comfort Inn parking lot. SAs [redacted] and [redacted] followed them and parked behind the hotel out of eye sight while attempting to monitor the conversations taking place in [redacted] car.

Cramer asked about the purpose of the meeting. When [redacted] attempted to answer, Cramer cut him off and said to SA Reed, "maybe you ought to speak for yourself this time". SA Reed responded that they were surprised when he (Cramer) showed up at the train station at the last meet. Cramer then asked a series of questions regarding SA Reed's cover story. SA Reed admitted to Cramer that he did not have a Virginia driver's license; however, he had one from Pennsylvania. At that point, Cramer revealed his reason for suspicion by stating that during the 3/15/96, meeting, "the first thing that happened is [redacted] nickname) and I was supposed to meet and then all of the sudden somebody who I've never met before (SA Reed) is now in the back of the car. And you're telling me you have to go to Virginia. You don't have a Virginia license and you're not on the train to get to Virginia. Doesn't sound to me like you're going to Virginia". SA Reed countered with, "But you have to trust [redacted] Cramer replied, "I don't have b6 b7C b7D

any reason to...at this point. I haven't seen him with any product. I've never seen him with any money". Cramer then asked to "frisk" SA Reed to see if he was wearing a "wire". This conversation took place in the first part of the meeting, and then the talk turned to drugs. The conversation included talk about a future deal and at that point Cramer asked to go somewhere in order to check each other for "wires". Cramer asked SA Reed if he had ever been arrested and SA Reed replied no. Cramer seemed surprised that SA Reed had not been involved as a subject in the case in which [redacted] was arrested. Cramer asked who owned the briefcase and [redacted] responded that it belonged to SA Reed. Cramer, apparently recognizing the case from the 3/15/96, meeting said to SA Reed, "And there is not money in it this time?" Both [redacted] and Reed responded "no". Cramer responded with, "so why are you bringing a case? I mean it, it strikes me as a little bit..." Cramer then asked SA Reed to open the case and SA Reed replied that he would. Shortly thereafter, while apparently opening the case, SA Reed announced his intention to arrest Cramer.

b6
b7C
b7D

According to [redacted] statement, he heard SA Reed opening the briefcase and then heard SA Reed say to Cramer that he was under arrest. [redacted] heard "pop, pop, pop", at which time he exited the vehicle. [redacted] looked inside the vehicle and observed Cramer slumped in the front seat bleeding and SA Reed slumped in the back seat.

SA [redacted] heard, over SA Reed's transmitter, SA Reed's arrest announcement but thought that SA Reed was joking until he heard the gun shots. SAs [redacted] and [redacted] responded to the scene where they saw [redacted] walking towards the rear of his car. [redacted] stated "they shot each other". SA Reed and Cramer were rushed to hospitals where they were pronounced dead.

b6
b7C
b7D

The reason for SA Reed attempting the arrest of Cramer is unknown. A holster was recovered from Cramer's waist and it is possible that Cramer reached for his weapon, a .40 caliber Glock Model 27 pistol with his right hand which was Cramer's dominant hand. The front seat would have obscured SA Reed's vision of this movement by Cramer. The recording revealed that SA Reed was heard shouting, "Hold it! Hold it! Get your hand up!" Based on the recorded commands of SA Reed, it is apparent that Cramer was not compliant and SA Reed warned Cramer one last time before the gun battle.

The gun fight lasted approximately three seconds with

SA Reed firing all five rounds from his .38 caliber Smith and Wesson Model 60 revolver, and Cramer firing three of the ten rounds in his pistol. SA Reed's clip-on holster was located on the floor of the vehicle behind the driver's seat. It is unknown where SA Reed was carrying his weapon and who fired first.

Cramer was struck by four bullets in the following areas: top of the left shoulder, the upper left arm, and two bullets in the head. SA Reed was struck by three bullets, one entering the left thigh, exiting the thigh and entering his abdomen, one entering the left side of the abdomen lodging in the spine, and one entering the left side of the abdomen passing through the heart. Both weapons were found, side by side, on the passenger side rear floor.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The SIRG concluded that SA Reed made the ultimate sacrifice while using deadly force in accordance with current policy and procedures. His application of deadly force was done so in a heroic fashion and resulted in the death of his adversary. None of the recommendations or observations which follow in this memorandum are meant in anyway to degrade the memory of SA Reed who gave his life upholding his sworn oath as an SA of the FBI. His actions that fateful day were recognized by all members of the SIRG to have upheld the highest traditions of the FBI and his demise saddens each of the SIRG members.

From an operational standpoint, the SIRG noted that this incident culminated following numerous telephone calls and plans discussed with Agents, supervisors, ASAC Tolbert and SAC Reutter. Issues and observations in this regard were determined to best be addressed as training/safety issues.

The SIRG recognized that "hindsight is 20/20". Following such incidents, it is the duty of the SIRG to review the facts as presented and provide the Director with recommendations concerning

training and/or safety issues. After individually reviewing the voluminous report and thereafter discussing it in some detail, the SIRG noted that certain "danger signals" were emitted prior to this tragic event. While each of these danger signals may not have been significant individually, the cumulative effect of them may have indicated that chances of the successful culmination of a drug purchase could have been somewhat diminished.

Specific danger signals noted by the SIRG in the report included the following:

(1) There are numerous references to the subject being armed, including his own statement indicating his willingness to shoot if confronted.

(2) [redacted] knew and SA Reed suspected that Cramer was armed.

(3) Cramer was a known, heavy drug user, who was described by [redacted] as financially desperate, jumpy, nervous and suspicious.

(4) [redacted] admitted that he never saw the subject sell anything and did not trust him. b6 b7C b7D

(5) Cramer stated that he could easily "rip off" the UCA.

(6) Cramer was very aggressive questioning SA Reed about his cover story.

(7) Cramer told [redacted] that he was nervous about the sudden appearance of someone he had never met.

(8) Cramer specifically questioned [redacted] and the UCA about the briefcase containing the recording device.

The historical knowledge of Cramer as known by the Philadelphia Division, coupled with Cramer's own statements, is indicative of a subject whose motives and actions should be considered carefully.

The SIRG noted that SA Reed had not been certified as a UCA, nor was he required to be in this instance. The SIRG noted that SA Reed was an experienced Agent, however, his ability to

function in a role which he had no specialized training is unknown. What is known is that he had apparently not had the opportunity to avail himself of UCA training which offers valuable lessons and strategies to counter potential critical incidents.

The SIRG further observed that SA Reed did not possess false identification that could have allayed some of the suspicions of Cramer, nor did he possess indications of his train travel. Lastly, it was noted that a prearranged code word for imminent danger was not agreed upon by the participants prior to the meeting of 3/22/96.

Based on the above observations, the SIRG concluded and recommended that the administrative report prepared in this matter, including the transcripts of the recordings made, be carefully reviewed by the USOU, CID, and the USU, CIRG, for its training value.

Following a review of this matter, it is recommended that any "lessons learned" be disseminated to all undercover coordinators and thereafter incorporated in the training curriculum of UCAs, as well as new SSAs. The SIRG unanimously agreed that if this recommendation is approved, the USOU and the USU should present the findings bearing in mind the sensitivity of this matter.

The SIRG concluded that no FBI employees' actions were the direct cause or could be construed to have been a causal factor in the tragic death of SA Charles L. Reed. The SIRG also noted that the Coroner's toxicology report of Cramer found him to have been under the influence of opiates at the time of his death which could have influenced his behavior beyond the possible control of SA Reed.

The last issue discussed by the group resulting in a recommendation of the SIRG pertained to the equipment currently available for use in these types of situations. The Hartman briefcase, used to conceal the NAGRA recorder, is a distinctive looking brown cloth briefcase which had been used in the Philadelphia Division for at least 15 years. The velcro strip designed to hold the lid in place covering the concealed compartment was no longer functioning. An inch wide strip of silver duct tape was used to hold the concealed compartment closed. Cramer requested that SA Reed show him the inside of the brief case which eventually led to the arrest attempt and the fatal gun

battle. Members unanimously agreed that the brief case should have been in a condition to be shown. This discussion resulted in the recommendation that the IRD conduct a fieldwide survey to determine the serviceability of concealed recording devices currently in use. The IRD should review the results of this survey and thereafter take any action necessary to ensure that UCAs are equipped with the best available recording equipment.

Mr. Gore 9/17/96

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/2/96
INDIANAPOLIS DIVISION

b6
b7C

Reference report of Assistant Inspector-in-Place (AIIP) [redacted] dated 7/12/96.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That the Director be advised of the findings of the SIRG relating to this shooting incident, and of the confusion that currently exists in interpretation and practical application of the new deadly force policy.

66-19157-21
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
2 - Mr. [redacted] Room 7116
(1- Mr. [redacted] 5129)
2 - Mr. [redacted], Room 6012
(1 - Mr. Foran, Room 6646)
(1 - Mr. [redacted] Room 6050)
3 - Mr. [redacted], Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Ms. [redacted] DOJ

1 - Mr [redacted] Quantico
1 - Mr [redacted] WMFO
1 - Mrs [redacted] Room 7837

b6
b7C

DRK:lrr (16)

(CONTINUED - OVER)

Savage-1531

SEE 90 ADDENDUM PAGE(S) 1-12

b6
b7C

(2) That the OGC review the deadly force policy and the accompanying text and scenarios to determine if there are any circumstances when the policy would permit the use of deadly force against a subject fleeing for cover in cases where there is no contemporaneous evidence of a weapon and where the subject is not fleeing from the vicinity of a violent confrontation.

(3) That the OGC create commentary or a scenario as guidance to Special Agents (SAs) in applying the parameters of the "imminent danger" standard in cases where previously armed and dangerous individuals are encountered but no on-the-scene sighting of a weapon occurs. Guidance should also be provided in articulating the types of on-the-scene evidence that would support a finding of "imminent danger."

b6
b7C

(4) That the Administrative Summary Unit (ASU), Personnel Division (PD), forward a letter of censure to SA [redacted] for his violation of the deadly force policy and his failure to be appropriately armed.

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/2/96
Indianapolis Division

b6
b7C

(5) That the SAC, Indianapolis, be instructed to have the Chief Division Counsel provide SA [redacted] refresher training regarding the FBI deadly force policy.

DETAILS: On 8/20/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman, Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Acting Deputy Chief, Criminal Section, Civil Rights Division, USDOJ; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Patrick J. Foran, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms Training Unit, Training Division; J. C. Carter, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Budget Unit, Operational Support Section, Criminal Investigative Division; and, [redacted] Supervisor, WMPO. Non-voting attendees were: William D. Gore, Assistant Director, Inspection Division; [redacted] Inspector, Office of Inspections, Inspection Division; [redacted] Immigration and International Investigations, U. S. Immigration and Naturalization Service; and [redacted] Inspection Analyst, Office of Inspections, Inspection Division.

b6
b7C

## Synopsis of the Shooting Incident

On 6/28/96, the Indianapolis Division Special Agent in Charge (SAC) Wayne R. Alford convened a meeting of all personnel who had been involved in responding to the recovery of a Ford Taurus automobile in a lake near Terre Haute, Indiana, on the evening of 6/27/96. As a result of an inventory search conducted of the recovered vehicle, a determination was made that the vehicle had been rented by David James Graham Nichols, a Major in the British Armed Forces, who had been in the U.S. for two training sessions in New Mexico and Texas. It also appeared from items

recovered from the vehicle, that Nichols had probably been kidnapped and possibly murdered, and that his attackers had taken his vehicle. Based on items found in the recovered vehicle, as well as a subsequent vehicle, it was believed that one or both of the subjects responsible for Nichols' abduction and possible murder were escapees of an Alabama State Prison.

b6
b7C

During this meeting, SAC Alford, Assistant Special Agent in Charge (ASAC) Floyd W. Ratliff, Jr., Supervisory Special Agent (SSA) [redacted], and SA [redacted] provided additional details concerning subjects [redacted] and [redacted] They had escaped by overpowering an Alabama Deputy Sheriff who was transporting both individuals from the jail to the courthouse. SSA [redacted] advised that the subjects had overpowered the Deputy, taken two nine millimeter semi-automatic weapons, the Deputy's 12 gauge shotgun, as well as the Deputy's uniform and police vehicle. [redacted] and [redacted] then commandeered a truck by stopping it with the police vehicle and uniform, and apparently drove the truck to New Mexico. Information was provided during the briefing that apparently [redacted] and [redacted] had encountered Nichols somewhere in New Mexico and had somehow obtained his passport, British currency, clothing, suitcase, and other personal effects.

During the weekend of 6/29-6/30/96, additional information about the subjects was developed by SSA [redacted] and SA [redacted] SSA [redacted] was told by an Alabama County Sheriff that [redacted] had been incarcerated on murder charges relating to his execution-style murder of an informant. Further information provided to SSA [redacted] involved the fact that [redacted] had told other inmates that he would escape from custody, vowed not to be taken alive, and that he would shoot it out with police, if necessary.

This information was provided to all SAs and detectives assigned to this matter in a 7/1/96, briefing in the Indianapolis Division. The information was also provided to those who were not present at the briefing but assisted in the pursuit and arrest of [redacted] on 7/2/96. In addition to these briefings, SSA [redacted] also provided on-scene briefings on 7/2/96.

b6
b7C

Information had been developed indicating that [redacted] and [redacted] were still likely in the Terre Haute area and were possibly hiding in a salvage yard located near Farmersburg, Indiana. On the morning of 7/2/96, SAs [redacted] and [redacted] acting in an undercover capacity, went into the

salvage yard and observed two individuals who they believed were subjects [redacted] and [redacted] Eventually the two individuals engaged in a conversation with the SAs about salvage auto parts. Based on this meeting, SAs [redacted] and [redacted] made a probable identification of both subjects. A subsequent review of updated photographs of the subjects by SAs [redacted] and [redacted] determined that these individuals were in fact the subjects. SSA [redacted] who was enroute to the Terre Haute Resident Agency, was also notified of the identification of [redacted] and [redacted] Additionally, the Special Weapons and Tactic (SWAT) Team was activated for deployment to the Terre Haute area. SSA [redacted] provided all intelligence data to law enforcement officers assembled to participate in the search and arrest of both subjects. b6 b7C

A plan was being devised to establish a secure perimeter around the salvage yard and trailer, and to have the SWAT Team make an assault on the area in order to locate and apprehend both subjects. This plan was eliminated at approximately 1:15 p.m., during an aerial surveillance, when Bureau pilot SA [redacted] observed [redacted] another white male and a white female entering a pickup truck and leaving the salvage yard/trailer area. SA [redacted] radioed this information to all units. In response to the information provided by SA [redacted] SSA [redacted] instructed three units to begin moving closer into the area where the vehicle was heading. Within minutes, three FBI vehicles were following the truck and a State Police unmarked vehicle was approaching the truck from the opposite direction. The State Police vehicle attempted to stop the suspect vehicle, however, the driver of the truck went around the police car. Subsequently, SSA [redacted] and SA [redacted] conducted a felony vehicle stop with lights and siren activated. Shortly thereafter, the driver of the truck pulled the truck to the side of the gravel road and as the truck was coming to a stop, the passenger jumped from the truck and began running toward a heavily wooded area. The passenger was immediately identified as [redacted] and was ordered to halt. b6 b7C

As the halt order was given, a Marion County Sheriff's Office Corporal fired one round from his service weapon at [redacted] Shortly thereafter, SA [redacted] fired two rounds at [redacted] as he ran from the truck to the cover of the woods. [redacted] was not hit by the gunfire and eluded capture for approximately one hour. It should be noted that the weapon fired by SA [redacted] was the personally owned weapon of SSA [redacted] In the rush of getting to the Terre Haute Resident Agency and the State Police staging area, SA [redacted] had left his weapon on his desk in the Indianapolis Division office space.

# FBI
# Shooting Incident Report Summaries

# 1995

Mr. Gore 4/3/96

W. D. Thompson, III

b6
b7C

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/1/95
DALLAS DIVISION

Reference report of Special Agent (SA) [redacted] dated 12/14/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

66-19157-12
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. [redacted] Room 6646)
1 - Mr. [redacted] Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7159)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Ms. [redacted] DOJ
1 - Mr. [redacted] Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico
LRR:lrr (20)

1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
11/1/95
Dallas Division

DETAILS: On 2/13/96, the SIRG met to discuss the above-captioned shooting incident. The following voting members of the SIRG were in attendance: Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector David R. Knowlton, Office of Inspections, Inspection Division; [redacted] Attorney, Civil Rights Division, USDOJ; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and, [redacted] Supervisor, WMFO. Non-voting attendees consisted of [redacted] Inspection Analyst, Office of Inspections, and [redacted] Writer-Editor, Firearms Training Unit, Training Division.

b6
b7C

## Synopsis of the Shooting Incident

On 11/1/95, SA [redacted] accidentally struck a deer with his Bureau vehicle. SA [redacted] was returning from Tyler, Texas, while on official business. While heading south bound on a farm road, two deer ran from the woods in front of SA [redacted] vehicle. SA [redacted] was unable to stop before one deer was struck in the hind legs, causing damage to his vehicle. SA [redacted] noted that the deer's hind legs were both broken; however, the deer was struggling to run.

Noting that the deer was in pain and due to the risk that the deer could struggle onto the road and jeopardize the safety of other drivers, SA [redacted] notified the Nacogdoches County Sheriff's Office (NCSO) to dispatch a Texas Department of Public Safety (DPS) Trooper, and requested that a Texas game warden be contacted for authorization to shoot the injured deer. Radio authorization from the NCSO was received by SA [redacted] to shoot the injured deer. SA [redacted] fired two shots from his Bureau authorized Sig Sauer P220 into the deer's head. The deer carcass was collected by the NCSO and an accident report was prepared by a DPS Trooper.

b6
b7C

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
11/1/95
Dallas Division

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary. b6 b7C

Members of the SIRG noted that SA [redacted] took all of the necessary steps to resolve this incident. The SIRG unanimously agreed that SA [redacted] should be commended for his thorough actions, alertness, appropriate handling and resolution of this incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SA [redacted] Office: OKLAHOMA CITY
Date: September 11, 1995

Field Office File #: 66-HQ-19157 Sub 35 Bureau File #:

Title: SHOOTING INCIDENT
OKLAHOMA CITY DIVISION
AUGUST 18, 1995

Character: ADMINISTRATIVE INQUIRY

Synopsis: On May 2, 1995, a local warrant was obtained by the Oklahoma Department of Corrections on [redacted] for Escape. It was determined prior to May 2, 1995, [redacted] was in violation of his release conditions concerning an 18 year sentence for drug violations. The U.S. Marshal's Metropolitan Task Force (Task Force), a formal task force composed of various members of both the local and Federal law enforcement communities, was attempting to locate and arrest [redacted] based on the outstanding warrant. Since its inception, the Task Force has successfully effected over 2,000 fugitive arrests. b6 b7C

On August 17, 1995, based upon source information provided by Special Agent (SA) [redacted] members of the Task Force and SA [redacted] formulated an arrest plan to arrest [redacted] with the aid of Oklahoma City Police Department (OCPD) marked Patrol Units. During the early morning hours on August 18, 1995, OCPD marked Patrol Units driven by uniformed officers attempted a traffic stop pursuant to the formulated arrest plan on the vehicle driven by [redacted] refused to stop and the OCPD units with sirens and lights in operation remained in pursuit of [redacted] through a residential area. Shortly thereafter [redacted] in attempting to turn the corner at Southwest 36th and Goff hit an



This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

unoccupied pickup truck parked in the driveway of 3441 Southwest 36th. [redacted] exited the vehicle and fled on foot into the residential area. [redacted] ran along the chain link fence at the residence of 3441 Southwest 36th where SA [redacted] and Deputy Sheriff [redacted] a passenger in SA [redacted] vehicle, observed a weapon in his [redacted] right hand as he jumped the fence into the backyard of the residence. In pursuit in an attempt to prevent [redacted] from entering an occupied residence, SA [redacted] drove his vehicle through the fence and observed [redacted] fire his weapon towards SA [redacted] and [redacted] (See sketch item 5 representing a .40 caliber spent casing.) SA [redacted] wearing his ballistic garment and raid jacket, exited his vehicle and alerted all pursuing law enforcement personnel to [redacted] armed and dangerous status by yelling [redacted] had a gun. [redacted] had then jumped another fence heading towards the front yard of an occupied residence. SA [redacted] with his 9mm Sig Sauer, returned fire with three shots at [redacted] who was in full view of SA [redacted] as [redacted] was going around the corner of the house. (See sketch items 7, 8, and 9 representing spent casings from the 9mm.) OCPD Officer [redacted] was in the front yard and as [redacted] rounded the corner of the house going towards Officer [redacted] observed [redacted] appearing to crouch to the ground. Officer [redacted] had heard someone yell "gun" from the backyard of the residence and as [redacted] was crouching to the ground, [redacted] fired two shots from his 9mm Glock at [redacted] believing [redacted] was attempting to shoot at [redacted] from the crouched position. (See sketch items 2 and 3 representing spent casings from the 9mm.) It was then determined [redacted] had been hit by gunfire and an ambulance was called to the scene where [redacted] was subsequently transported to Southwest Medical Center for treatment. In addition to two OCPD marked Patrol Units and SA [redacted] and Deputy Sheriff [redacted] there were six other law enforcement officers of the Task Force that were involved in the pursuit of [redacted] in order to affect arrest. All witness accounts concerning the attempted stop and subsequent pursuit and shooting incident are consistent.

b6
b7C

b6
b7C

Oklahoma City Police Department established a crime scene perimeter to include the entire yard area of 3441 Southwest 36th. Both Special Agent in Charge BOB A. RICKS and Assistant Special Agent in Charge JAMES BOGNER were promptly on the scene.

A crime scene investigation was conducted jointly by the OCPD and the FBI Evidence Response Team (ERT) with SA [redacted]

[redacted] as the lead Agent of the ERT. During the crime scene investigation, one spent cartridge from a .40 caliber round was recovered in the area where SA [redacted] observed [redacted] fire his weapon. (See sketch item 5.) Three spent cartridges of 9mm rounds were found in the area where SA [redacted] fired his weapon (See sketch items 7, 8, and 9.) and two spent cartridges of 9mm rounds were found in the area where OCPD Officer [redacted] fired his weapon. (See sketch items 2 and 3.) A .40 caliber Ruger semi-automatic pistol was also recovered in the area where subject [redacted] fell after being shot. (See sketch item 16.) The .40 caliber Ruger was found with live rounds jamming the slide action portion of the handgun. (See photo of sketch item 16.) One spent 9mm round was found in a trash can at the corner of the residence where [redacted] was shot.

b6
b7C

SA [redacted] went to Southwest Medical Center and retrieved [redacted] clothing and another projectile believed to be a 9mm. SA [redacted] determined from Doctor [redacted] the attending physician in the emergency room, [redacted] sustained an entry and exit wound to the left forearm, an entry wound to the left side of the rib cage and an entry wound in the right buttocks.

Per letter, dated September 15, 1995, [redacted] District Attorney, Oklahoma County, completed his review of this incident and found SA [redacted] actions proper and justifiable. [redacted] has declined any prosecution of SA [redacted] and Officer [redacted] in this matter.

The fence of the residence at 3441 Southwest 36th was a four foot chain link fence approximately 12 years old in average to poor condition. The opening created in the fence section downed by SA [redacted] vehicle sustained minimal damage. The swing set in the backyard was bent due to being hit by SA [redacted] vehicle. Investigation revealed no pets were harmed during the pursuit, contrary to what was initially reported by the traffic report.

b6
b7C

It should be noted, AFO case is pending against [redacted] and it is anticipated that he will also be charged with possession of a handgun by a felon.

-C-

Mr. Gore 11/9/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/3/95
BUFFALO DIVISION

Reference report of Supervisory Special Agent (SSA) [redacted]

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no adverse action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted], Room 6012
(1 - Mr. [redacted], Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. [redacted] Room 6646)
1 - Mr. [redacted], Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7427)
(1 - Mr. [redacted], Room 7326)
1 - Mr. Knowlton, Room 7825
1 - Ms. Dobinski, DOJ
1 - Mr. [redacted] Room 4042
1 - Mr. Biehl, DOJ
1 - Mr. [redacted], Quantico
1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

LRR:lrr (20)

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
8/3/95
Buffalo Division

DETAILS: On 9/29/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector David R. Knowlton, Office of Inspections, Inspection Division; Karla Dobinski, Deputy Chief, Civil Rights Division, USDOJ; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; Dana D. Biehl, Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted], Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division [redacted] Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

During the early afternoon on 8/3/95, SAs [redacted] and [redacted] were on duty in a Bureau car on the east side of Buffalo. Since SA [redacted] was a new SA, SA [redacted] had taken him to this area in order to familiarize him with the section of Buffalo in which most of the Division's Violent Crimes Career Criminal Task Force's gang related investigations take place. While in the vicinity of Gittere Street and Sycamore Avenue, the SAs overheard a partial Buffalo Police Department (BPD) radio call which indicated that officers had "him" trapped in the yards on Gittere Street. When this radio transmission was heard by the SAs, SA [redacted] believed that the BPD officers had a criminal suspect trapped in a yard. Knowing that BPD ordinarily only has two or three cars patrolling a precinct at any given time, SA [redacted] decided to respond to the area in order to render assistance to the BPD, if needed.

The SAs learned from BPD officers on the scene that the subject of the radio call was not a person. The officers advised that the subject was an adult Rottweiler dog that had bitten a child and was in the alley acting in an aggressive manner. SAs [redacted] and [redacted] remained at the scene of the incident while an attempt was made to capture the dog. b6 b7C

Unsuccessful attempts to capture the dog resulted in the Buffalo Dog Control Officers deciding to destroy it. Officers fired approximately four shots, and at least one and maybe more,

struck the dog; however, the dog was not subdued and escaped from the alley. The dog ran and eventually ended up in an alley on Sycamore Avenue. SAs [redacted] and [redacted] followed the BPD officers to this location in order to lend any necessary assistance.

As they arrived at the scene, the SAs exited the Bureau vehicle and took a position at the rear of the vehicle approximately 12 to 15 feet from a BPD precinct car in the alley. Raised voices could be heard from within the alley; however, neither SA was in a position to observe the ongoing activity in the alley. SA [redacted] also heard the sound of at least one gun shot from the alley. Both SAs heard someone shout a warning immediately before they observed the dog charge from the alley. b6 b7C

A large crowd of spectators had assembled on the north side of the street behind SA [redacted] As the dog exited the alley it headed directly for SA [redacted] and as the dog came within two to 10 feet of him, SA [redacted] fired a series of six shots at the dog. The last shot is believed to have struck the dog in the head as it was approaching SA [redacted]

Subsequent to the shooting, SA [redacted] overhead an individual talking with BPD officers claiming ownership of the dog. The individual claiming to own the dog was familiar to SA [redacted] as he was a suspect in a recent shotgun shooting incident in the area. As BPD officers explained to the individual that he needed to discuss the matter at the precinct house, he immediately disavowed ownership of the dog. The dog was removed from the scene by dog control officers.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary. b6 b7C

The SIRG unanimously concurred that SA [redacted] decision to employ deadly force in this incident was proper and in accordance with FBI policy. Additionally, members recommended that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Jeffersontown Police Department
Jeffersontown, Kentucky

Report of: SA [redacted] Office: CJIS Division
Date: October 5, 1995

b6
b7C

Field Office File #: 66F-LS-63736 (Pending)
Bureau File #: 66F-LS-63736 (Pending)

Title: SHOOTING INQUIRY
REPORT OF SHOOTING INCIDENT
LOUISVILLE DIVISION
SEPTEMBER 20, 1995

Character: ADMINISTRATIVE MATTER

Synopsis: On 9/20/95, ROGER A. FEIN, an FBI fugitive, was involved in a shoot-out with FBI Special Agents (SAs) from the Louisville Division and Police Officer [redacted] Jeffersontown Police Department, Jeffersontown, Kentucky. Police Officer [redacted] was critically wounded and remains hospitalized in serious condition. FEIN is deceased. FEIN was shot by Officer [redacted] and FBI SA [redacted] The preliminary findings of the Coroner, which the Coroner released to the media, indicate that FEIN died as a result of a self-inflicted gun-shot wound to the head, through the ear. Nonetheless, the bullet wounds delivered by Officer [redacted] and SA [redacted] were probably mortal. The official medical/autopsy reports are not completed. The medical reports for Officer [redacted] are not completed. Officer [redacted] will be interviewed when health conditions permit.

b6
b7C

On 9/16/95, the television series "America's Most Wanted" aired a show featuring FBI fugitive FEIN. The following Monday, 9/18/95, a Cooperating Witness (CW) who's identity is known to the FBI, contacted the FBI and spoke to SA [redacted] of the Lexington Resident Agency (LRA), FBI Louisville Division (LD). SA [redacted] interviewed the CW and showed photographs of FEIN to the CW. On 9/19/95, SA [redacted] advised Supervisory Senior Resident Agent (SSRA) [redacted] LRA, FBI LD, of the information provided by the CW. SSRA [redacted] knew of FEIN based upon previous FBI investigation of FEIN in the LRA territory. SSRA [redacted] conducted a comprehensive review of the information and physically inspected the area believed to be FEIN's residence. SSRA [redacted] assigned an SA to discreetly

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

surveil the area and telephonically advised Assistant Special Agent in Charge (ASAC) THOMAS W. MILLER of the information provided by the CW. SSRA [redacted] formulated a plan to positively identify and apprehend FEIN. SSRA [redacted] requested authority to utilize an FBI aircraft in the surveillance of FEIN and ASAC MILLER authorized the aircraft's use. ASAC MILLER offered assistance for the surveillance, but SSRA [redacted] declined the offer since eight (8) Agents were already available and assigned to conduct the surveillance.

SSRA [redacted] conducted a conference on 9/19/95 with the Agents participating in the surveillance of FEIN. Additionally, the CW returned to the LRA to further brief and assist the Agents who would conduct the surveillance of FEIN the following morning. b6 b7C b7D

On the morning of 9/20/95, the surveillance team met at a pre-arranged location for final briefings. The team was made up of SSRA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted] SA [redacted], and SA [redacted]

Based upon SSRA [redacted] knowledge of the territory and visit near FEIN's residence the previous day, surveillance points were identified and assigned. These locations were confirmed the morning of 9/20/95.

[redacted] departed the residence earlier than usual that morning. SSRA [redacted] dispatched the surveillance team to their pre-determined surveillance points hoping to see and surveil FEIN as FEIN departed his residence.

Within a short period of time, SA [redacted] received a [redacted] and observed a vehicle earlier described by the CW as normally operated by FEIN. A moving surveillance of this vehicle commenced as instructed by SSRA [redacted]

The vehicle being surveilled had tinted windows. The tinted windows and poor weather conditions prevented any team member from seeing inside the cab of the vehicle. A determination could not be made if there was a male driving or more than one person in the vehicle. b6 b7C

A license plate number partially blocked by a bumper hitch was obtained and a computer check was requested from the FBI LD. This check determined that the plate did not match the vehicle.

The FBI vehicle driven by SA [redacted] had enhanced radio capability and was equipped with a cellular telephone. SSRA [redacted] therefore instructed SA [redacted] to coordinate the FBI surveillance with the Kentucky State Police (KSP). SA [redacted]

observed an antenna on the vehicle under surveillance and assumed that FEIN was equipped with a police radio scanner. SA [redacted] coordinated most communications with the KSP using a cellular telephone.

At a point in the surveillance it appeared that the subject was not involved in the routine activity described by the CW. SSRA [redacted] therefore decided to stop the vehicle and instructed SA [redacted] to request a KSP marked car to assist in the stop of the vehicle. The use of a marked KSP vehicle was expected to reduce a potential violent confrontation with FEIN. The request for such assistance was coordinated by SA [redacted] The coordination was frustrated by the fact that the surveillance moved from one KSP Post area to another requiring renewed explanations and communications further delaying the KSP assistance. b6 b7C

SA [redacted] a former KSP Trooper, clearly informed the KSP of the situation in progress. SA [redacted] described FEIN as armed and dangerous. SA [redacted] clearly indicated the unknown aspects of the surveillance. On two occasions, although effectively coordinating the requests for KSP assistance, SA [redacted] was indiscreet in conversation with the KSP. These indiscretions had no impact on this incident.

After approximately forty-five minutes of attempting to coordinate the KSP assistance, the surveillance moved into Jeffersontown, Kentucky. This area is on the cusp between a rural area and a more populated city center. The KSP dispatcher coordinated communications with the Jeffersontown Police Department who's officer, Police Officer [redacted] responded to the FBI surveillance team's request for assistance. Police Officer [redacted] came upon the surveillance from the opposite direction and made a U-turn to join in the surveillance. The surveillance team believed that this obvious traffic maneuver tipped FEIN to the surveillance of him.

Police Officer [redacted] pulled the police car next to SA [redacted] and SA [redacted] moving vehicle. Through an open window Police Officer [redacted] was informed of the situation. Police Officer [redacted] offered assistance and SSRA [redacted] ordered the vehicle stopped. The surveillance at the time was moving slowly past the Jeffersontown Police Department approaching an intersection. b6 b7C

Police Officer [redacted] attempted to stop FEIN's vehicle with the use of flashing lights and police siren. FEIN's vehicle continued moving into the intersection of Watterson Trail and Talonsville Road, Jeffersontown, Kentucky. After passing through the intersection, FEIN bolted from the vehicle he was driving. This vehicle continued moving. The vehicle came to a stop at a curb approximately one hundred feet down the roadway.

FEIN was firing a .9mm pistol while exiting the vehicle. In a combat position, FEIN fired upon Officer [redacted] as Officer [redacted] was still seated in the police car. FEIN fired at Officer [redacted] through the windsheild of the police car striking Officer [redacted] Officer [redacted] was wearing a ballistic protective vest. Officer [redacted] exited the police car and returned fire. Officer [redacted] shots hit FEIN. SA [redacted] who's vehicle was adjacent to Officer [redacted] police car shouted at FEIN and then shot FEIN. SA [redacted] probably shot twice and struck FEIN twice. SA [redacted] shots are believed to have brought FEIN down to the ground. Officer [redacted] was positioned at the rear of the police car, bent over the trunk. SA [redacted] provided immediate assistance and encouragement to Officer [redacted] SSRA [redacted] approached FEIN and positively identified FEIN from tattoo's on FEIN's body. SA [redacted] crawled to and cleared the vehicle FEIN had been driving. SSRA [redacted] accounted for the safety of all FBI Special Agents and personnel at the scene. SSRA [redacted] took charge of the scene and coordinated the crime scene investigation with the Jeffersontown Police Department officials on the scene. SSRA [redacted] telephonically contacted the FBI LD and advised ASAC MILLER of the shooting incident. Members of the FBI LD staff, including ASAC MILLER, responded immediately to the scene.

b6
b7C

Details:

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: 13 - Bureau (Attn: Chief Inspector Knowlton, Rm. 7825)

Report of: SSA [redacted] Office Las Vegas
Date: October 30, 1995

b6
b7C

Field Office File #: 62A-LV-26865
Bureau File #: 62A-LV-26865

Title: SHOOTING INCIDENT
SA CULLEN MICHAEL BUTLER - DECEASED;
REGINA ANN BUTLER - DECEASED;
RUSSELL C. TERESI - DECEASED;
10/1/95, LAS VEGAS DIVISION

Character: ADMINISTRATIVE INQUIRY

Synopsis: During the course of this investigation, it was determined that SA Cullen Michael Butler had divorced Regina Ann Butler approximately ten and one-half years ago. Under the conditions of the divorce, SA Butler was required to pay alimony, child support for his two infant children, insurance and health premiums for the children, that Regina Ann Butler would keep possession of the house until such time that either Regina Ann Butler remarried, or when their youngest child graduated from High School, or turned eighteen years of age. Additionally, Regina Ann Butler would receive a significant portion (estimated at approximately 31%)of SA Butler's retirement/pension.

SA Butler had been making plans to retire from the Bureau in either December, 1995, or January, 1996. During the two previous weeks prior to this incident, SA Butler had discussed his retirement with other agents in the Las Vegas Division who also were planning on retiring. At no time during these discussions with other agents did SA Butler threaten to do bodily harm to his ex-wife.

On Sunday, October 1, 1995, SA Butler had been watching NFL football games on television and drinking beer. SA Butler had previous contact with his ex-wife, Regina Ann Butler, during the week, and on Saturday, September 30, 1995, concerning making a change in his pension or financing in the former family house, currently in Regina Ann Butler's possession. SA Butler contacted Regina Ann Butler and wanted her to either sell the house so that he could receive the $27,000.00 owed to him through the sale, or

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

not to receive a significant portion of his pension when he retired. Regina Ann Butler was a school teacher at Clark High School and would be receiving her own pension when she retired. Also, Russell C. Teresi had been living in Regina Ann Butler's house for over eight and one-half years. Regina Ann Butler and Teresi had no plans to marry, because if they did, the house would have had to have been sold and she would have lost her claim to her ex-husband's retirement benefits. Regina Ann Butler was requested to contact her divorce attorney to see if a change could be made in either the house or pension arrangements, thus allowing SA Butler to receive additional funds when he retired. SA Butler contacted Regina Ann Butler several times during the weekend, trying to obtain an answer.

SA Butler became more upset as the day went on, to the point that he told his current wife, [redacted] he would take care of the matter himself. [redacted] attempted to calm SA Butler, but a confrontation ensued and he locked her in the backyard of their residence. SA Butler then drove away, [redacted] then called [redacted] a Bureau employee, and [redacted] husband, [redacted] to drive her to Regina Ann Butler's house. SA Butler was seen by [redacted] inside of Regina Ann Butler's house, in the entrance way, yelling at Regina Ann and Russell Teresi. After a short period of time, [redacted] and [redacted] exited the [redacted] vehicle and walked toward the house. While they were walking toward the house, SA Butler drew his Bureau issued Sig P228. Several individuals yelled that he had a gun. Within a few seconds of drawing his weapon, SA Butler began shooting his ex-wife, Regina Ann Butler and Russell C. Teresi. Both died at the scene.

b6
b7C

SA Butler turned to [redacted] and indicated that he was going to the desert to kill himself. SA Butler left Regina Ann Butler's house in his personally owned vehicle, that he had originally driven to the house. Within one hour of the shooting, SA Butler's body was found by a security officer outside of the Spanish Hills housing development. SA Butler had driven to the end of Tropicana Avenue, exited his vehicle and fired one round from his Bureau issued Sig Sauer P228 into his right temple. The Bureau weapon was found next to the body.

LVMPD and Clark County Coroner's Office investigated both crime scenes and conducted a complete investigation in this matter. Photographs were taken by the LVMPD. Interviews were conducted by the LVMPD. Copies of all reports have been turned over to the Las Vegas Division. Photographs are being retained in the Las Vegas Division in 1A exhibits.

LVMPD and Clark County Coroner's Office have listed this matter as a double homicide and suicide. Their cases are closed regarding this matter.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SAC WILLIAM C. MEGARY Office: WMFO
Date: September 7, 1995

Field Office File #: 66F-WF-199822
Bureau File #:

Title: SA [redacted]
SHOOTING INCIDENT,
WASHINGTON, D.C.;
JUNE 22, 1995;
OO:WMFO

Character: Administrative Inquiry

Synopsis: On 6/22/95, captioned Special Agent currently assigned to Squad C-16, Washington Metropolitan Field Office (WMFO) was conducting a routine surveillance in the vicinity of the Eastside Nightclub located adjacent to WMFO on Half Street, S.W., Washington, D.C. With SA [redacted] on surveillance was Metropolitan Police Department-Washington, D.C. (MPD) Detective [redacted] currently assigned to the C-16 Safe Streets Task Force. Initial surveillance was from the garage area of WMFO. At approximately, 0300 hours on 6/22/95, SA [redacted] and Detective [redacted] (in a Bureau car) moved their surveillance location to the East side of R Street, S.W., Washington, D.C. facing Half Street, S.W. As the two sat in the Bureau vehicle observing vehicles leaving the Eastside Club, a vehicle was observed moving slowly down Half Street, S.W. When the vehicle was at Half and "R" Street, S.W., approximately 2-3 car lengths from SA [redacted] and Detective [redacted] they observed a black male running along side of this vehicle firing into the passengers side of the vehicle. SA [redacted] and Detective [redacted] exited their vehicle at which time SA [redacted] immediately identified himself and proceeded down the west side of Half Street, S.W. in pursuit of the black male who continued down the east side of Half Street, S.W. travelling in a northerly direction. The subject and SA [redacted] approached the dumpster located between "R" and "S" Streets, S.W. at which time SA [redacted] observed a gun in the subject's hand. SA [redacted] again identified himself and discharged his Bureau issued Sig Sauer P220 .45 caliber semi-automatic pistol eight (8) times. SA [redacted] proceeded to reload his pistol at which time SA [redacted] observed that

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

the subject was limping and no longer carrying the weapon. SA [redacted] ordered the captioned subject to get down. The subject complied and he was subsequently handcuffed by SA [redacted] and Detective [redacted] Detective [redacted] fired no shots during the incident.

[redacted]-juvenile, was struck by one (1) round in the left ankle and was transported by D.C. ambulance to D.C. General Hospital for a non-life threatening injury. Neither SA [redacted] or Det. [redacted] were injured during the incident.

During the shooting incident the vehicle that was being shot into by [redacted] proceeded northbound on Half Street, S.W., Washington, D.C. As the vehicle crossed Potomac Avenue, S.W. it crashed into the wooded area located on the corner of Half Street and Potomac Avenue, S.W., Washington, D.C. The vehicle then proceeded to catch fire and burn in the wooded area. A black male identified as Montey Fullard was dead on the scene from multiple gunshot wounds. The second occupant of the vehicle, [redacted] was uninjured.

A Smith & Wesson .357 with a six inch barrel was recovered adjacent to the dumpster located between R & S Streets, S.W. The weapon contained six spent shell casings.

The subject is described as follows:

b6
b7C

**Name:** [redacted]

**Sex:** Male

**Race:** Black

**Complexion:** Medium

**DOB:** [redacted]

**SSAN:** [redacted]

**Address:** [redacted] WDC

The decedent (driver) can be further described as follows:

**Name:** Montey Fitzgerald Fullard

**Sex:** Male

**Race:** Black

**Complexion:** Medium

**DOB:** 3/22/66

SSAN: 579-90-6237

The passenger of vehicle can be further described as follows:

Name: [redacted]

Sex: Male

Race: Black

DOB: [redacted]

SSAN: [redacted]

Address: [redacted] WDC

b6
b7C

(09/31/95)

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE **Date:** 06/26/1995

**To:** Director **Attn:** Assistant Director William J. Esposito, Criminal Investigative Division - Personal Attention

**From:** Newark
C-1
**Contact:** [redacted] Ext. 9270

**Approved By:** [redacted]

**Drafted By:** [redacted] lap

**File Number(s):** 66-HQ-19157
66-4609 SUB 1

**Title:** SHOOTING INCIDENT;
6/14/95;
NEWARK DIVISION
ADMINISTRATIVE INQUIRY

b6
b7C

**Synopsis:** During the period of 6/20 - 23/95, an Administrative Inquiry was conducted by the Newark Division into a shooting incident involving SA [redacted] on 6/14/95.

**Reference:** Newark telcall of ASAC R. Stanley Harris to Section Chief Robert S. Conforti, 6/14/95, Newark teletype to Bureau, 6/15/95, and an FD-418 from Newark to the Training Division, FBIHQ, 6/16/95.

**Enclosures:** Enclosed is the original and eight copies of a self-explanatory report of the results of the investigation of captioned matter.

**Details:** Captioned shooting incident occurred at [redacted] Avenue, Newark, New Jersey, on June 14, 1995, and involved Newark Special Agent [redacted] firing one round from his Bureau issued Smith and Wesson 10 mm. semi-automatic pistol and striking a dog in the left chest/shoulder area when the dog was attempting to attack him during the execution of an arrest warrant.

3-Bureau (Encl. 9)
1-Section Chief Robert S. Conforti
1-Newark
RF/lap
(4)

**FEDERAL BUREAU OF INVESTIGATION**

To: Director From: Newark
Re: 66-HQ-19157, 06/23/1995

Prior to SA [redacted] discharging his weapon, he previously administered three bursts of CAP STUN directly into the dog's face which temporarily immobilized the dog. However, after a short period of time, the dog again attempted to attack SA [redacted] at which time, he fired one round and almost instantly killed the dog. There were no injuries to any other person caused by the round, and it was later retrieved from the dog by a local veterinarian.

b6
b7C

SAC, Newark recommends that no further investigation is necessary, and no administrative action be taken in this matter.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: Inspector David R. Knowlton Office:
Date: August 4, 1995

Field Office File #: Bureau File #: 66-19157-98

Title: SHOOTING INQUIRY
FBI TRAINING ACADEMY
QUANTICO, VIRGINIA
7/7/95

Character:

Synopsis:

On 7/7/95, 23 members of the 47 Special Agents (SA) trainees comprising New Agents Class (NAC) 95-12 participated in their second live fire training session under the direction of the Principal Firearms Instructor (PFI), SSA [redacted] SSA [redacted] was assisted in his instruction of the class by Firearms Instructors SSA [redacted], SSA [redacted] and Mr. [redacted]

b6
b7C

The instructors and the class initially met in the morning in the Gun Cleaning Room and then moved to the Range Classroom for instruction on sight alignment, trigger pull, and presentation of the weapon. Presentation of the weapon is described as the four positions in the movement of the weapon from the holster to the firing position. During the classroom instruction, lasting approximately 45 minutes, SSA [redacted] demonstrated these techniques utilizing a red-handled Sig/Sauer Model 226 with a working trigger as an instructional aid. SSA [redacted] stated that he preferred using the red-handled pistol rather than his empty service weapon because the audience feels more comfortable knowing that the weapon is deactivated and that he knows there is no chance for an accidental discharge. SSA [redacted] when not using the red-handled pistol for instructional purposes, maintained it in his holster. He did not have his duty weapon, a Sig/Sauer

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Model 228 with him in the classroom or at the range that day, but had it secured in the Firearms Training Unit (FTU) trailer near the range.

Upon completion of the classroom phase, the class moved to Range #1 for the live fire phase. SSA [redacted] as the PFI, supervised the firearms instruction from the tower while the other instructors walked the line. Between the courses of fire, SSA [redacted] left the tower and instructed the class about trigger pull and the presentation of the weapon using his red-handled pistol.

Upon the completion of their last course of fire, the instructors visually inspected each trainee's weapon to ensure that each weapon was safe and secure. The class was then instructed to proceed to the Gun Cleaning Room to clean their weapons.

SSA [redacted] advised that he then proceeded to the FTU trailer to drop off his instructional materials and to switch to his service revolver. Mr. [redacted] Firearms Instructor, who was assisting SSA [redacted] with NAC 95-12, advised he [redacted] returned to the FTU trailer following the morning instruction. Mr. [redacted] desk is next to SSA [redacted] and he observed SSA [redacted] switch guns, put his red-handled pistol away and put his service pistol in his holster. SSA [redacted] advised his weapon was loaded with ball ammunition because he had tested a target system the previous day using ball ammunition. Both SSA [redacted] and Mr. [redacted] left for the Gun Cleaning Room a few minutes later.

b6
b7C

At approximately 11:45 a.m., the NAC 95-12 SA trainees arrived in the Gun Cleaning Room and began cleaning their weapons. SSA [redacted] who had also arrived, noticed that several of the NAC 95-12 members were in the larger part of the Gun Cleaning Room and, since he knew a second much larger class was on their way, moved these trainees to the smaller portion of the room. NAC 95-10 consisting of 45 SA trainees arrived in the Gun Cleaning Room and began to clean weapons.

During the cleaning process, SSA [redacted] advised that it was his duty as the PFI to walk around among the students, offer advice and provide encouragement. SSA [redacted] although unable to recall specifically which students were involved in conversation with him, felt it beneficial to review the weapon presentation concept with them. SSA [redacted] advised that, thinking he had his red-handled pistol in his holster, drew the pistol and in a continuous motion, took

a firing position and pulled the trigger. He advised that he initially could not believe that the gun had discharged and did not realize that it was a live weapon until he heard the shot. Immediately after the discharge, he recognized the tritium night sight configuration on the gun as belonging to his service pistol, the Sig/Sauer 228 and not the red-handled Sig/Sauer 226 because he did not look at the weapon before he drew it from the holster. He advised he was not consciously aiming at anything because he was making an instructional point.

SSA [redacted], advised that he entered the Gun Cleaning Room at approximately 11:50 a.m. and was on his way to the Firearms Instructors locker room next to the indoor range. As SSA [redacted] approached the middle table of the 3 tables located in the smaller portion of the room, he noticed a Sig/Sauer 228 being held in a two-handed, fully extended position, aimed head high, back toward the center of the Gun Cleaning Room. He observed SSA [redacted] providing instruction to several students and within an instant of viewing the gun, heard the discharge, felt the concussion and saw the discharge vapor. At the time of discharge, it was being aimed lower than its previous head high position.

SA Trainee [redacted], a former police officer, and trained firearms instructor, was cleaning his weapon on the first table from the wall, on the post office side of the Gun Cleaning Room, facing the rest of the room. SSA Trainee [redacted] advised that SSA [redacted] was walking among the students and later stood between and slightly behind his and SA Trainee [redacted] position. He noticed SSA [redacted] had his weapon out of the holster, was extending the weapon in both hands and pointing the weapon toward the other side of the room. He also noticed that the weapon was not red handled but had black grips, a speckled finished and was the same gun SSA [redacted] normally carried. He continued to clean his weapon and heard a gunshot. He heard a gun hit the floor and saw SSA [redacted] run toward the center of the room. He looked down and saw SSA [redacted] weapon on the floor, and the magazine loaded with ball ammunition, had popped out of the pistol.

b6
b7C

SA Trainee [redacted] advised he was cleaning his weapon at the cleaning table most near the post office wall and was across the table and facing SSA [redacted] whom he observed demonstrate moving the weapon from a position close to the body to an outstretched arm position. This demonstration resulted in SSA [redacted] pointing the weapon at SA Trainee [redacted] right shoulder.

He observed SSA [redacted] demonstrating this motion more than once and then move the weapon in an outstretched arm position. He then saw the weapon discharge and saw the muzzle flash. He advised SSA [redacted] dropped the weapon to the floor and ran to offer assistance to an injured trainee.

SA Trainee [redacted] advised that while cleaning his weapon, he heard the sound of a gunshot. He squatted down and saw a female behind him was shot. While still squatting, he saw a gun bounce at SSA [redacted] feet. SSA [redacted] was observed to run to the female victim, then back to his gun lying on the floor. SA Trainee [redacted] advised he observed SSA [redacted] carefully pick up his gun, discharge the magazine, discharge the shell and holster the gun.

The projectile from SSA [redacted] weapon traveled approximately 31 feet across the Gun Cleaning Room and struck SA Trainee [redacted] in the left upper hip area, having passed through her belt, and then exiting her left hip area. The projectile then traveled approximately 7 feet and struck SA Trainee [redacted] in the right back area lodging in his abdomen.

SSA [redacted] advised that after the gunshot, he ran around the cleaning tables to render assistance to the injured SA trainees. When he determined that assistance was being given to them, he advised that he reached for his weapon to secure it but determined it was not in his holster. He returned to where he had been standing at the time of the gunshot and noticed his weapon on the floor. He has no recollection of how the weapon ended up on the floor but retrieved it, cleared it and took the weapon to the gun vault to secure it. b6 b7C

[redacted] a gunsmith/instructor advised that he was in the Gun Vault when he heard a gunshot in the Gun Cleaning Room. While other employees in the Gun Vault ran across to the Gun Cleaning Room, he remained at the door. He observed SSA [redacted] come out of the Gun Cleaning Room carrying a Sig/Sauer 228 pistol and a loaded magazine. Mr. [redacted] opened the door to the Gun Vault and SSA [redacted] entered and stated, "I've got to isolate this thing," and placed the pistol in Gun Bin #22. He was about to place the magazine in there also but stated, "can't keep ammo with the gun," and began unloading the magazine. Mr. [redacted] took the bullets, approximately 12, from SSA [redacted] and placed them in the blue container for live ammunition near the hallway door. SSA [redacted] placed the unloaded magazine in Bin #22 with the pistol and took Red Tag #22 with him and

went back to the Gun Cleaning Room. SSA later took the pistol and magazine from Bin #22 and left the red tag.

SSA advised she entered the Gun Cleaning Room and observed SSA standing by himself. SSA advised SSA that he was the one who had fired the shot and that it was a stupid mistake. SSA advised her that he had assumed that he still had the red-handled pistol that he had used earlier in the morning. SSA unloaded the two magazines he was carrying and gave all the bullets to SSA She then went to the Gun Vault and took possession of SSA pistol and empty magazine located in Gun Bin #22. She turned the pistol, empty magazine and bullets from his two extra magazines to Unit Chief

SA Trainees and were immediately assisted by FBI Academy personnel, including those with particular training in emergency medical response. SSA a firearms instructor who is also a nationally registered paramedic, upon hearing that someone had been shot in the Gun Cleaning Room immediately responded. SSA at first went to SA Trainee and, after determining that she did not have a major wound went to SA Trainee who he determined was going in to shock and needed advance life support. SA administered high-flow oxygen to SA Trainee and started an IV on him. SSA started a second IV on SA Trainee and placed mast trousers on him to maintain as much blood as possible in the upper torso. SA Trainee was transported via U.S. Park Police helicopter to the Washington Hospital Center for treatment.

b6
b7C

SA Trainee was transported via the FBI Academy ambulance to Potomac Hospital for treatment since her injuries were not considered to be life threatening.

Assistant United States Attorney Eastern District of Virginia, Alexandria, Virginia, declined prosecution in this matter since no fatality occurred; and there was no evidence developed indicating that there was any criminal intent on the part of SSA

SSA had been assigned to the FBI Academy as a firearms instructor since 6/28/92. His annual performance appraisal signed 11/5/93, documents that he committed a safety violation regarding a round

having been fired downrange by a student he was instructing while another student was downrange repairing a target. This was described by the team leader as "the most serious he had observed while at the Academy." He was rated Superior in this particular element on this appraisal. His annual performance appraisal signed 4/14/94, documents that "SSA [redacted] should place emphasis on following established protocols maintained by FTU (ie...the gun vault incident in which he left a loaded weapon which was found by a gunsmith)." He was rated Superior in this critical element on this appraisal.

SSA [redacted] routinely employed a red-handled weapon during his instruction. Other firearm instructors both used and avoid using red-handles.

SC PLEDGER, former Unit Chief of the Firearms Training Unit advised there is no written policy concerning red-handled weapons, although their use is encouraged when addressing a group/class of students.

No formal documentation was available concerning the firearms being carried in the FBI Academy prior to that published in a 4/27/95 memorandum. It was understood that the policy prior to this memo allowed for firearms instructors and HRT members to carry loaded weapons within the Academy with common sense dictating that they would not normally carry loaded weapons into instructional areas of the Academy. The 4/27/95 memorandum requires these personnel to carry loaded weapons in the Academy and was in response to security concerns arising in the wake of the OKBOMB matter. b6 b7C

It was found that SSA [redacted] was carrying 9mm ammunition used for training purposes rather than the ammunition required for duty purposes when this accident occurred.

The Assistant Director, Training Division, was tasked with documenting the emergency response that took place following this incident. Documentation provided reflects that there was not a significant delay in transporting SA [redacted] by helicopter to a trauma center. The U.S. Park Police helicopter pilots advised that the navigational coordinates they were initially given were inaccurate. This resulted in a 2- to 4-minute delay in transportation.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: SAN DIEGO
Date: August 1, 1995

Field Office File #: 66F-SD-55796 Bureau File #66F-HQ-19157 Sub 46

Title: SHOOTING INCIDENT
[redacted]
SAN DIEGO DIVISION
7/10/95

Character: ADMINISTRATIVE INQUIRY

Synopsis:

This inquiry was predicated upon information reported by SA [redacted] to the San Diego Division, at approximately 7:48 p.m., 7/10/95, that he had just shot a bank robbery suspect and his dog. b6 b7C

SA [redacted] is assigned to Squad 6, a VCMO squad, and is assigned to work bank robberies and other federal violations in the VCMO program. In a signed sworn statement he provided the following information:

On July 10, 1995, SA [redacted] recieved three complaint forms from the complaint agent regarding the [redacted] later identified as [redacted] SA [redacted] advised that he knew that the BIRDLEGS BANDIT was the suspect in twelve bank robberies in the Division, had displayed a weapon in two robberies, and had taken hostages at two bank robberies. The complainants provided information that the bank robber's photograph in the newspaper that day was an individual named [redacted] That the person in the bank robbery photographs drove a Nissan pickup truck and that the suspect was a customer at the Holiday Wine Cellar in Escondido, California, who frequented the Wine Cellar often between 5:00 p.m. and 7:00 p.m.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] went to the Wine Cellar in hopes of obtaining the store video surveillance film for later viewing in attempts to identify the BIRDLEGS BANDIT. Subsequent to interviewing employees at the Wine Cellar and while still in the area he observed a Nisson truck in the parking lot that resembled the truck described by witnesses that was driven by the suspect. He observed the suspect in the Wine Cellar and called for backup from his Bureau car. He then observed the suspect exit the store and approached him in order to further identify him. SA [redacted] identified himself as an SA with the FBI and displayed his credentials to the suspect. During the course of conversation SA [redacted] obtained suspect's car keys. The suspect, upon learning that a backup was enroute, became uncooperative, entered his truck using a spare key, started the vehicle, and drove out, bumping SA [redacted] Bureau car in the process. SA [redacted] surveilled the suspect to the suspect's residence, at the same time attempting to get a backup by using the Bureau radio and cellular telephone. He followed the suspect into suspect's driveway and attempted to continue his interview to stall for time. The suspect became intimidating and a shoving match ensued with the suspect stating "Your going to have to kill me!" The suspect ordered his dog to "Sic him MAX, sic him!" When the dog was within one foot of SA [redacted] SA [redacted] fired one shot which disabled the dog. The suspect then hit SA [redacted] in the face with either his fist or a blunt object. SA [redacted], was dazed, but could feel the suspect advancing. At this point SA [redacted] drew his weapon again and shot the suspect one time. SA [redacted] then got one handcuff on the suspects wrist. The suspect continued to struggle with SA [redacted] and they slid down to a fence where SA [redacted] was able to get the other handcuff on the suspect. Then with the assistance of a neighbor, attempts were made to render first aid to the suspect who had been wounded in the chin and neck.

b6
b7C

SA [redacted] was transported to the hospital by SA [redacted] for treatment of a swollen and bruised face subsequent to briefing appropriate law enforcement personnel at the crime scene. [redacted] was transported to the hospital by ambulance.

Review of the evidence collected, crime scene photographs and sketches, interviews with employees at the Holiday Wine Center, interviews of the neighbors and other investigators support SA [redacted] statement. The weapon he used on 7/10/95 was his Bureau issue SIG SAUER, P226, serial number U447161.

- C -

DETAILS:

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC JERRY D. THORNTON Office: Los Angeles
Date: August 25, 1995

Field Office File #: 62A-LA-187790
Bureau File #:

Title:
ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
LOS ANGELES DIVISION
7/24/95

Character: ADMINISTRATIVE INQUIRY

Synopsis: On July 24, 1995, Special Agents (SAs) assigned to the Santa Ana Resident Agency of the Los Angeles Office of the FBI, and a deputy from the Orange County Sheriff's Office (OCSO), Santa Ana, California, were assigned to participate in a surveillance at the residence of KEVIN DUANE ARNOLD. ARNOLD was a federal fugitive wanted for Bank Robbery in violation of Title 18, United States Code, Section 2113 (a), from the Southern District of California, San Diego, California.

At Approximately 9:30 a.m., 7/24/95, Senior Supervisory Resident Agent (SSRA) [redacted] and SA [redacted] both assigned to the Santa Ana Resident Agency, conducted a briefing attended by SA [redacted] SA [redacted] and OCSO Deputy [redacted] During the briefing, the fact that ARNOLD was wanted for a San Diego Bank Robbery was discussed, as well as the fact that SA [redacted] was going to obtain a federal arrest warrant on that day from a United States Magistrate Judge, charging ARNOLD with 11 additional bank robberies committed in the Orange County area. SA [redacted] was also going to obtain a federal search warrant for ARNOLD's vehicle and residence, located at 21592 Cabrosa, Mission Viejo, California. SA [redacted] instructed SA [redacted] SA [redacted] and Deputy [redacted] to conduct the surveillance at ARNOLD's residence, in an effort to locate him pending the issuance of the additional federal arrest warrant and the search warrants. During the briefing, ARNOLD's background as a former police officer, who had been involved in

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

several department shootings was discussed, as well as the fact that during some of the bank robberies ARNOLD claimed to have a weapon. ARNOLD was to be considered Armed and Dangerous. All participants in the surveillance had conducted prior surveillances of ARNOLD at his residence and were aware of what he looked like, the vehicle he drove, and the fact that ARNOLD was married with small children. Consequently, both SSRA [redacted] and SA [redacted] wanted ARNOLD to be arrested away from his residence, to insure the safety of ARNOLD's wife and children.

At approximately 12:30 p.m., SA [redacted] SA [redacted] and Deputy [redacted] commenced their fixed surveillance at ARNOLD's residence in Mission Viejo. At approximately 1:30 p.m., there was movement at ARNOLD's residence. Both SA [redacted] and SA [redacted] drove by ARNOLD's home to investigate that movement. As they passed the house, both observed ARNOLD at the door. SA [redacted] stated that within seconds he heard over the two-way radio from Deputy [redacted] that ARNOLD had probably observed them, as ARNOLD came out into the street and watched them drive away. Within the next several minutes, Deputy [redacted] reported that ARNOLD had returned to his house, that he exited his house, and that he drove away in his blue vehicle. SA [redacted] stated that after a brief period of searching for ARNOLD, he used his cellular telephone to contact SA [redacted] who was obtaining the additional arrest warrant and the search warrants. SA [redacted] stated that he was instructed by SA [redacted] to arrest ARNOLD, if he was located. He was further instructed to attempt to arrest ARNOLD prior to him entering his home.

b6
b7C

Several minutes later, SA [redacted] observed ARNOLD driving his vehicle (a 1994 blue two-door, Ford Escort, California License 3GTZ579) in the parking lot at Portola Plaza, 27690 Margarita Parkway, Mission Viejo, California. SA [redacted] reported that information to SA [redacted] and Deputy [redacted] via his two-way radio. SA [redacted] requested SA [redacted] assistance at that shopping center. At that point, SA [redacted] informed SA [redacted] of SA [redacted] instructions regarding ARNOLD's arrest. He also informed SA [redacted] that he was approximately 30 seconds away. During this period of time, ARNOLD observed SA [redacted] and began yelling at him and pointing his finger at him in an animated fashion.

b6
b7C

At that point, ARNOLD moved his vehicle into a parking space and stopped. SA [redacted] stopped his vehicle to the front of ARNOLD's vehicle, but not quite perpendicular to it, approximately 20 - 25 feet away. ARNOLD exited his vehicle while yelling at SA [redacted] and taking an aggressive stance by the front driver's door. SA [redacted] exited his vehicle, drew his weapon and

pointed it at ARNOLD while moving to the driver-side front fender. SA [redacted] then yelled, "Stop, Police, put your hands up". ARNOLD replied, "Let's get this over with". ARNOLD refused to obey any of SA [redacted] commands and continued to yell in a belligerent manner. ARNOLD also made the statement, "No, we are going to handle this right now".

SA [redacted] then arrived on the scene and observed ARNOLD yelling and pointing his finger at SA [redacted] who was approximately 30 feet away. SA [redacted] stopped his vehicle somewhat perpendicular to ARNOLD's vehicle, 1 - 3 feet from where ARNOLD was standing by the front door of his vehicle. SA [redacted] observed ARNOLD briefly glance at him, but ARNOLD immediately returned his attention to SA [redacted] SA [redacted] then exited his vehicle, drew his weapon, described as a .45 caliber, Sig Sauer Semi-automatic, Model P220, bearing Serial Number G218365 and pointed it at ARNOLD. SA [redacted] then yelled, 'FBI! KEVIN, you are under arrest! Get down on the pavement". Those commands were repeated several times, but ARNOLD completely disregarded them. At that point, ARNOLD glanced toward SA [redacted] and yelled, "Fuck you! I am not going to do it". ARNOLD then attacked SA [redacted] who was approximately 25 - 30 feet away. Prior to reaching SA [redacted] SA [redacted] heard ARNOLD yell, "Tell my wife I love her".

b6
b7C

ARNOLD then reached SA [redacted] who was then located between his vehicle and ARNOLD's vehicle in a vacant parking slot to the front of ARNOLD's vehicle. At that point, a fight ensued between SA [redacted] and ARNOLD. SA [redacted] who followed ARNOLD, immediately joined in the fight. Both SA [redacted] and SA [redacted] initially had their weapons in their hands, making fighting difficult. ARNOLD made repeated attempts to obtain control of their weapons, but to no avail. Throughout the fight, ARNOLD continually refused to obey the SAs commands to surrender and submit to arrest. At one point, ARNOLD turned his back to the SAs and made a motion of reaching into the front of his pants, as if he was drawing a weapon. Both SA [redacted] and SA [redacted] stated that they were prepared to shoot ARNOLD at that time, but when he turned around he had no weapon in his hand. Frequently, throughout the fight, ARNOLD yelled, "Shoot me, Shoot me!" and "You are going to have to kill me". As the fight continued, it moved back toward the front door area of ARNOLD's vehicle. One time during this period, ARNOLD opened his driver's door, reached in and grabbed for something between the front seat and back rest. Both SAs again believed that ARNOLD was reaching for a weapon and were prepared to fire. However, once again, ARNOLD turned with empty hands. The fight then continued. Both SAs believed that they were fighting for their lives.

b6
b7C

At one point during this period, SA [redacted] was able to briefly return to his vehicle and use his two-way radio to call for Deputy [redacted] assistance. SA [redacted] then returned to assist SA [redacted] Shortly thereafter, ARNOLD broke free and ran back to his vehicle. He jumped in, grabbed his car keys off the front passenger seat and inserted the key into the ignition. By that time, SA [redacted] had run to the driver's side window, reached in with his left hand and arm over the top of the steering wheel in an effort to remove the car keys from the ignition. However, ARNOLD was able to start his vehicle and began backing up. As the vehicle began to move, SA [redacted] was unable to extract his left arm from the steering wheel area. SA [redacted] believed that his arm was either being held by ARNOLD, or it was trapped inside the vehicle. SA [redacted] was dragged by the rearward movement of ARNOLD's vehicle for approximately 30 - 40 feet at a speed SA [redacted] thought was very fast. SA [redacted] fearing for his life, reached into the front seat area with his right hand which was holding his weapon and fired one round into ARNOLD's chest. SA [redacted] left arm was immediately freed. He regained his footing and stepped away from ARNOLD's vehicle. ARNOLD then slumped over toward the passenger seat area, but the engine made a "revving" sound and moved forwards. ARNOLD's vehicle stopped upon collision with a 1995 Acura which was parked in a slot to the front of ARNOLD's vehicle.

b6
b7C

ARNOLD was removed from his vehicle by SA [redacted] and Medix ambulance personnel who were at the scene. Paramedics from the Orange County Fire Department responded to the scene and administered first aid prior to transporting ARNOLD to Mission Hospital with a gunshot wound to the chest. ARNOLD was declared dead shortly after arriving at Mission Hospital, Mission Viejo, California.

b6
b7C

Neither SA [redacted] nor SA [redacted] sustained any serious injury.

OCSO Homicide-Officer Involved Shooting Team and the Los Angeles Agent Involved Shooting Team responded to the scene. A joint investigation was conducted.

Neighborhood investigations were conducted at the shooting scene, along with witness interviews.

Photographs were taken of the crime scene area by both the FBI and OCSO.

OCSO conducted the crime scene investigation, accompanied by FBI personnel.

SSRA [redacted] notified ARNOLD's wife, [redacted] of his death, when he resisted arrest on the charge of federal bank robbery.

ARNOLD's vehicle was impounded by OCSO as part of the crime scene investigation, but was searched for items that were named in a federal search warrant by the FBI.

On 7/25/95, OCSO - Coroner's Office conducted an autopsy on ARNOLD. The FBI witnessed the autopsy.

OSCO and the Coroner's Office furnished the FBI their written reports regarding the shooting incident.

- P -

b6
b7C

DETAILS:

This case is predicated upon information that SA [redacted] and SA [redacted] assigned to the Santa Ana Resident Agency of the Los Angeles Office of the Federal Bureau of Investigation (FBI), had been involved in a shooting incident at approximately 2:00 p. m., July 24, 1995, during the attempted apprehension of KEVIN DUANE ARNOLD, who was wanted for Federal Bank Robbery.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: LAS VEGAS
Date: August 21, 1995

Field Office File #: 62A-LV-26245 Bureau File #:

Title: SHOOTING INCIDENT
May 12, 1995
Las Vegas Division

b6
b7C

Character: Administrative Inquiry

Synopsis: [redacted] Executive Director, National Independent Bank Equipment and Systems Association (NIBESA), Park Ridge, Illinois sought the assistance of Special Agent (SA) [redacted] New York FBI in arranging for a demonstration of the various types of bullet resistant glass during their annual convention in Las Vegas, Nevada, May 11-12, 1995. SA [redacted] who has assisted the NIBESA in past demonstrations, identified SA [redacted] Las Vegas FBI Principal Firearms Instructor, who would be able to arrange for the demonstration. SA [redacted] obtained New York FBI management authorization (documented) for the FBI to participate in the demonstration.

SA [redacted] advised the demonstration plan would include a burning demonstration of the safes, and a firearms demonstration involving the shooting at the bullet resistant glass. The last event would be a shooting demonstration in which metal targets would be engaged, similar to demonstrations he witnessed in the past.

Ms. [redacted] made telephonic contact with SA [redacted] and discussed with the him shooting at the bullet resistant glass; she insists he was not asked to participate in any other demonstrations, specifically



This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

shooting bullets at any safes or ATM machines.

Ms. [redacted] made the necessary arrangements for the shipment of the safes, ATMs and resistant glass to Las Vegas for the demonstration, and arranged for the one-day insurance policy for the demonstration.

SA [redacted] arranged with the Las Vegas Metropolitan Police Department (LVMPD) to utilize the police shooting range on May 12, 1995, arranged for the use of Bureau weapons and ammunition to be used during the demonstration, and coordinated the delivery of the safes, ATMs and resistant glass by the Lomanto Exhibit Services. SA [redacted] chose to use his personally owned bureau approved 30-06 rifle during the demonstration. SA [redacted] also provided the rifle ammunition which included military armor piercing rounds, and commercial 30-06 ammunition manufactured by Eldorado Cartridge Company located in Boulder City, Nevada. The commercial ammunition was all copper 180 grain Barnes "X" bullets.

b6
b7C

On the morning of May 12, 1995, SA [redacted] arrived at the firearms range, and met with SA [redacted] The safes, ATMs and glass had already been set up at the direction of SA [redacted] SA [redacted] had marked off an area approximately 77 feet from the target area using tape stretched between two speakers which had been placed on opposite sides of the range.

SA [redacted] used a wireless speaker to direct the mechanics of the safe burning demonstration. There were between 100 and 150 spectators. After the burn demonstration, SA [redacted] directed the spectators behind the tape area. SA [redacted] repeated to the spectators comments by SA [redacted]

b6
b7C

It was a decision made soley by SA [redacted] to include in the firearms demonstration shots fired at the safes. SA [redacted] positioned himself 40 to 50 feet in front of the safe located near the middle of the target line. SA [redacted] fired two rounds of armor piercing ammunition in rapid succession at the safe. SA [redacted] approached the safe to exam the bullet impact areas, and SA [redacted] who had heard some noise from the spectator area, walked over to the crowd. SA [redacted] observed that [redacted] had suffered a small crescent shaped wound to his shin area. First aid was administered, and [redacted] insisted he was all right. SA [redacted] advised it was common for individuals to receive minor splash back wounds.

At this time, neither SA [redacted] nor SA [redacted]

realized a second spectator had received a wound. SA [redacted] and SA [redacted] moved the spectators to the back of the range area, approximately 60 years from the target line and continued with the demonstration. SA [redacted] then fired one of the all copper bullets at the target. The bullet or a large fragment ricochetted back and struck SA [redacted] in the right anterior lower thigh. SA [redacted] was transported to University Medical Center for treatment.

SA [redacted] and SA [redacted] of the Las Vegas FBI Office were present to observe the demonstration. SA [redacted] asked if they would assist in competing the demonstration by firing rounds at the bullet resistant glass. The demonstration was concluded by SA [redacted] and SA [redacted] without any further incidents. b6 b7C

It was subsequently learned that Ms. [redacted] of Farmers Branch, Texas had sustained a ricochet wound to her neck. Both [redacted] and [redacted] received treatment at the Lake Mead Hospital, Las Vegas, Nevada. Ms. [redacted] was advised at the hospital that a piece of metal was still in her neck, but the piece would work its way out. Ms. [redacted] confirmed the piece did eventually come out.

Mr. [redacted] of Marquette, Michigan suffered an injury to his lower left calf muscle. Mr. [redacted] received medical treatment at the Lake Mead Hospital; he also was informed the fragment was still in his leg. Mr. [redacted] subsequently sought medical treatment at the Marquette General Hospital on May 22, 1995, and has been attended by a physician since that time. The fragment remains in his leg, and he continues to suffer pain. Mr. [redacted] advised he has not sought legal advise on the matter, however, made it known he felt compensation was due him for the hardships suffered as a result of the bullet wound. b6 b7C

A video taping of the event taken by NIBESA was of poor quality, and did not record the shooting event which resulted in the wounds suffered by Agent [redacted] Ms. [redacted] and Mr. [redacted]

FD-204 (Rev. 3-3-59)

66-19157-3

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: FBIHQ
Date: July 6, 1995

Field Office File #: Bureau File #: 66-19157-3

Title: SHOOTING INCIDENT
BALTIMORE DIVISION
MAY 29, 1995

Character: ADMINISTRATIVE INQUIRY

Synopsis: In 1/95, in separate incidents, two Metropolitan Police Department (MPD) officers were shot and wounded in unprovoked attacks while on duty in full uniform. Based on a request from the MPD, WMFO Squad C-21, the Cold Case Squad, a task force, initiated an ITAR-MURDER investigation.

In 4/95, Prince George's County Police Department (PGCPD) Officer JEFFREY NOVABILSKI was shot and killed in an unprovoked attack as he sat in full uniform in his patrol car. Officer NOVABILSKI'S service weapon, a 9mm Beretta, was taken by his assailant. Two days later [redacted] was arrested by PGCPD and charged with this murder.

On 5/18/95, [redacted] met with PGCPD detectives and provided information regarding her association with RALPH MCLEAN. She said that for the past year she had a relationship with MCLEAN during which time he had physically and sexually assaulted her. An arrest warrant was issued for RALPH MCLEAN for assault. [redacted] furnished information which linked MCLEAN to the assaults on the MPD officers and to the murder of PGCPD officer NOVABILSKI.

On 5/25/95, technical surveillance was initiated via Cellular One and [redacted] on the cellular telephone utilized by MCLEAN. Early that evening, Agents from Squad

b2 b6 b7C b7E

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

C-21 and the WMFO SOG met in Northern Virginia to distribute descriptive data about MCLEAN and to set forth a plan of action should MCLEAN be located. Surveillance was discontinued that night in Fredericksburg, Virginia, and resumed at 5:00 a.m. the next morning. On 5/26/95, Cellular One provided information obtained by noting the cell sites being utilized by MCLEAN'S cell phone that he was traveling south towards Richmond.

On 5/27/95, an arrest warrant was issued in the District of Columbia for RALPH MCLEAN for the assault on a MPD officer. During that day, MCLEAN responded to page by [redacted] and in the ensuing conversation indicated that he thought she was cooperating with law enforcement authorities. That night the MPD assaults were profiled on "America's Most Wanted" but MCLEAN'S name was not mentioned. The following evening, 5/28/95, a television reporter related that an arrest warrant had been issued for RALPH MCLEAN for shooting the MPD officers and there was an outstanding PGCPD arrest warrant for the same individual which identified MCLEAN'S girlfriend as cooperating.

During the afternoon of 5/28/95, technical coverage indicated that MCLEAN was headed back north towards the Washington, D.C., area. Late that afternoon, a PGCPD detective notified a Squad C-21 Agent and advised that MCLEAN had contacted [redacted] and wanted to meet her that evening. SOG, C-21 Agents and Agents from the Technical Services Squad then met at the Springfield Mall in Northern Virginia. The case agents then explained to the participants that MCLEAN was to meet his girlfriend at a shopping mall, not yet identified and they planned to try to arrest him in an open area en route to the meeting. If this did not work, they would try to use the [redacted] MCLEAN'S location. He was to be surveilled to a safe area to make the arrest. If he was stationary for the night, SWAT would be activated. If a felony car stop was required, the SOG would handle it.

b2
b6
b7C
b7E

During that evening, the PGCPD detective with [redacted] advised that a meeting was planned by MCLEAN with [redacted] for the Tyson's Corner Mall. That was later changed by MCLEAN and [redacted] for the Beltway Plaza Mall in Greenbelt, Maryland. About a week earlier, [redacted] had told MCLEAN that she had a friend in the Greenbelt area and that would be a good place to meet. [redacted] was being operated solely by the PGCPD detectives and conversations between [redacted] and MCLEAN were being relayed by those detectives to C-21 Agents.

At about 6:00 p.m., C-21 SSA [redacted] had notified Southern Maryland Metropolitan RA (SEMRA) SSA [redacted] that MCLEAN was back in the area but that it was not

anticipated at that time they would be in PG County. At 10:40 p.m., [redacted] again contacted [redacted] and advised that the meeting place had changed to the Beltway Plaza Mall in SMMRA territory.

WMFO Agents had arrived in the Greenbelt area at about 10:00 p.m. Throughout the evening MCLEAN and [redacted] had continued conversations. At about 11:30 p.m., in response to a page, MCLEAN contacted [redacted] who indicated that she had not seen MCLEAN in the parking area of the Beltway Plaza Mall. At that time MCLEAN told [redacted] that he would meet her at the Shell Gas Station nearby. SA [redacted] and SA [redacted], both assigned to WMFO SOG, moved their vehicles to a parking lot in the Greenbelt Middle School, where they could observe the Shell Gas Station. Between 10:30 p.m. and 12:40 a.m., 5/29/95, two [redacted] vans had numerous activations regarding MCLEAN'S use of his cellular phone, however, [redacted] The activations did, however, indicate that MCLEAN was in the area of Greenbelt Middle School. This information was broadcast to all units.

b2 b6 b7C b7E

At about 12:40 a.m., Officer [redacted] Greenbelt City Police Department (GCPD), was notified by a fellow officer of suspicious vehicles in the area of Greenbelt Road and Kenilworth Avenue. In patrolling the area, Officer [redacted] observed SA [redacted] vehicle in the parking lot of the middle school. Initially, he drove past SA [redacted] car to obtain registration information. He turned around in the parking lot returning to the area of SA [redacted] SA [redacted] exited his vehicle, identified himself to Officer [redacted] by displaying his FBI credentials and asked Officer [redacted] to leave the area and inform other GCPD units of law enforcement presence in the area conducting a surveillance. Within about 10 minutes of Officer [redacted] departing the area, RALPH MCLEAN approached SA [redacted] vehicle, from the operator's side and fired 16 shots at SA [redacted] with a M-11.

b6 b7C

Upon hearing the automatic weapon fire, SA [redacted] who was positioned in a surveillance van, called for assistance, exited the van and observed MCLEAN running around the corner behind the Greenbelt Middle School. MPD Officer [redacted] who had been hiding in shrubbery across the street in the vicinity of the Shell Station, also saw MCLEAN fleeing. He broadcast the direction of MCLEAN'S flight. MCLEAN attempted to make his escape from the area of the school through a wooded area to get to his vehicle which was parked in an apartment complex nearby. This route was blocked by responding law enforcement officers who had quickly set up a perimeter. MCLEAN then fled west several hundred yards to the Beltway Plaza Mall parking lot. During this time, he made a diversionary 9-1-1 call and advised

emergency personnel that the assailant of the police officer drove away from the area in a black Maxima.

An FBI Agent from the SMMRA spotted MCLEAN moving from concrete pillar to concrete pillar in the parking area of the Beltway Plaza near the Caldor Store and requested assistance via the Bureau radio. The responding police officers and FBI Agents were fired upon by MCLEAN who had now moved to a place of hiding behind the wheels of a box trailer parked on the Caldor loading dock. FBI Agents and PGCPD officers returned fire. A total of 43 rounds were fired, 31 by three PGCPD officers and 12 by three FBI Agents. After receiving numerous non-fatal bullet wounds MCLEAN took his own life by shooting himself with the 9mm Beretta taken from Officer NOVABILSKI.

Six law enforcement officers fired their weapons as follows:

| Name | Weapon | Caliber | Estimated Rounds Shot |
|---|---|---|---|
| [redacted] (FBI) | H&K MP5 SN 62-332171 | 9mm | 8 |
| [redacted] (FBI) | S&W 1076 SN THC9805 | 10mm | 3 |
| [redacted] (FBI) | SigSauer P228 SN B118555 | 9mm | 1 |
| [redacted] (PGCPD) | Beretta 92F SN BER076268Z | 9mm | 15 |
| [redacted] (PGCPD) | Beretta 92F SN BER048960Z | 9mm | 11 |
| [redacted] (PGCPD) | Beretta 92F SN BER004799Z | 9mm | 5 |

b6
b7C

SA [redacted] was armed with a 10mm Smith and Wesson, Model 1076 pistol which was still holstered, and a 9mm H&K MP-5 submachine gun which was not fired. He was wearing his ballistic vest at the time of the shooting.

Details of this incident will be reported as delineated in the table of contents.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASSOCIATE SAC SHEILA W. HORAN Office: PHILADELPHIA
Date: AUGUST 10, 1995

Field Office File #: 62A-PH-77715 Bureau File #:

Title: SHOOTING INCIDENT
PHILADELPHIA DIVISION
PHILADELPHIA, PENNSYLVANIA
JUNE 1, 1995

Character: ADMINISTRATIVE INQUIRY

Synopsis:

A preliminary inquiry was initiated on 5/16/95, on "GLENN THOMAS, aka Glenn Gram, Keith Graham, Keith Thomas, Jahil Thomas, Shawn Thomas; UFAP - Aggravated Assault." The cas was based on information furnished by the Philadelphia Count District Attorney's Office. It was opened and assigned to [redacted] a member of the Philadelphia Office's Fugiti Task Force.

A review of this case showed that there were two "failure to appear" Bench Warrants outstanding against GLENN THOMAS. The first was issued on 2/27/95, and involved original charges of Theft, Receiving Stolen Property and two counts of violation of the Uniform Firearms Act. The second warrant, issued 3/31/95, involved original charges of Aggravated Assault (against two Philadelphia Housing Authority Officers); Recklessly Endangering Another Person; Resisting Arrest; and two counts of violation of the Uniform Firearms Act. Additional charges lodged against GLENN THOMAS involved a 12/8/94 arrest for, among other violations, Firearm Not To Be Carried Without A License, in the jurisdiction of the Upper Darby Township (Pennsylvania) Police Department.

b6
b7C

Clearly, GLENN THOMAS was known to have a history of violent criminal behavior which included significant armed hostility directed at law enforcement officers.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

On 6/1/95, SA [redacted] received perishable, "real time" information that GLENN THOMAS was located on Tackawanna Street in the Whitehall Housing Projects in Northeast Philadelphia. This information came from a former source of the Philadelphia Office who had been closed a few months prior. The source was in a position to know the whereabouts of THOMAS because he would see him periodically in the Whitehall Projects. On at least three other occasions, the source had been in contact with SA [redacted] regarding THOMAS' location. b6 b7C

[redacted] was able to respond. He immediately requested fellow members of the Task Force to assist him in apprehending THOMAS. He was successful in obtaining the assistance of six Agents/Officers. All six, located at several locations around the city, began to converge on the Whitehall location. Three of the Task Force members, notably SAs [redacted] and Detective [redacted] were delayed by heavy traffic. The others, SA [redacted] Sergeant [redacted] and Detectives [redacted] and [redacted] arrived at the housing project some blocks from GLENN THOMAS' reported location. Since there were four armed law enforcement officers present and the circumstances were exigent and very fluid, a judgment was made that an arrest could be made without waiting for the three Task Force members.

Prior to the arrival of SA [redacted] Detectives [redacted] and [redacted] drove through the Tackawanna Street area because the source had indicated THOMAS had an AK-47 automatic weapon in his automobile, a white Thunderbird.

The arrest plan was conceived and agreed upon by SA [redacted] and the Task Force members on scene. They would approach THOMAS and while doing so, utilize their vehicles and existing buildings to contain THOMAS as best they could should he attempt to flee. They planned to approach THOMAS and place their four Bureau cars in such a way as to block his egress. Since all the participants were driving individual cars, it was decided that Detective [redacted] would lead the way to THOMAS' location, followed by SA [redacted] Sergeant [redacted] and Detective [redacted]

Shortly after 4:30 p.m., Task Force members located THOMAS, precisely where the source had earlier indicated subject would be found. SA [redacted] and Detective [redacted] exited their vehicles a short distance from a group of Black males sitting on a pipe fence. These Black males, to include subject GLENN THOMAS, recognized the Task Force members as law enforcement and began fleeing the area. It appears either Detective [redacted] or SA [redacted] or both, immediately identified themselves by yelling "Stop - Police." They began to pursue THOMAS in a northerly b6 b7C

direction along Tackawanna Street. GLENN THOMAS was observed by SA [redacted] and Detectives [redacted] and [redacted] to have a handgun in his waistband. All three Task Force members observed THOMAS as he started to remove the weapon from his waistband. SA [redacted] fired one shot, fatally wounding THOMAS. THOMAS did not fire his weapon.

Detective Sergeant [redacted] did not participate in the foot pursuit because SA [redacted] and Detective [redacted] had exited their vehicles and initiated a chase of THOMAS prior to [redacted] leaving his automobile. Detective [redacted] exited his automobile and had taken a few steps to join the chase at which time THOMAS was shot. b6 b7C

One law enforcement officer fired his weapon in the attempt to apprehend THOMAS:

| NAME | WEAPON | CALIBER | NUMBER OF ROUNDS SHOT |
|---|---|---|---|
| SA [redacted] | Sig Sauer Model P220 Semi Automatic Pistol | .45 | 1 |

As a result of the shot fired by the law enforcement officer, GLENN THOMAS sustained a fatal gunshot wound to his head.

The Philadelphia Medical Examiner's report indicates a large projectile base and small bullet fragments were recovered from the body.

Details of this incident will be reported as delineated in the Table of Contents.

- P -

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SA [redacted] Office: WMFO
Date: June 27, 1995

Field Office File #: 66F-WF-198503
Bureau File #:

b6
b7C

Title: SA [redacted]
SHOOTING INCIDENT,
ARLINGTON, VIRGINIA;
MARCH 20, 1995
OO:WMFO

Character: ADMINISTRATIVE INQUIRY

Synopsis:

On March 20, 1995, at approximately 12:45 p.m., a bank robbery occurred at the George Mason Bank, 4005 Wilson Boulevard, Arlington, Virginia. WMFO agents responded to the bank robbery and a joint investigation was initiated with the Arlington County Police Department. Witnesses advised that a lone male presented a robbery note to the bank teller and demanded money. The subject claimed to have a gun. The subject was given bank funds in the amount of $7,140.68 which he placed into a duffle bag and fled the bank.

Witnesses to the robbery described the subject as a black male, late twenties to early thirties, heavy set with a small mustache. The subject was described as being between 5'9" and 6'1" tall and weighing between 250 and 300 lbs. He is further described as wearing dark plastic sunglasses, baseball cap, a blue waist length jacket and blue jeans. He was carrying a blue duffle or tote bag over his shoulder.

At approximately 1:30 p.m., an officer of the Defense Protective Service (DPS) on duty at the Pentagon (approximately four miles from the bank robbery) observed an individual who fit the description of the bank robber. The subject was fatigued and sweaty and asked for directions to the closest metrobus stop. The officer furnished the subject with directions to the metrobus stop. The DPS officer radioed the DPS dispatcher and advised that a man fitting the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

description of the bank robber was headed towards the Pentagon metrobus stop.

Shortly thereafter, uniformed DPS officers in marked police vehicles approached the subject and ordered him to stop. The subject drew a handgun from his waistband and fled on foot through the Pentagon's south parking lot toward Eads Street and the interstate 395 overpass (I-395). b6 b7C

Special Agent (SA) [redacted] was conducting a separate investigation at the Pentagon when the subject was observed. [redacted] had previously parked his bureau car in a secured parking lot at the Naval Army Annex. [redacted] secured his service weapon and his briefcase in the trunk of his Bureau vehicle. [redacted] was dressed in soft street clothes and felt the possibility of an accidental exposure of his service weapon within the Pentagon confines might cause undue concern to the workers and to the security force within the Pentagon. [redacted] and DPS investigator [redacted] travelled to the Pentagon in [redacted] unmarked government vehicle.

Numerous uniformed DPS officers along with [redacted] and [redacted] responded to Eads Street and the I-395 overpass. Upon seeing the responding officers, the subject turned and pointed his weapon directly at them. Four DPS officers fired upon the subject at this time.

The subject turned and ran up the I-395 exit ramp and continued fleeing across I-395. The DPS officers and [redacted] pursued the subject on foot. When Investigator [redacted] got to the top of the I-395 exit ramp, he became fatigued and motioned to the other officers to continue their pursuit. [redacted] acknowledged to [redacted] that he was physically okay and then gave his service weapon to [redacted]

[redacted] continued pursuing the subject across I-395 but realized the subject was increasing his lead. SA [redacted] stopped a vehicle that was getting onto I-395 from highway 110. [redacted] identified himself as an FBI Agent to the driver and requested his vehicle in order to continue pursuing the subject.

The subject crossed completely over I-395 and ran through the ground level parking garage towards the Double Tree Hotel. The subject was constantly pursued by DPS officers. [redacted] drove the commandeered vehicle to the rear of the Double Tree Hotel. The subject emerged from the parking garage area of the Double Tree Hotel and attempted to run past [redacted] identified himself and ordered the subject to stop. The subject pointed his weapon directly at [redacted] who was approximately twenty feet away from the subject, fired two rounds from [redacted] service weapon. b6 b7C

The subject continued to run approximately one half block and stopped in a grassy area near Eads Street. The subject had his back towards [redacted] A DPS marked cruiser with two uniformed

officers was approximately ninety feet in front of the subject. The subject again pointed his weapon at the uniformed DPS officers. Both DPS officers and [redacted] fired upon the subject. [redacted] was approximately one hundred and twenty feet from the subject at this time. The subject immediately fell to the ground and lost consciousness. He never regained conscious and died on March 21, 1995 at 11:47 p.m. (See exhibit #50)

b6
b7C

Autopsy reports revealed the subject had been shot twice, once in the left rear shoulder and the second wound was a through and through wound to the subject's neck (spine).

Arlington County Police Department's (ACPD) mobile crime unit located some bloody body tissue on a parked vehicle approximately fifteen feet in front of the subject and a spent bullet on Eads Street approximately forty feet in front of the subject. The FBI Laboratory, DNA Analysis Unit determined the DNA from the bloody body tissue and the DNA obtained from blood traces on the spent bullet was consistent with the subject's DNA. (See exhibit #52)

The FBI Laboratory, Firearms-Toolmarks Unit determined the spent bullet found on Eads Street had been fired from [redacted] service weapon. Additionally, the bullet recovered from the subject's left rear shoulder was also determined to have been fired from [redacted] service weapon.

b6
b7C

The FBI Laboratory results, Autopsy report and witness statements indicate [redacted] sixth shot, from approximately one hundred and twenty feet, was the round responsible for the through and through wound to the subject's neck. Two witnesses [redacted] and [redacted] stated the subject appeared to be suffering from a wound when he arrived at the grassy area near Eads Street. Indicating one of the two rounds fired by [redacted] from approximately twenty feet, was responsible for the wound to the subject's left rear shoulder. Although [redacted] fired upon the subject with the same weapon at Eads Street and I-395 overpass, there is no physical evidence or witness statements indicating one of his rounds hit the subject.

The subject was identified as James Harry Alexander, black male, Dob 9/4/66, FBI #192875EA6 and was wanted by the Washington, D.C. Police Department for burglary. Although Alexander's Stallard Arms 9mm pistol was determined to be operable by the FBI Laboratory, he never fired any rounds. Investigation determined Alexander was not responsible for the robbery at the George Mason Bank on this date.

The majority of this shooting incident was recorded on video tape by the DPS at the Pentagon. Two photographs were produced from the video, and are included in this report, showing Alexander pointing his weapon at the responding officers. The original video is in the possession of WMFO and can be made available upon request. (See exhibit #51)

On March 27, 1995, SSA [redacted] FBIHQ Employee Assistance Unit and SA [redacted] WMFO Employee Assistance Coordinator, conducted a critical incident stress debriefing with [redacted] and all of the DPS officers involved in captioned incident.

b6
b7C

Mr. Gore 7/24/95

D. R. Knowlton

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
4/28/95
CLEVELAND DIVISION

Reference report of Senior Supervisory Resident Agent [redacted] dated 5/8/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1- Mr. [redacted] Room 6050)
( 1- Mr. [redacted] Room 4997)
1- Mr. [redacted], Room 7125
2 - Mr. [redacted] Room 7427
( 1- Mr. [redacted] Room 7326)
1 - Mr. Knowlton, Room 7825
1 - Mr. [redacted] Room 5012
1 - Mr. [redacted] Room 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837
LRR:lrr (17)

(CONTINUED - OVER)

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
4/28/95
Cleveland Division

**DETAILS:** On 7/18/95, the SIRG, consisting of Chairman David R. Knowlton, Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted], Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

On April 28, 1995, SA [redacted] along with members of the Mahoning Valley Violent Crimes/Fugitive Task Force (MVVC/FTF), were conducting a fugitive investigation concerning [redacted] At approximately 1:30 p.m., members of the MVVC/FTF initiated a security perimeter around a residence at [redacted] Avenue, Youngstown, Ohio. As SA [redacted] and Officer [redacted] approached the residence from the rear, they noticed a large dog in the yard. SA [redacted] observed a wire fence that the dog was behind. On the southeast corner of the residence was a detached vehicle garage which SA [redacted] utilized for cover and concealment. As SA [redacted] approached the front northeast corner of the garage, he was attacked by the dog. SA [redacted] drew his service 10mm pistol and shot the attacking dog twice in the front facial area. The dog was immediately incapacitated. SA [redacted] directly advised the MVVC/FTF members that he had shot the dog and that everything was okay. Thereafter, the MVVC/FTF searched the residence for [redacted] with negative results. After the search, SA [redacted] immediately contacted the Youngstown Resident Agency to report the incident. b6 b7C

## Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the report dated 5/8/95, revealed that proper procedures were followed by SA [redacted] during this shooting

(CONTINUED - OVER)

incident. Appropriate officials as well as the owner of the dog were notified by SA [redacted]

b6
b7C

After a thorough review of the facts regarding this incident, it is the opinion of the SIRG that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: OKLAHOMA CITY
Date: February 28, 1995

Field Office File #: 66-HQ-19157 Sub 35 Bureau File #:

Title: SHOOTING INCIDENT
OKLAHOMA CITY DIVISION
FEBRUARY 1, 1995

Character: ADMINISTRATIVE INQUIRY

Synopsis: At 10:15 a.m., January 31, 1995, a then-unidentified white male, who was later identified as subject DAVID P. MILEWSKI (deceased), robbed COMMERCIAL FEDERAL SAVINGS AND LOAN. The subject, according to victim tellers, entered the bank, brandishing what was described as a silver or chrome .25 caliber automatic. The tellers, who were interviewed by FBI Agents, including SA [redacted], provided information indicating the subject appeared to be under a great deal of stress, being very nervous and scared. He was demanding and ordered tellers to get down on the floor. Subsequent investigation revealed the subject had made his get-away in a vehicle described as a white Cadillac.

b6
b7C
b7D

On the morning of February 1, 1995, information was received from Oklahoma County Sheriff's Deputy [redacted] to the effect that he, [redacted] identified as DAVID MILEWSKI, had robbed COMMERCIAL FEDERAL SAVINGS AND LOAN, on January 31, 1995. This identification, according to Deputy [redacted] was, in part, made because of the bank surveillance photograph displayed on television, subsequent to this robbery. [redacted]

B

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FD-204

Synopsis (continued):

[redacted] MILEWSKI was currently residing at a residence located at 2501 South 102nd Street, Oklahoma City, Oklahoma, and the white Cadillac used in the robbery was parked in the garage of this residence. The informant further learned from the wife that the subject had a history of armed robberies. Deputy [redacted] information, after having been furnished to SA [redacted] was then shared with other FBI Agents, including SA [redacted] FBI Agents, accompanied by Oklahoma City Police Department (OCPD) officers, thereafter initiated a surveillance of the residence believed to be occupied by subject MILEWSKI. Surveillance Agents thereafter observed MILEWSKI exit the residence and go to a Corvette parked in front of the residence on two occasions, noting that MILEWSKI met the general physical description of the bank robber. By this time, MILEWSKI had been identified as having an arrest record, and efforts were being made to obtain an arrest photograph of MILEWSKI for the purpose of displaying to victim tellers, in an effort to obtain a positive identification.

b6
b7C
b7D

While efforts were being made to obtain this photograph for the positive identification, the garage door to the residence opened, and MILEWSKI was observed leaving the residence in the white Cadillac. FBI Agents, with OCPD officers, after following MILEWSKI for a short period of time, attempted to pull him over, utilizing emergency lights and siren. MILEWSKI continued to drive on a side street, accelerating, at which time it became obvious he was attempting to flee.

Following a 20-minute, high-speed chase, during which attempts to forcibly stop MILEWSKI failed, he was blocked in a car stop by Bureau Agents and OCPD officers. The stop was effected with the vehicle driven by SA CHONEY immediately in front of MILEWSKI's Cadillac. This stop was effected as the subject was proceeding west on Highway 152, toward the populated community of Mustang, Oklahoma, after subject had attempted to go the wrong way on streets, while being pursued at speed in excess of 90 mph. After the vehicle was stopped, SA [redacted] exited his vehicle and did not immediately observe the subject in the white Cadillac.

b6
b7C

FD-204

Synopsis (continued):

SA [redacted] at this point, thought the subject may have exited the Cadillac, however, he did not see the subject on foot, nor did he observe reaction of other Agents or police officers indicating the subject was on foot. SA [redacted] thereafter approached the subject vehicle with his .10 mm Smith and Wesson handgun drawn. As he approached the driver's side of the Cadillac, he observed MILEWSKI lying on the front seat, with his arms stretched out. SA [redacted] thereafter tapped on the windshield and ordered MILEWSKI out of his vehicle. At this point, he observed MILEWSKI with a gun in his right hand, and he was beginning to move the gun toward SA [redacted] SA [redacted] then fired three times through the windshield and still noticed MILEWSKI coming up with the gun. SA [redacted] then fired what he believed to be three more times. SA [redacted] then observed blood in the vicinity of MILEWSKI's head, as MILEWSKI slumped in the front seat of the vehicle.

b6
b7C

SA [redacted] was thereafter removed from the immediate scene of the shooting. SAC BOB RICKS, who had been attempting to catch up with the chase, arrived at the shooting scene, where he took command of the shooting investigation and removed SA [redacted] and other involved Agents from the scene.

b6
b7C

A crime scene investigation was thereafter conducted, under the direction of SA [redacted] Subject MILEWSKI was removed by Medical Examiner personnel from the vehicle, after being declared dead. During the crime scene investigation, seven spent cartridges from a .10 mm automatic were recovered outside the Cadillac. Two spent .25 caliber automatic cartridges were also found inside the vehicle, along with a .25 caliber semi-automatic pistol, located next to MILEWSKI's body. Also recovered at the scene was a total of $4,492.00 cash, including bait money identified as having been taken during the robbery of COMMERCIAL FEDERAL SAVINGS AND LOAN the previous day.

The medical examination of DAVID PAUL MILEWSKI, deceased, was conducted by [redacted] M.D., a medical examiner employed by the State of Oklahoma. Following the full autopsy, the Medical Examiner advised there was a wound to the chin which appeared to be self-inflicted but was not fatal. There was also a contact wound to the right temple, with a .25 caliber bullet lodged in the head. This wound, according to the Medical Examiner, was fatal and self-

FD-204

Synopsis (continued):

inflicted. In addition, there were two .10 mm wounds to the head, one to the right hand, and one to the left forearm. The pathologist ruled the cause of death as a gunshot wound to the head, and the manner of death was ruled as a suicide. All of the rounds fired by SA [redacted] were recovered in the autopsy or in a search of the interior of the vehicle.

b6
b7C

-P-

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Shooting Incident Review Group
Criminal Investigative Division

Report of: SSA [redacted] Office: KANSAS CITY
Date: March 8, 1995

Field Office File #: 62A-KC-74571 Bureau File #:

Title: SHOOTING INCIDENT:
[redacted]
2/27/95
KANSAS CITY DIVISION

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis:

This inquiry was initiated following the shooting of [redacted] white male, dob [redacted] by SA [redacted] on 2/27/95 at Springfield, Missouri. [redacted] was wanted for the armed robbery of a St. Louis, Missouri bank and the carjacking and kidnapping of three females on 2/24/95. [redacted] also raped one of the females and stole her vehicle which was used to facilitate two Springfield, Missouri bank robberies on 2/27/95. Although [redacted] did not display a weapon during the two Springfield, Missouri bank robberies, he did threaten to kill the victim tellers. [redacted] was confronted by SA [redacted] alone, in the parking lot of the REST HAVEN COURT MOTEL located in Springfield, Missouri at approximately 6:10 pm on 2/27/95. After [redacted] refused to comply with oral instructions and made movements towards SA [redacted] SA [redacted] fired one round at [redacted] then fled on foot and ran around the motel while continuing to turn toward [redacted] who fired an additional seven rounds at [redacted] [redacted] then stopped and submitted to arrest. [redacted] was shot one time in the left calf.

b6
b7C

During the inquiry, a signed sworn statement was taken from SA [redacted] FD-645s were signed by SAs [redacted], and SSRA [redacted] Signed sworn

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

statements were also taken from SAs [redacted] and [redacted] Interviews were conducted of witnesses located at the motel. A crime scene investigation was conducted by representatives of the SPRINGFIELD, MISSOURI POLICE DEPARTMENT.

- P -

DETAILS:

1. On Friday, 2/24/95 at approximately 4:30 pm, [redacted] white male, dob [redacted] entered the HEARTLAND SAVINGS BANK, St. Louis, Missouri, displayed a large handgun to the assistant manager and threatened to kill everyone in the bank. After obtaining the contents of two cash drawers, [redacted] departed the bank. Upon leaving the bank, a dye pack exploded and, as a result, [redacted] dropped the money and departed on foot.

2. Following the unsuccessful robbery of the HEARTLAND SAVINGS BANK, [redacted] confronted three women at the Keiner Plaza parking garage, St. Louis, Missouri, and forced the three women to drive him to Pontoon Beach, Illinois in a green Mercury Tracer station wagon which belonged to one of the three women. He ordered the three women out of the car in Pontoon Beach, Illinois and raped one of the three women.

3. On 2/27/95 at approximately 10:40 am, the GREAT SOUTHERN SAVINGS BANK, Springfield, Missouri, was robbed by [redacted] using a demand note. The note demanded that [redacted] be given U.S. currency in specified denominations and if the teller did not comply, [redacted] would kill the teller. After [redacted] departed the bank, the dye pack exploded. [redacted] dropped the money and fled the scene in what witnesses described as a jade colored station wagon. Surveillance photographs of [redacted] were taken at the bank.

4. At approximately 12:00 noon on 2/27/95, [redacted] checked into room 36, REST HAVEN COURT MOTEL, 2000 East Kearney Street, Springfield, Missouri. Information illustrated on [redacted] registration card identified [redacted] car as a Mercury Tracer.

5. On 2/27/95 at 3:30 pm, the FIRST CITY NATIONAL BANK, Springfield, Missouri, was robbed by [redacted] again using a demand note. The demand note instructed the victim teller to give [redacted] specified denominations of

U.S. currency, indicated that [redacted] had a gun, and that if the victim teller did not comply [redacted] would kill her. The demand note was written on a check belonging to [redacted] was identified as the owner of the green Mercury Tracer station wagon. [redacted] departed the bank in possession of $2,160 in U.S. currency and fled the scene in a green station wagon. A surveillance video tape of [redacted] was taken at the bank.

b6
b7C

6. At approximately 6:00 pm, SA [redacted] located the green Mercury Tracer station wagon in the parking lot of the REST HAVEN COURT MOTEL, 2000 East Kearney Street, Springfield, Missouri. At approximately 6:10 pm (dusk) and prior to the arrival of back-up special agent personnel, [redacted] left his motel room and began walking towards SA [redacted].

7. SA [redacted] knowing that: a) [redacted] was a fugitive wanted for the armed robbery of the HEARTLAND SAVINGS BANK, St. Louis, Missouri; b) [redacted] carjacked and kidnapped three women; c) that [redacted] robbed both the GREAT SOUTHERN SAVINGS BANK and the FIRST CITY NATIONAL BANK during which [redacted] threatened to kill the victim tellers through information written on demand notes that [redacted] provided to the victim tellers; d) that [redacted] was armed, dangerous, and mentally unstable; and e) that [redacted] was a danger to the community, SA [redacted] decided to effect the arrest of [redacted].

8. After [redacted] refused to comply with SA [redacted] oral instructions to surrender himself and after [redacted] made furtive movements towards SA [redacted] which led SA [redacted] to believe that he was in imminent danger, SA [redacted] aimed his pistol at [redacted] upper left thigh and fired one round. [redacted] then turned and ran. As SA [redacted] pursued [redacted] SA [redacted] fired approximately seven additional times at [redacted] in order to prevent [redacted] from obtaining a tactical advantage by obtaining cover which would have afforded [redacted] the opportunity to kill SA [redacted] and to prevent [redacted] escape. [redacted] finally stopped running and submitted to arrest. [redacted] was dressed in regular fitting jeans and a white short-sleeved t-shirt.

b6
b7C

9. SA [redacted] used his Bureau issued pistol, a Sig Sauer P228 (14 round capacity), serial number B177136, and 147 grain, 9mm hydra-shock ammunition to shoot [redacted]. Subsequent inspection of [redacted] pistol revealed that one live round was chambered and five live rounds remained in the magazine.

10. Per the Incidental Report of Officer [redacted] SPRINGFIELD, MISSOURI POLICE DEPARTMENT, regarding the crime scene investigation, it appeared that SA [redacted] fired his pistol at [redacted] two times in a northeasterly direction near the green Mercury Tracer station wagon. One bullet struck a Dodge Ram extended-cab truck piercing the rear passenger side and the other bullet struck the downspout of a rain gutter affixed to the northwest corner of the east wing building. Due to the height of these two bullets, [redacted] did not believe that these two bullets struck [redacted] One shell casing was recovered near the green Mercury Tracer station wagon. [redacted] further believed that SA [redacted] may have fired twice while pursuing [redacted] along the north side of the east wing building. The first indication that [redacted] had been struck by a bullet was blood found on two leaves located approximately 30 feet from the northeast corner of the east wing building. [redacted] followed the blood in a southeast direction through a parking lot located on the east side of the east wing building. The parking lot and east wing building are separated by a service road to the west of the parking lot and a section of grass to the west of the service road. [redacted] reported that the blood became more prevalent and the blood spatter increased as the distance grew. SA [redacted] fired two more times in the vicinity of a white Ford truck which was parked in the parking lot located just east of the service road. Two shell casings were recovered from the vicinity of the white Ford truck. Two additional shots were fired from a location on or near the service road. Two shell casings were recovered from the service road. Two bullet holes were found on the north face of the motel service building located just south and slightly east of the east wing building. It should be noted that [redacted] was not privy to SA [redacted] statement when he attempted to determine what happened at the scene.

b6
b7C

b6
b7C

11. Property damage known to date as a result of shots being fired by SA [redacted] includes: a) one bullet hole in the downspout of a rain gutter, b) one bullet hole which pierced the rear passenger side of a Dodge Ram extended-cab truck, and c) two bullets holes on the north face of the motel service building. The Dodge Ram extended-cab truck, bearing Missouri license [redacted], was determined to be registered to [redacted] Creighton, Missouri.

12. Dr. [redacted] Springfield, Missouri, advised that based upon his examination of [redacted] leg wound, the bullet entered the posterior portion of the calf of the left leg below the knee and to the inside of the leg. The exit wound appeared to be on the interior, or front, portion of the left leg below the knee and to the inside of the leg. The exit wound was slightly higher than the entrance wound and the bullet moved to the right from entrance to exit.

13. On 2/28/95, [redacted] was charged by a federal complaint in the Western District of Missouri, Springfield, Missouri, with two counts of bank robbery.

14. At 4:56 pm on 2/28/95, a search was conducted pursuant to a federal search warrant of the passenger compartment of the green Mercury Tracer station wagon utilized by [redacted] to facilitate the robberies of the GREAT SOUTHERN SAVINGS BANK and the FIRST CITY NATIONAL BANK. A black plastic ARS brand prop gun was found under the driver's seat of the station wagon. b6 b7C

15. On 3/1/95, ASAC JOSEPH S. BROSS met with Greene County, Missouri District Attorney [redacted] who advised that upon receipt of the SPRINGFIELD, MISSOURI POLICE DEPARTMENT's Report of Investigation he would render a prosecutive opinion. Mr. [redacted] received a copy of the SPRINGFIELD, MISSOURI POLICE DEPARTMENT's report on 3/8/95. He has no standing grand jury to hear these type of matters. Mr. [redacted] will provide the FBI with written confirmation of his prosecutive opinion.

16. On 3/1/95, five shell casings, one bullet, one metal jacket from a bullet, lead fragments from a bullet, gunshot residue kit - SA [redacted] gunshot residue kit - SA [redacted] gunshot residue kit - SA [redacted] six 9mm bullets, one Sig Sauer P228 pistol (serial number B177136), and magazines were forwarded by a representative of the SPRINGFIELD, MISSOURI POLICE DEPARTMENT to the MISSOURI STATE HIGHWAY PATROL, Criminal Laboratory Division, for analysis. On 3/9/95, [redacted] Criminalist, MISSOURI STATE HIGHWAY PATROL, advised that: a) the pistol functioned normally, b) one expended bullet was identified as having been fired from SA [redacted] Sig Sauer P228, c) one expended bullet jacket was identified as being fired from

SA [redacted] Sig Sauer P228, and d) five expended cartridge cases were identified as being fired from SA [redacted] Sig Sauer P228. On 3/10/95, [redacted] Criminalist, Trace Evidence, advised that the gunshot residue test conducted on SA [redacted] was inconclusive. [redacted] further stated that gunshot residue was not indicated on tests conducted on SAs [redacted] and [redacted]

b6
b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ADIC W. LANE CROCKER, JR. Office: WMFO
Date: June 2, 1995

Field Office File #: 66F-WF-198346
Bureau File #: WMFO 66F-WF-198346

Title: SHOOTING INCIDENT;
SA BRUCE EUGENE SCHULZ (DECEASED),
MARCH 8, 1995;
WASHINGTON METROPOLITAN FIELD OFFICE

Character: ADMINISTRATIVE INQUIRY

Synopsis: On March 8, 1995, [redacted] the wife of SA BRUCE EUGENE SCHULZ, got up at approximately 6:15 a.m., as she routinely did, and got ready to go to work. [redacted] walked to a bathroom, which is located adjacent to the second floor master bedroom of the residence, [redacted], Washington, D.C. As [redacted] walked to the bathroom, she noticed that SA SCHULZ was already up; that he was nervously pacing around; and that he was dressed only in his undershorts. It did not appear to [redacted] that SA SCHULZ had begun preparing to go to work.

b6
b7C

At approximately 6:42 a.m., while [redacted] was in the bathroom, she heard a gunshot and then ran to the master bedroom. [redacted] did not see SA SCHULZ in the bedroom, and she ran out of the second floor foyer, where she found SA SCHULZ laying on the floor. More specifically, SA SCHULZ was laying on his back with his arms outstretched, perpendicular to his body. It appeared to [redacted] that SA SCHULZ had a single gunshot wound to the left side of his head. In addition, a black revolver was laying on the floor near SA SCHULZ' extended left arm.

Upon finding SA SCHULZ, [redacted] immediately telephoned the METROPOLITAN POLICE DEPARTMENT (MPD) Emergency Services Unit (ESU). The 911 call was recorded at 6:43 a.m. ESU personnel told [redacted] to wrap the wound. MPD and Emergency Medical Technicians arrived at 6:47 a.m. and rendered further medical assistance to SA SCHULZ. SA SCHULZ was subsequently taken to the

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

GEORGE WASHINGTON UNIVERSITY HOSPITAL (GWUH) Emergency Room (ER). WMFO agents arrived at both the SCHULZ residence and the GWUH ER at approximately 6:55 a.m. At 6:59 a.m., SA SCHULZ was pronounced dead. It appeared that the cause of death was a single gunshot wound to the left side of his head.

The crime scene was secured and processed by the WMFO Evidence Response Team and the MPD Mobile Crime Unit. Because the [redacted] and due to the sensitive nature of SA SCHULZ' work assignments, [redacted] was asked to consent to a search of the residence. After obtaining consent, WMFO agents searched the residence and found nothing unusual that would be relevant to the administrative inquiry.

b6
b7C
b7E

Copies of documents pertaining to the collection and analysis of evidence recovered at the residence, MPD investigative reports and medical reports were obtained by WMFO. Interviews of [redacted] SA SCHULZ' associates at WMFO and SA SCHULZ' personal acquaintances, portrayed a troubled agent. It appears that SA SCHULZ had extensive debts and poor money management skills. On numerous occasions, SA SCHULZ told his wife that he was not adequately prepared for a new work assignment, which he had been given. More specifically, SA SCHULZ had concerns about his added responsibilities and sophisticated equipment, with which he was to familiarize himself. SA SCHULZ told [redacted] that he was a carpenter not an engineer.

SA SCHULZ' squad associates described him as troubled due to self-imposed pressure, new job expectations and poor investments in the real estate market. SA SCHULZ told his colleagues that he was afraid of being terminated from the FBI, if it was determined that he could not do his job, that he was seriously in debt and that he was a poor money manager. SA SCHULZ' friends also mentioned that he had made poor investments in the real estate market and that he was fearful of impending legal action against him by tenants of one of his rental properties.

Referenced HQ investigation, although still pending, has determined that several major improprieties concerning SA SCHULZ have been identified. The investigation had proceeded with polygraph examinations of other individuals involved, leaving only SA SCHULZ to be examined. SA SCHULZ according to squad associates, was aware that the other polygraphs had been completed and he was the remaining examinee. This investigation to date is of such scope that complete restitution is to be made by the estate of SA BRUCE EUGENE SCHULZ.

Credit reports showed that SA SCHULZ had depleted a joint savings account, which he had with his wife. SA SCHULZ also had taken out a substantial car loan and a significant first mortgage on a rental property. In addition, a first mortgage and an owner held

second trust note had also been obtained by SA SCHULZ for another property he and his wife were refurbishing.

The black revolver recovered from next to SA SCHULZ was identified as his Bureau issued SMITH and WESSON, Model 13-3, .38/.357 Magnum revolver, bearing serial number ACE 3034. The projectile which was recovered from SA SCHULZ' body was identified as a .38/.357 lead bullet. Furthermore, the bullet removed by Dr. [redacted] during the autopsy was identified as having been fired from SA SCHULZ' service revolver.

b6
b7C

Mr. Gore 7/24/95

D. R. Knowlton

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/10/95
PHILADELPHIA DIVISION

Reference report of Supervisory Special Agent [redacted] dated 1/18/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1- Mr. [redacted] Room 6050)
( 1- Mr. [redacted] Room 4997)
1- Mr. [redacted], Room 7125
2 - Mr. [redacted] Room 7427
( 1- Mr. [redacted] Room 7326)
1 - Mr. Knowlton, Room 7825
1 - Mr. [redacted] Room 5012
1 - Mr. [redacted] Room 4042
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted] WMFO
(1) - Mrs. [redacted] Room 7837
LRR:lrr (17)

(CONTINUED - OVER)

Memorandum from D. R. Knowlton to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
4/28/95
Cleveland Division

**DETAILS:** On 7/18/95, the SIRG, consisting of Chairman David R. Knowlton, Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

On 1/10/95, SA [redacted] along with other members of the Safe Streets Fugitive Task Force (FTF) participated in the execution of a city of Philadelphia search warrant at a residence located at [redacted] Philadelphia, Pennsylvania. This search warrant was being executed in an attempt to locate and apprehend [redacted] for which a local warrant existed for the robbery of a check cashing agency. [redacted] was also wanted for questioning by the FBI for the robbery of the Sun Federal Credit Unit.

As they approached the residence at approximately 6:50 am on the above date, they could hear dogs barking inside. After unsuccessful attempts to get someone from the inside to open the door, entry was obtained by using a battering ram. SA [redacted] along with three other members of the eight member entry team, were assigned to clear the first floor while the other four were assigned to the second. Upon reaching the second floor, the team encountered a Pitbull dog. A short while later the first floor team encountered a dog in the kitchen area. Unknown at the time, there was a rear stairway which led from the kitchen to the upstairs hallway. There was only one dog and it had gone from the upstairs to the kitchen via that stairway. b6 b7C

The owner of the dog, who had been located in one of

(CONTINUED - OVER)

the second floor bedrooms, was ordered to secure the dog. As he approached the dog from the upstairs hallway, the dog charged SA [redacted] and another member of the downstairs team who were in the kitchen. SA [redacted] fired two shots from his personally owned, Bureau approved 45 Cal. pistol and killed the dog.

b6
b7C

**Observations and Recommendations of the SIRG**

The review of the above-captioned shooting incident as documented by the report dated 1/18/95, revealed that proper procedures were followed by SA [redacted] during this shooting incident.

After a thorough review of the facts regarding this incident, it is the opinion of the SIRG that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
5/29/95
Baltimore Division

b6
b7C

The SIRG considered the strong statements made by Baltimore SAC McNally and Baltimore SSA [redacted] regarding this investigation being conducted by WMFO with a police department in Maryland without a continuous dialogue occurring with the Baltimore Division. Just prior to this incident, SSA [redacted] was notified at 10:40 pm that an arrest was being planned in his territory by WMFO without input from Baltimore Division SAs. As documented in the report, WMFO personnel had arrived in the Greenbelt, MD, area at approximately 10:00 pm having been directed there at approximately 9:30 pm. Neither SSA [redacted] or the reporting Baltimore SAs were provided with a photo of the suspect as had the WMFO Agents, although SSA [redacted] was provided with a description which was relayed by radio to the Baltimore Agents.

The SIRG recognized that WMFO deployed components from an operational squad, a makeup SOG Squad (including an Agent on TDY assignment to Quantico), technical resources, WMFO detectives, and PGCPD detectives in an extraordinary effort to arrest McLean. This deployment did not include a Supervisory Special Agent. The SIRG noted that SSA [redacted] "remained in the WMFO to act as the command post." It was obvious to the SIRG that SSA [redacted] was extremely busy providing briefings to SAC Megary, staying in telephonic contact with PGCPD detectives with the source, and directing the aforementioned components. When it was obvious that deployment was necessary into Maryland, SSA [redacted] did notify SSA [redacted] through the Baltimore Division switchboard. The SIRG noted that in SSA [redacted] statement that the Baltimore Division was called as a "courtesy" and was not being requested to provide assistance. "WMFO was prepared to provide all necessary manpower for this investigation." SSA [redacted] did subsequently leave WMFO to provide on-scene direction at approximately 12:15 - 12:30 am. While enroute, SSA [redacted] called him and told him he needed to come up with an operational plan. SSA [redacted] did not arrive on the scene until after SA Christian was murdered.

b6
b7C

After thoroughly discussing the above, Acting Chief Inspector [redacted] also advised the other members of the SIRG that SAC McNally had orally advised him that he and WMFO ADIC Crocker were working on a plan to ensure that both WMFO and Baltimore SAs were again apprised of the necessity of keeping each other informed of investigations that cross territorial boundaries and emphasizing that enforcement actions such as search warrants or arrests are the responsibility of the management officials in whose territory the activity takes place except for exigent circumstances.

(CONTINUED - OVER)

In summary, the SIRG concluded that no FBI employee should be subjected to administrative action as a result of their involvement in this matter. The SIRG recommended that the SAC Baltimore and the ADIC WMFO continue to pursue and implement a workable solution for operational procedures involving matters that cross territorial boundaries. Lastly, the SIRG arrived at the recommendation that the ADIC, WMFO, should review its operational procedures regarding command post situations, including the need for onsite ranking management presence and oversight as events dictate.

Mr. Gore 10/3/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
6/1/95
PHILADELPHIA DIVISION

b6
b7C

Reference report of Associate Special Agent in Charge (A-SAC), Sheila W. Horan, dated 8/10/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. Leary, Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
2 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. Doyle, Room 4042
2 - Mr. [redacted] DOJ
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted], Room 3849

1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted], Room 7837

b6
b7C

LRR:lrr (19)

(CONTINUED - OVER)

(2) That the Office of General Counsel address and clarify with all Chief Division Counsels (CDCs) under what specific circumstances, during administrative inquiries, individuals would be compelled to make statements.

DETAILS: On 8/30/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, U.S. Department of Justice (USDOJ); [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

A preliminary inquiry was initiated on 5/16/95, on "Glenn Thomas, aka Glenn Gram, Keith Graham, Keith Thomas, Jahlil Thomas, Shawn Thomas; Unlawful Flight to Avoid Prosecution (UFAP) - Aggravated Assault." The case was based on information furnished by the Philadelphia County District Attorney's Office. It was opened and assigned to SA [redacted] who is a member of the Philadelphia Office's Fugitive Task Force.

Review of the case indicated two "failure to appear" bench warrants outstanding against the subject. The first, issued on 2/27/95, involved original charges of theft, receiving stolen property, and two counts of violation of the Uniform Firearms Act.

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
6/1/95
Philadelphia Division

The second warrant, issued 3/31/95, involved original charges of aggravated assault (against two Philadelphia Housing Authority Officers), recklessly endangering another person, resisting arrest, and two counts of violation of the Uniform Firearms Act. Additional charges lodged against Glenn Thomas involved a 12/8/94, arrest for firearm not to be carried without a license and other violations, in the jurisdiction of the Upper Darby Township Police Department. b6 b7C

On 6/1/95, SA [redacted] received "real time" information by a former source of the Philadelphia Division who had been closed several months earlier, that Thomas was present at the Whitehall Housing projects. Additional information provided by the source indicated that Glenn Thomas was wearing a black tee shirt, green shorts, sneakers, was armed with a handgun, and was currently at Tackawanna and Fillmore Streets with three other black males. The source was in a position to know the location of Thomas because he saw him periodically in the Whitehall Projects. This source had also supplied SA [redacted] or other SAs in the Philadelphia Division with reliable information on at least three previous occasions resulting in arrests and/or convictions.

SA [redacted] was able to respond upon receipt of the 6/1/95, phone call from the source. He immediately requested members of the Task Force to assist him in apprehending the subject. He obtained the assistance of six SAs and/or officers. The six participants, located at several locations around the city, began to converge on the Whitehall location; however, three Task Force members were delayed by heavy traffic. The four other members, including SA [redacted] arrived at the project some blocks from the reported location of the subject. Since there were four armed law enforcement officers onsite and the circumstances were critical and very fluid, a judgement was made that an arrest could be accomplished without waiting for the three delayed Task Force members.

b6
b7C

Prior to the arrival of SA [redacted] two Task Force Detectives drove through the Tackawanna Street area because the source indicated that Thomas had an AK-47 automatic weapon in his white Thunderbird automobile. Attempts to locate the Thunderbird were unsuccessful. An arrest plan was conceived and agreed upon by SA [redacted] and the onsite Task Force members. The plan was to approach Thomas and while doing so, utilize their vehicles and existing buildings to contain Thomas, as well as possible, should

(CONTINUED - OVER)

he attempt to flee. The members planned to approach Thomas and place their four Bureau cars in such a way as to block his exit. Each Task Force member was driving a car and it was decided that Detective [redacted] would lead the way to Thomas' location, that SA [redacted] would be second, then Sergeant [redacted] and Detective [redacted] respectively, would follow. b6 b7C

Glenn Thomas was located shortly after 4:30 pm, by Task Force members in the exact place previously identified by the source. SA [redacted] and Detective [redacted] exited their vehicles a short distance from a group of black males sitting on a pipe fence. The black males, including Glenn Thomas, recognized the Task Force members as law enforcement officers and began fleeing the area. According to statements, either SA [redacted] and/or Detective [redacted] immediately identified themselves by yelling "Stop - Police." The pursuit of Thomas began in a northerly direction along Tackawanna Street. SA [redacted] advised that as he was chasing Glenn Thomas he saw his tee shirt raise up on the left side exposing a handgun which was silver and black. He distinctly recognized this to be the grip of a handgun and yelled "he's got a gun." SA [redacted] saw the subject grip the weapon with his left hand, adjust the grip, and begin to draw the weapon from his waist. Upon seeing the subject grip the weapon and begin to draw it from his waist, SA [redacted] fired one shot, inflicting a fatal gunshot wound to the back of the subject's head.

Detective [redacted] of the Major Crimes Fugitive Task Force, advised that he and SA [redacted] began pursuing Glenn Thomas and, while running, Detective [redacted] saw the subject lift his tee shirt with his left hand and draw a silver color gun from his waist band with his right hand. Detective [redacted] advised that Glenn Thomas then started to turn back towards SA [redacted] with the gun and, while Detective [redacted] was raising his weapon, he heard one gunshot and saw Glenn Thomas fall to the ground. The silver colored handgun that Glenn Thomas had drawn from his waistband fell to the ground next to him.

Detective [redacted] also a member of the Fugitive Task Force, and on the scene of this incident, advised that as he exited his car, he saw a black male running north on Tackawanna Street. This individual was wearing clothing matching the previously described clothing that the subject was wearing. While in the street, and with a station wagon parked between him and the subject, Detective [redacted] saw SA [redacted] and Detective [redacted] b6 b7C

(CONTINUED - OVER)

b6
b7C

chasing the subject. Detective [redacted] advised that he heard SA [redacted] yell, "Stop, Police" and saw the subject had run past the station wagon and in one motion, reached down with his left hand and was pulling up his shirt and began to pull a gun from his waist with his right hand as he was turning toward his right. As the subject was drawing the gun, Detective [redacted] heard a shot, saw the subject fall to the sidewalk and in the process the subject's gun dropped to the ground.

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Based on a review of the above-captioned shooting incident as documented by the report dated 8/10/95, members of the SIRG unanimously agreed that the use of deadly force by SA [redacted] was justified. It was further determined that no administrative action should be taken against SA [redacted] for his involvement in this shooting incident. The SIRG unanimously agreed that deadly force is justified when a fleeing felon, who is drawing a weapon, is running with his/her back to the law enforcement officer. Members noted that the subject was known to be armed and dangerous, a stop warning was issued by law enforcement officers on the scene, and that the officers had no responsibility to wait for the subject to turn around or draw his weapon before taking proactive action.

b6
b7C

The second phase of the discussion centered around the training and/or safety issues, as well as the adequacy of planning related to this incident. SIRG members acknowledged that although there may not have been a sit down planning situation for the arrest of Glenn Thomas, and that the planning of the arrest may have lacked some dimensions, it was adequate and reasonable under the circumstances. Members agreed that a thorough working relationship between Federal and state law enforcement officers must be developed due to the large number of Task Forces throughout the country and that Task Force officers should train with Bureau SAs. The Training Division representative advised that the 1995

(CONTINUED - OVER)

and subsequent budgets had street survival training for Task Force officers budgeted; however, due to the large volume of new SAs being trained, no resources are available for Task Force training for the next several years. b6 b7C

The remaining issue involved the statement of SA [redacted] advising that the FBI compelled him to provide his statement regarding this shooting incident. The Office of General Counsel member advised that employees are not compelled to give statements during the course of an administrative inquiry. Under these circumstances, a request for a voluntary statement is made. It was further noted that if a statement is compelled, an Advice of Rights Form should have been provided and the individual should be immunized. Office of General Counsel agreed to address all CDCs regarding the matter of compelled statements and voluntary statements.

It should be noted that during the initial discussion of this shooting incident there was no representative from the Civil Rights Division, USDOJ present. However, due to several questions brought up by SIRG members, a telephone call was made to the Philadelphia Division and this incident was discussed a second time. Before the second discussion of this incident, the DOJ representative had arrived; however, elected to remove himself from the discussion and recommendations due to the pending civil rights matter that was initiated by the DOJ following this incident.

Mr. Gore 11/8/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
6/22/95
WASHINGTON METROPOLITAN FIELD OFFICE (WMFO)

[redacted] Reference report of Special Agent (SA) [redacted] dated 9/7/95.

b6
b7C

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no adverse action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted], Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7427)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Ms. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico

1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
(1) - Mrs. [redacted] Room 7837

b6
b7C

LRR:lrr (20)

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
6/22/95
Washington Metropolitan Field Office

DETAILS: On 9/29/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident. b6 b7C

**Synopsis of the Shooting Incident**

On 6/22/95, SA [redacted] currently assigned to Squad C-16, WMFO, was conducting a routine surveillance in the vicinity of the Eastside Nightclub located adjacent to the WMFO on Half Street, Southwest (SW), Washington, D.C. Metropolitan Police Department (MPD) Detective [redacted] currently assigned to the Squad C-16 Safe Streets Task Force accompanied SA [redacted] on this surveillance. The initial surveillance began at the garage area of the WMFO; however, at approximately 3:00 am, SA [redacted] and Detective [redacted] moved their surveillance location to the East side of "R" Street, SW, facing Half Street. As they sat in the Bureau vehicle observing vehicles leaving the Eastside Club, a vehicle was observed moving slowly down Half Street. When the vehicle was at Half and "R" Streets, approximately two to three car lengths from them, SA [redacted] and Detective [redacted] observed a black male running along side of this vehicle firing into the passenger's side of the vehicle. SA [redacted] and Detective [redacted] exited their vehicle at which time SA [redacted] immediately identified himself and proceeded down the west side of Half Street, in pursuit of the black male who continued down the east side of Half Street travelling in a northerly direction. SA [redacted] shouted "Stop! Police! Drop the gun!" two or three times and at that same time SA [redacted] could hear gunshots. The subject then turned toward SA [redacted] and he could see that the subject had the handgun pointed at him. SA [redacted] discharged his Bureau issued Sig Sauer P220 .45 caliber semi-automatic pistol eight times. SA [redacted] proceeded to reload his b6 b7C

pistol when he observed the subject limping and no longer carrying the weapon. SA [redacted] ordered the subject to get down. The subject complied and was subsequently handcuffed by SA [redacted] and Detective [redacted] The juvenile subject was struck by one round in the left ankle and was transported by DC ambulance to DC General Hospital for a non-life threatening injury. A Smith and Wesson .357 with a six inch barrel was recovered adjacent to the dumpster located between "R" and "S" Streets, containing six spent shell casings. b6 b7C

The vehicle that was being shot into by the juvenile subject proceeded northbound on Half Street. As the vehicle crossed Potomac Avenue, it crashed into the wooded area located on the corner of Half Street and Potomac Avenue, SW. The vehicle proceeded to catch fire and burn. A black male, identified as Montey Fullard, was dead on the scene from multiple gunshot wounds. A second occupant of the vehicle was uninjured.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The SIRG unanimously concurred that the use of deadly force by SA [redacted] was justified and in accordance with Bureau policy. However, according to records provided in the initial report, SA [redacted] had not officially qualified with his Bureau approved weapon since 10/14/94. SIRG members were concerned with this lack of routine qualifying; however, WMFO provided updated qualifying records indicating that SA [redacted] last qualified with his Bureau issued Sig Sauer P220 semi automatic pistol on 3/10/95. b6 b7C

Mr. Gore 11/3/95

W. D. Thompson, III

b6
b7C

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/7/95
TRAINING DIVISION

Reference report of Inspector [redacted] dated 8/4/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That the Training Division (TD) adopt a uniform Bureau-wide policy regarding the utilization of red-handled weapons, and ensure all Principal Firearms Instructors (PFIs) are promptly apprised of the policy.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. Leary, Room 6050)
(1 - ASU, Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
2 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. Doyle, Room 4042
2 - Mr. [redacted] DOJ
(1 - Ms. [redacted]
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 3849
LRR:lrr (20)

1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
(1) - Mrs. [redacted] Room 7837

b6
b7C

(CONTINUED - OVER)

(2) That in the event red-handled utilization is continued, the TD should consider completely coloring the weapon in a highly visible color.

(3) That the TD consider developing a mechanism to document and evaluate, with appropriate sanctions, firearms safety violations. Furthermore, it is recommended that this mechanism employ a method to accommodate an agency-wide review for trend considerations.

(4) That the TD review the policy as articulated by memorandum dated 4/27/95, regarding firearms instructors visibly carrying loaded firearms throughout the FBI Academy to determine if the policy should be modified.

(CONTINUED - OVER)

(5) That the TD review the emergency response to this incident to determine if improvements can be made in emergency response capabilities.

(6) That the Administrative Summary Unit (ASU), Personnel Division (PD) prepare and forward a letter of censure to Supervisory Special Agent (SSA) [redacted] for his inattention to standard firearm safety procedures. This letter should advise SSA [redacted] that he is being decertified as a firearms instructor for the remainder of his Bureau career. Additional penalties for SSA [redacted] should be determined by ASU, PD, based on past precedents, taking into consideration that SSA [redacted] was involved in two prior safety infractions not involving injury.

b6
b7C

(7) That the TD remove SSA [redacted] from the list of approved firearms instructors.

(CONTINUED - OVER)

b6
b7C

(8) That the PD, Employee Assistance Unit, ensure that any impairments with respect to SSA [redacted] carrying his weapon are resolved before he returns to an investigative assignment.

DETAILS: On 8/30/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Attorney, Civil Rights Division, USDOJ; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident.

b6
b7C

## Synopsis of the Shooting Incident

On 7/7/95, 23 members of New Agents Class 95-12 participated in their second live fire training session under the direction of SSA [redacted]

The class initially met in the morning in the Gun Cleaning Room (GCR) and then moved to the Range Classroom for instruction on sight alignment, trigger pull, and presentation of the weapon. Presentation of the weapon is described as the four positions in the movement of the weapon from the holster to the firing position. During the classroom instruction, SSA [redacted]

(CONTINUED - OVER)

demonstrated these techniques utilizing a red-handled Sig/Sauer Model 226 with a working trigger as an instructional aid. SSA [redacted] stated that he preferred using the red-handled pistol rather than an empty service weapon because the audience feels more comfortable knowing that the weapon is deactivated and he also knows that there is no chance for an accidental discharge. When not using the red-handled pistol for instructional purposes, SSA [redacted] maintained it in his holster. He did not have his duty weapon, a Sig/Sauer Model 228 with him in the classroom or at the range that day, however, had it secured in the Firearms Training Unit (FTU) trailer near the range. b6 b7C

When the class moved to the range for the live fire phase, SSA [redacted] supervised the firearms instruction from the tower while other instructors walked the line. Between the courses of fire, SSA [redacted] left the tower and instructed the class about trigger pull and the presentation of the weapon using his red-handled pistol. As the last course of fire was completed, the instructors visually inspected each trainee's weapon to ensure that each weapon was safe and secure. The class was instructed to proceed to the GCR to clean their weapons.

SSA [redacted] advised that he proceeded to the FTU trailer to drop off instructional materials and to switch to his service pistol. According to SSA [redacted] his weapon was loaded with ball ammunition because he had tested a target system the previous day using this ammunition.

As the trainees began cleaning their weapons, SSA [redacted] arrived in the GCR and noticed several of the NAC members were in the larger part of the GCR. He was aware that a second larger class was on their way to the GCR, and moved his group of trainees to the smaller portion of the room. SSA [redacted] advised that as the primary instructor, it was his duty to walk among the students and offer advice and provide encouragement during the gun cleaning process. While walking around and conversing with three or four of the students, SSA [redacted] felt it would be beneficial for him to review the weapon presentation concept with them. Thinking that he had his red-handled pistol in his holster, he drew the pistol and in a continuous motion, took a firing position and pulled the trigger. SSA [redacted] advised that he initially could not believe that the gun had discharged and did not realize that it was a live weapon until he heard the shot. Immediately after the discharge, he recognized the tritium night b6 b7C

(CONTINUED - OVER)

sight configuration on the gun as belonging to his service pistol and not the red-handled weapon. SSA [redacted] advised that he did not look at the weapon before he drew it from the holster and was not consciously aiming at anything because he was making an instructional point.

The projectile from SSA [redacted] weapon traveled approximately 31 feet across the GCR and struck SA Trainee [redacted] in the left upper hip area, having passed through her belt, and then exited her left hip area. The projectile then traveled approximately seven feet and struck SA Trainee [redacted] in the right back area lodging in his abdomen. b6 b7C

SSA [redacted] advised that after the gunshot, he ran around the cleaning tables to render assistance to the injured SA trainees. After determining that assistance was being provided, he reached for his weapon to secure it; however, determined it was not in his holster. As he returned to the area where the weapon discharged, he noticed his weapon on the floor. SSA [redacted] had no recollection of how the weapon ended up on the floor but retrieved it, cleared it, and took the weapon to the gun vault to secure it.

[redacted] a gunsmith/instructor advised that he was in the Gun Vault when he heard a gunshot in the GCR. While other employees ran to the GCR after hearing the shot, he remained at the door of the Gun Vault. He observed SSA [redacted] come out of the GCR carrying a Sig/Sauer 228 pistol and a loaded magazine. Mr. [redacted] opened the door to the Gun Vault and SSA [redacted] entered and stated, "I've got to isolate this thing," and placed the pistol in a gun bin. He was about to place the magazine in the bin but stated, "can't keep ammo with the gun," and began unloading the magazine. Mr. [redacted] took about 12 bullets from SSA [redacted] and placed them in the blue container for live ammunition near the hallway door. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/7/95
Training Division

Based on a review of the above-captioned shooting incident as documented by the report dated 8/4/95, SIRG members agreed that the TD should review the policy regarding the use of red-handled weapons. This review should determine if modifications are needed and should include input from Field Firearms Instructors. Suggestions made by the SIRG ranged from the requirement that red-handled weapons be colored completely in a highly visible color to requiring the use of red-handled weapons at all times by PFIs. Members concurred that the TD should adopt a uniform Bureau-wide policy regarding the use of these weapons. This resulted in recommendations one and two. b6 b7C

The SIRG noted that SSA [redacted] had committed two other safety violations while assigned as a Firearms Instructor at the FBI Academy. In 1993, SA [redacted] was involved in an unintentional discharge by an SA with whom SA [redacted] was working. SA [redacted] and the SA were ahead of the firing line and roughly parallel to another SA in an adjacent lane who had been cleared to go forward to repair a target when the discharge occurred. All weapons were pointed in a safe direction and no injuries resulted. The 1994 incident involved SA [redacted] temporary storage of a loaded weapon inside the Gun Vault, an area where loaded weapons are prohibited. These violations were documented in two consecutive annual performance appraisals. While these safety violations were noted by the Firearms Training Unit, the SIRG observed that there currently was not a system in place to document and evaluate firearms safety violations committed by instructors to determine if a Firearms Instructor should be retained. This observation resulted in the third recommendation being made.

The SIRG recommended a review by the TD of the current policy that Firearms Instructors carry loaded firearms throughout the FBI Academy to determine if the policy should be modified. Discussion centered around the fact that the Academy is in an open area that could be susceptible to a terrorist or other violent attack. It is accessible to individuals other than the FBI, and it does not have the stringent security measures that most Federal agencies maintain. Therefore, a determination was made that SAs visibly carrying weapons in the Academy would provide a more secure environment for individuals on the grounds. The TD representative advised that some steps have already been taken to ensure that this situation does not recur. For instance, no active weapons are allowed in the gun cleaning area and lock boxes are available for storing weapons before entering prohibited areas.

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/7/95
Training Division

Members of the SIRG discussed the emergency response provided by FBI Academy personnel immediately following this shooting incident. The group noted that both SA trainees were immediately assisted by FBI Academy personnel, including those with various levels of training in emergency medical response. SIRG members recognized the life saving medical care provided onsite by FBI Academy personnel. However, a recommendation was made that the TD review the emergency response to this incident to determine if improvements can be made.

SIRG members unanimously agreed that administrative action was mandatory for SSA [redacted] as a result of his lapse in judgment resulting in violation of routine weapons safety protocol. Members reiterated the fact that protocol requires that an individual never point a weapon at something if there is no intent to shoot. It was also noted by the SIRG that SSA [redacted] was involved in two prior safety infractions resulting in oral reprimands, documentation on his Performance Appraisal Reports, and lower performance ratings. The group was divided as to the severity of the action to be taken. Several members believed that a letter of censure and decertification as a Firearms Instructor would be ample punishment while others believed that more severe action, including suspension without pay, should be taken. Therefore, a recommendation was made that ASU, PD, determine the severity of the punishment for SSA [redacted] based on past precedent in similar cases. The SIRG unanimously agreed that SSA [redacted] should be permanently decertified as an FBI Firearms Instructor. b6 b7C

The last item for discussion relating to this shooting incident was the matter of SSA [redacted] fitness to carry his weapon. The majority of the members concurred that SSA [redacted] should be allowed to continue to carry his firearm. However, it was decided that the PD, Employee Assistance Unit, must ensure that any impairments with respect to SSA [redacted] carrying his weapon are resolved prior to his return to an investigative assignment.

Draft Report from W. E. Thompson, III to Mr. Gore dated 9/12/95.
Re: Administrative Inquiry Shooting Incident 7/7/95 Training Division

ADDENDUM: OFFICE OF THE GENERAL COUNSEL (OGC), 10/5/95, AAA:aaa

The purpose of this addendum is to set forth a view which dissents, in part, from the recommendations made in this case by the SIRG at its 8/30/95 meeting. After considerable discussion of the shooting inquiry into an incident occurring at the FBI Academy on 7/7/95, the SIRG made a number of conclusions, including the following: that the shooting was accidental, that certain procedural changes are required concerning firearms safety at the Academy, that SSA [redacted] the subject in this inquiry should receive a letter of censure and some type of administrative sanction to be determined by ASU, and that SSA [redacted] should no longer be a firearms instructor in any capacity with the FBI. The OGC concurs fully with these recommendations, but does not believe that they go far enough especially in view of potential exposure to liability. b6 b7C

In addition, at the request of the writer, the group considered, but did not recommend, a further sanction: that SSA [redacted] be denied the authority to carry his weapon, either on a temporary or permanent basis. It is my opinion that, under the circumstances presented here, the FBI's responsibility to exercise due care requires that this Agent should not be allowed to carry a weapon while on official duty. This opinion is based on the following rationale: (1) the Agent was the subject of two previous and recent firearms safety violations, one in 1993 and the other in 1994, both of which were serious enough to result in oral reprimands and lowered PARs; (2) the nature of the firearms discharge, i.e., after the Agent purposely pulled the trigger while his weapon was pointed at two other Agents, is so egregious that it seriously undermines the confidence that can reasonably be placed in his judgment in the future; and (3) but for the extraordinary emergency medical response, at least one of the victims of the shooting could have died from the wounds inflicted. b6 b7C

It is noted that Mr. [redacted] did not intend to harm either of the victims in this matter. However, in situations as aggravated as this shooting, it is prudent that the FBI's management exercise its prerogative to relieve this Agent of his weapon. This is especially true in light of the previously documented instances of carelessness and failure to observe safety precautions. In the event that this Agent has another mishap involving injury to others, it will be exceedingly difficult to explain why a more cautious approach was not taken. A lawsuit in such an event would be indefensible on the facts.

Draft Report from W. E. Thompson, III to Mr. Gore dated 9/12/95.
Re: Administrative Inquiry Shooting Incident 7/7/95 Training Division

(Cont.) Addendum: Office of the General Counsel (OGC), 9/22/95, AAA:aaa

b6
b7C

It is recognized that if this recommendation is approved, it will have a substantial effect on this Agent's career as an FBI Agent. While such an action will limit the type of work this agent will be able to perform, we do not believe that denial of weapons carriage will, as a matter of law, require that an Agent be removed from the 1811 series. Whether we wish to tolerate a situation in which we have a non-armed agent on the rolls is entirely a matter of policy. If he were left on the rolls as an FBI agent, we do not believe that this agent would be entitled to availability pay because he would not be a law enforcement officer within the meaning of 5 U.S.C. § 5545a

Recommendations: That SA [redacted] be permanently relieved of his Bureau issued weapon and that any and all prior Bureau approval for him to carry a personally owned weapon be rescinded.

APPROVED:

| | | | |
|---|---|---|---|
| Dir. | Crim. Inv. | Info. Res. | Training |
| Dep. Dir. | Crim. Jus. Info. Servs. | Inspection | Office of EEO Affairs |
| | Finance | Laboratory | |
| | Gen. Counsel | National Sec. | Office of Public & Cong. Affairs |
| | | Personnel | |

If this recommendation is approved, the Personnel Division should review the range of alternatives which it has available including allowing him to retain his 1811 status, withoutavailability pay, in the FBI; removal from the 1811 series and placement in another position within the FBI; removal from the rolls of the FBI; and if appropriate work to outplace him to another agency which has 1811 investigators who do not carry firearms.

APPROVED:

| | | | |
|---|---|---|---|
| Dir. | Crim. Inv. | Info. Res. | Training |
| Dep. Dir. | Crim. Jus. Info. Servs. | Inspection | Office of EEO Affairs |
| | Finance | Laboratory | |
| | Gen. Counsel | National Sec. | Office of Public & Cong. Affairs |
| | | Personnel | |

Re: (1) Shooting Inquiry Report, FBI Training Academy, Quantico, Virginia, 7/7/95;
(2) Memorandum from W. E. Thompson III to Mr. Gore dated 9/12/95; (draft)
(3) Addendum, Office of the General Counsel (OGC) dated 9/22/95;
(4) Shooting Incident Review Group Meeting, 9/29/95.

b6
b7C

ADDENDUM: SSA [redacted] Member, SIRG 10/4/95 WMJ:br

The purpose of this addendum is to (1) memorialize my concerns about the tone and accuracy of SSA [redacted] addendum, endorsed by the OGC, and (2) to place certain issues in proper context.

In paragraph two of the OGC addendum, SSA [redacted] refers to SA [redacted] being the "subject of two previous and recent safety violations".... In his memorandum to Acting Chief Inspector [redacted] dated 7/24/95, (tab #66, Shooting Inquiry Report), former Training Division (TD) Assistant Director [redacted] made the following comments about SA [redacted] safety record:

> **"The 1993 incident involved an unintentional discharge by an Agent with whom SA [redacted] was working.** SA [redacted] and the Agent were ahead of the firing line and roughly parallel to another Agent in an adjacent lane who had been cleared to go forward to repair a target when the discharge occurred. **All weapons were pointed in a safe direction and no injuries resulted.** The 1994 incident involved SA [redacted] temporary storage of a loaded weapon inside the Gun Vault, an area where loaded weapons are prohibited. SA [redacted] was orally reprimanded for both incidents which were also (1) documented, (2) noted on his Performance Appraisal Reports (PAR), and (3) resulted in lower ratings on both PARS."

b6
b7C

Regarding the accident on 7/7/95, SSA [redacted] states that SA [redacted] "purposely pulled the trigger while his weapon was pointed at two other Agents".... The unqualified use of the word "purposely" suggests that SA [redacted] intentionally pulled the trigger on what he knew to be a loaded weapon which, by logical extension, also suggests that he intentionally shot the two injured students. While it is clear that SA [redacted] pulled the trigger on his pistol, it is equally clear that he thought the pistol was the same, inert, "red handled" training weapon he had been carrying and using earlier. To suggest otherwise is preposterous.

SSA [redacted] further states that SA [redacted] "is now receiving professional counseling for an emotional disorder which he suffers, in part, as a result of the shooting incident." SSA [redacted] goes on to state in paragraph three that SA [redacted] "may not only be accident prone, but mentally unstable as well".... These remarks are inflammatory, totally unwarranted, and are not supportable by fact, particularly the deliberate and unfounded implication that he "suffers" from a "disorder" which predates the accident. b6 b7C

SA [redacted] is neither "accident prone" nor "mentally unstable". He has had one accident - the unintentional discharge of his weapon on 7/7/95. References to SA [redacted] mental stability are inappropriate and indefensible. The draconian sanctions proposed by SSA [redacted] are, therefore, based on a demonstrably flawed premise.

The FBI offers and encourages counseling and peer support for employees who have suffered some form of trauma, such as a shooting. SA [redacted] voluntarily attended a Post Critical Incident Seminar, as do virtually all employees who have been involved in a shooting incident. He has also received tremendous support from the Employee Assistance Unit, co-workers, and the students with whom he has worked, including the two students he unintentionally injured. Absolutely nothing can or should be inferred by SA [redacted] participation in this excellent program, the foundation of which is empathy, trust, and confidentiality.

While SA [redacted] credibility as an instructor has been indisputably compromised by this accident, his effectiveness as a Special Agent of the FBI has not. Former Assistant Director PHILIP describes SA [redacted] this way: "SA [redacted] has an extraordinary work ethic." His "hard work and devotion to duty continue to serve the TD with distinction." "His investigative and supervisory accomplishments before his assignment to TD were recognized with five incentive awards." "His tireless efforts, versatility, and competence as an instructor merited Exceptional ratings for all critical elements on his latest PAR, and numerous letters of thanks and commendation." b6 b7C

The recommendations of the SIRG, in my opinion, appropriately address the seriousness of SA [redacted] accident while also recognizing his significant and continuing contributions to the FBI.

Mr. Gore 8/24/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/10/95
SAN DIEGO DIVISION

Reference report of Supervisory Special Agent (SSA) [redacted] dated 8/1/95.

b6
b7C

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no adverse action be taken against Special Agent (SA) [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1 - Mr. Leary, Room 6050)
( 1 - Mr. [redacted] Room 4997)
1- Mr. Thompson, Room 7125
2 - Mr. [redacted] Room 7427
( 1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

LRR:lrr (18)

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
7/10/95
San Diego Division

DETAILS: On 8/17/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, U.S. Department of Justice (USDOJ); Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted], Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

On 7/10/95, SA [redacted] received three complaint forms regarding the [redacted] later identified as [redacted] SA [redacted] knew that the bandit was the suspect in twelve bank robberies in the Division, had displayed a weapon in two of the robberies, and had taken hostages at two bank robberies. The complainants provided information that the bank robber's photograph in the newspaper that day was an individual named [redacted] that the subject drove a Nissan pickup truck, and that he was a customer at the Holiday Wine Cellar in Escondido, California. It was reported that the suspect frequented the Wine Cellar between 5:00 pm and 7:00 pm.

SA [redacted] went to the Wine Cellar hoping to obtain the store video surveillance film for reviewing to try and identify the [redacted] After interviewing employees at the Wine Cellar, while still in the area, SA [redacted] observed the suspect exit the store and approached him in order to further identify him. SA [redacted] identified himself as an FBI SA and displayed his credentials to the suspect and during the course of conversation, he obtained the suspect's car keys. However, upon learning that a backup was enroute, the suspect became uncooperative, entered his truck using a spare key, started his vehicle, and drove out, bumping the Bureau vehicle in the process. b6 b7C

(CONTINUED - OVER)

SA [redacted] surveilled the suspect to his residence while simultaneously attempting to obtain a backup using his radio and a cellular phone. He followed the suspect into his driveway and attempted to continue his interview, stalling for time, hoping that his backup would arrive. The suspect became intimidating and a shoving match ensued with the suspect stating "You're going to have to kill me!" SA [redacted] told the suspect, "No [redacted] I don't want to kill you, I just want to talk to you." The suspect then ordered his dog to "Sic him Max, sic him!" As the dog approached and was within one foot of SA [redacted] he fired one shot disabling the dog, decocked his weapon, and placed it back in the holster. The suspect hit SA [redacted] in the face with either his fist or a blunt object. SA [redacted] was dazed, however, he felt the suspect advancing. He drew his weapon, pointed the weapon at the suspect's chest, and shot the suspect one time ensuring innocent civilians would not be endangered by an uncontrolled round. As a struggle ensued between he and the suspect, SA [redacted] was able to get one handcuff on the suspect's wrist. Both of them slid down to a fence where the other handcuff was placed on the suspect. With the assistance of a neighbor, attempts were made by SA [redacted] to render first aid to the suspect who had been wounded in the chin and neck.

b6
b7C

Interviews with employees at the Holiday Wine Cellar, neighbors, and other investigators, support the statements of SA [redacted] SA [redacted] was transported to a hospital by another SA for treatment of a swollen and bruised face, and the suspect was transported to the hospital via ambulance.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Members of the SIRG unanimously concurred with the use of deadly force in this shooting incident and agreed that the deadly force employed by SA [redacted] was within the FBI's deadly force policy. The SIRG concluded that appropriate steps were used by SA [redacted] in obtaining additional assistance and agreed that his actions that day were exemplary. It was further recommended that no adverse action be taken against SA [redacted] as a result of his involvement in this incident.

Mr. Gore 1/22/96

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/24/95
LOS ANGELES DIVISION

Reference report of Assistant Special Agent in Charge (ASAC) Jerry D. Thornton, dated 8/25/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] oom 7427)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Ms. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted], Quantico

1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

LRR:lrr (20)

(CONTINUED - OVER)

(2) That SAC, Los Angeles, during scheduled firearms training, reiterate to all SAs the importance of utilizing body protective armor.

DETAILS: On 9/29/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted], Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

On 7/24/95, Special Agents (SAs) assigned to the Santa Ana Resident Agency (SARA), Los Angeles Division, and a deputy from the Orange County Sheriff's Office (OCSO), were assigned to participate in a surveillance at the residence of Kevin Duane Arnold. Arnold was a federal fugitive wanted for Bank Robbery from San Diego, California.

A briefing was conducted by Supervisory Senior Resident Agent (SSRA) [redacted] and SA [redacted] During the briefing, the fact that Arnold was wanted for a San Diego bank robbery was discussed, as well as the fact that SA [redacted] was going to obtain a federal arrest warrant on that day from a United States Magistrate Judge, charging the subject with 11 additional bank robberies committed in the Orange County area. SA [redacted] was going to obtain a federal search warrant for Arnold's vehicle and

residence. SAs [redacted] and Deputy [redacted] were instructed to conduct the surveillance at Arnold's residence in an effort to locate him pending the issuance of the additional federal arrest warrant and the search warrants. The briefing included information about Arnold's background as a former police officer who had been involved in several shootings as well as the fact that during some of the bank robberies Arnold claimed to have a weapon. Arnold was to be considered armed and dangerous. All meeting participants were aware of Arnold's appearance, his personal vehicle, and the fact that he was married with small children. SSRA [redacted] and SA [redacted] wanted Arnold arrested away from his residence to ensure the safety of his wife and children. b6 b7C

SAs [redacted] and Deputy [redacted] commenced surveillance of Arnold's residence in Mission Viejo, California, at approximately 12:30 p.m. Movement was noticed at the residence at approximately 1:30 p.m., and SAs [redacted] and [redacted] drove by the residence to determine what was taking place. As they passed the house, Arnold was observed at the door. SA [redacted] advised that within seconds he heard over the radio from Deputy [redacted] that Arnold had probably observed them and that Arnold came out into the street and watched them drive away. Within several minutes, Deputy [redacted] reported that Arnold had returned to his house, exited his house, and drove away in his blue vehicle. SA [redacted] stated that after a brief period of searching for Arnold, he contacted SA [redacted] via cellular telephone. SA [redacted] was in the process of obtaining the additional arrest warrant and the search warrants. SA [redacted] stated that SA [redacted] instructed that Arnold was to be arrested if he was located. Instructions were given to attempt to arrest Arnold prior to his entry into his home.

Several minutes later, SA [redacted] observed Arnold driving his 1994 blue two-door, Ford Escort in the parking lot at Portola Plaza in Mission Viejo. SA [redacted] reported this information to SA [redacted] and Deputy [redacted] and requested SA [redacted] assistance at the shopping center. SA [redacted] was advised of the instructions regarding Arnold's arrest, i.e., that he be arrested if located and that the arrest should be completed prior to Arnold's entry into his home. SA [redacted] advised that he was approximately 30 seconds away from the parking lot. Prior to SA [redacted] arrival, Arnold observed SA [redacted] and began yelling and pointing his finger at him in an animated fashion. b6 b7C

Arnold moved his vehicle into a parking space and stopped. SA [redacted] stopped his vehicle to the front of Arnold's approximately 20 to 25 feet away. Arnold exited his vehicle while

yelling at SA [redacted] and took an aggressive stance by the front driver's door. SA [redacted] exited his vehicle, drew his weapon, and pointed it at Arnold while moving to the driver-side front fender. SA [redacted] yelled, "Stop, Police, put your hands up". Arnold replied, "Let's get this over with". Arnold refused to obey SA [redacted] commands, continued to yell in a belligerent manner, and made the statement, "No, we are going to handle this right now". b6 b7C

SA [redacted] arrived on the scene and observed Arnold yelling and pointing his finger at SA [redacted] He stopped his vehicle one to three feet away from where Arnold was standing. SA [redacted] exited his vehicle, drew his .45 Caliber, Sig Sauer Semi-automatic, Model P220 weapon, and yelled, "FBI! Kevin, you are under arrest! Get down on the pavement". Those commands were repeated several times and were disregarded by Arnold. At that point, Arnold glanced toward SA [redacted] making a derogatory statement and attacked SA [redacted] who was approximately 25 to 30 feet away. Prior to reaching SA [redacted] SA [redacted] heard Arnold yell, "Tell my wife I love her".

Arnold then reached SA [redacted] and a fight ensued between the two. SAs [redacted] and [redacted] initially had their weapons in their hands, making fighting difficult. Arnold made repeated attempts to obtain control of the SAs' weapons, however, did not succeed. Throughout the fight, Arnold continually refused to obey the commands given by the Agents to surrender and submit to arrest. At one point, Arnold turned his back to the SAs and made a motion of reaching into the front of his pants, as if he was drawing a weapon. Both SAs stated that they were prepared to shoot the subject at that time; however, when he turned around he had no weapon in his hand. Frequently throughout the fight, Arnold yelled, "Shoot me, Shoot me!" and "You are going to have to kill me". The fight gradually moved toward the front of Arnold's vehicle. During this period, Arnold opened the driver's door of his vehicle, reached in and grabbed for something between the front seat and back rest. Both Agents believed that Arnold was reaching for a weapon and were prepared to shoot. However, Arnold turned with empty hands. b6 b7C

At one point as the fight continued, SA [redacted] was able to return to his vehicle and radio for Deputy [redacted] assistance. He then returned to further assist SA [redacted] Subsequently, Arnold broke free and ran back to his vehicle. He jumped in, grabbed his car keys off the front passenger seat, and inserted the key into the ignition. SA [redacted] ran to the driver's side window, reached in

with his left hand and arm over the top of the steering wheel in an effort to remove the car keys from the ignition. The subject was able to start his vehicle and began backing up. As the vehicle began to move, SA [redacted] was unable to extract his left arm from the steering wheel area. SA [redacted] believed that his arm was either being held by Arnold, or it was trapped inside the vehicle. SA [redacted] was dragged by the movement of Arnold's vehicle for approximately 30 to 40 feet at a fast speed. SA [redacted] fearing for his life, reached into the front seat area with his right hand which was holding his weapon and fired one round into Arnold's chest. SA [redacted] left arm was immediately freed. He regained his footing and stepped away from the vehicle. Arnold slumped over toward the passenger seat area, but the engine made a "revving" sound and moved forward. The subject's vehicle stopped when it collided with an automobile parked to the front of Arnold's vehicle.

b6
b7C

Arnold was removed from his vehicle by SA [redacted] and Medix ambulance personnel who were at the scene. Paramedics from the Orange County Fire Department responded to the scene and administered first aid prior to transporting Arnold to Mission Hospital with a gunshot wound to the chest. Arnold was declared dead shortly after arriving at the hospital.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

b6
b7C

Members of the SIRG unanimously agreed that the use of deadly force was justified in this shooting incident for several reasons. The subject involved in this incident was known to be dangerous; both SAs gave verbal commands and identified themselves as law enforcement officers resulting in the subject becoming aggressive and advising that he would not surrender; the subject was moving aggressively towards the SAs resulting in a struggle while attempting to disarm the SAs; and, the subject made gestures insinuating that he was going to obtain a weapon. SA [redacted] arm was inside the car and he was unable to remove it and felt that his life was in danger throughout this incident.

However, the SIRG had several observations regarding safety issues related to this shooting incident. The first observation involved the use of alternative methods of control that could be used by SAs during high risk arrests. One SIRG member advised that the possession, if available, of pepper spray or an ASP baton may have been beneficial to the SAs. The next issue involved the lack of body armor used by the SAs. Members agreed that emphasis should have been placed on the use of body armor during the planning of this incident taking into consideration the subject's prior history.

Members of the SIRG noted three issues relating to this incident that pertain to training and should have been realized by the participating SAs. The subject's vehicle should have been boxed in to avoid any movement by the subject, SAs should not involve themselves in hand to hand combat when only one hand is available, and an SA should not participate in a struggle with a firearm which can result in an accidental discharge and the chance of injury.

A lengthy discussion was held during the meeting regarding adequate on-the-scene personnel. One SIRG member noted that the Los Angeles Division advised that six SAs and one local officer were available to assist in the execution of the arrest and search warrants once they were obtained. However, prior to obtaining the warrants, the SSRA elected to only send two SAs and the local officer to locate and surveil the subject with orders that if the subject was located and knew he was being surveilled, he should be arrested if an attempt was made to flee. The SIRG member opined that the surveillance was a potentially dangerous situation, especially taking into consideration the arrest orders and felt that the SSRA did not assign adequate personnel to the surveillance. Chief Inspector [redacted] also identified other issues requiring additional information from the Los Angeles Division. It was the unanimous opinion of the SIRG members to further discuss this shooting incident at the SIRG meeting following receipt of the Los Angeles Division's response to these issues. b6 b7C

On 9/29/95, a teletype was sent to the Los Angeles Division from Chief Inspector [redacted] requesting that they respond to the following issues:

(1) Identify the date that the Federal arrest warrant was issued by the Southern District of California and when the Los Angeles Division was aware of its existence,

(2) Identify the steps taken to locate and apprehend the subject upon learning of the Federal warrant,

(3) The original report indicated that the SSRA, four SAs, and one local law enforcement officer were briefed regarding this matter with instructions that "if the subject appeared to be leaving the area or identified the fact that he was being surveilled, he should be stopped and arrested on the San Diego Division bank robbery warrant." With the knowledge of these facts, Los Angeles Division was requested to determine why more personnel were not assigned to clearly demonstrate superiority of manpower in a potentially dangerous situation, why the SAs assigned surveillance were using readily identifiable law enforcement-type vehicles, and to identify the plan to effect the arrest.

Lastly, a request was made that the Los Angeles Division determine why the decision was made to arrest the subject on that particular day if an arrest had previously been delayed for operational and/or tactical reasons.

The Los Angeles Division responded to these issues by communication dated 10/11/95, which resulted in further discussions by the SIRG members on 11/3/95. Based on the facts presented by the Los Angeles Division, the SIRG recommended that no administrative action be taken against employees involved in this shooting incident. However, SIRG members reiterated that the circumstances surrounding this incident indicated that this incident should have been considered more than a surveillance. Members felt that the planning was insufficient and that additional manpower was mandated.

Mr. Gore 11/30/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/18/95
OKLAHOMA CITY DIVISION

b6
b7C

Reference report of Special Agent (SA) [redacted] dated 9/11/95, telephone conversation with Assistant Special Agent in Charge (ASAC) James F. Bogner on 9/25/95, and airtel from ASAC Bogner to Chief Inspector [redacted] dated 9/27/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no adverse action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7427)
(1 - Mr. [redacted], Room 7326)
1 - Mr. [redacted] Room 7825
1 - Ms. [redacted] DOJ

1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico
1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

LRR:lrr (20)

(CONTINUED - OVER)

(2) That the Office of General Counsel (OGC) and Criminal Investigative Division (CID) expeditiously research the issues related to the FBIs participation in local task forces. A policy decision should be communicated to each Field Division as soon as possible defining individual SAs' liability regarding effecting these types of arrests without state or local peace officer status unless an Unlawful Flight To Avoid Prosecution (UFAP) preliminary inquiry is opened under Safe Streets Task Force guidelines.

DETAILS: On 9/29/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, USDOJ; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident.

b6
b7C

## Synopsis of the Shooting Incident

A local warrant was obtained by the Oklahoma Department of Corrections on [redacted] for Escape on 5/2/95. It had been determined that [redacted] was in violation of his release conditions concerning an 18 year sentence for drug violations. The U.S. Marshals Metropolitan Task Force, a formal task force composed of various members of both the local and federal law enforcement communities, was attempting to locate and arrest the subject on the outstanding warrant.

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
8/18/95
Oklahoma City Division

On 8/18/95, based on source information provided to SA [redacted] members of the Task Force and SA [redacted] formulated a plan to arrest [redacted] This plan included the use of Oklahoma City Police Department (OCPD) marked patrol units. During the early morning hours of 8/18/95, OCPD marked Patrol Units attempted a traffic stop on a vehicle driven by [redacted] This traffic stop was in accordance with the previously formulated arrest plan. The subject refused to stop and the OCPD units pursued [redacted] through a residential area. As [redacted] attempted to turn the corner at Southwest 36th and Goff, he hit an unoccupied pickup truck parked in a driveway at [redacted] exited the vehicle and fled on foot into the residential area. As [redacted] ran along a chain link fence, SA [redacted] and Deputy Sheriff [redacted] a passenger in SA [redacted] vehicle, observed a weapon in the subject's right hand. The subject then jumped the fence into the backyard of a residence. In an attempt to prevent the subject from entering an occupied residence, SA [redacted] drove his vehicle through the fence. At this time, [redacted] fired his weapon towards SA [redacted] and Deputy Sheriff [redacted] SA [redacted] exited his vehicle and alerted all pursuing law enforcement personnel that [redacted] had a gun. [redacted] had jumped another fence heading towards the front yard of an occupied residence. As [redacted] was going around the corner of the house, SA [redacted] fired three shots at the subject with his 9mm Sig Sauer. OCPD Officer [redacted] was in the front yard and as [redacted] rounded the corner of the house in the direction of Officer [redacted] appeared to crouch to the ground. Officer [redacted] had heard someone yell "gun" from the backyard and as the subject was crouching to the ground, Officer [redacted] believed that [redacted] was attempting to shoot at him from the crouched position. Officer [redacted] fired two shots from his 9mm Glock. It was then determined that [redacted] had been hit by gunfire and an ambulance was called to the scene. The subject was transported to the Southwest Medical Center for treatment of a non-life threatening wound.

[redacted], Oklahoma County District Attorney, completed his review of this shooting incident, and by letter dated 9/15/95, found SA [redacted] actions proper and justifiable. District Attorney [redacted] declined prosecution of SA [redacted] and Officer [redacted] in this matter.

b6
b7C

Prior to the discussion at the SIRG meeting on 9/29/95, Chief Inspector [redacted] identified additional information needed to ensure a complete review of this shooting incident. Specifically, Oklahoma City Division was asked to address the following issues: 1) the initiation of a UFAP preliminary inquiry

(PI), 2) the status of FBI SAs as Peace Officers in the State of Oklahoma and, 3) the existence of a memorandum of understanding for Task Force participation.

b6
b7C

Oklahoma City advised that no PI was initiated in this case. Based on source information provided to SA [redacted] the subject was believed to be going to a residence in Oklahoma City on 8/17-18/95. SA [redacted] had a confidential and reliable informant who had demonstrated reliability numerous times in the past. SA [redacted] role was only providing information to Deputy [redacted] who was assigned to the fugitive matter and was, therefore, unaware whether or not a PI had been initiated. SA [redacted] was not a participating member of the fugitive task force. He accompanied Deputy [redacted] for the purpose of providing "real time" information regarding [redacted] whereabouts based on information provided by SA [redacted] informant on 8/17/95. As the investigation developed into a car pursuit and eventual shooting incident, SA [redacted] believed that he was acting within the scope of his duties, i.e, he was present to provide "real time" informant information, he was present to protect the informant's identity, and he had information causing him to believe that [redacted] was in violation of a Federal Firearms Statute (Felon in Possession of a Firearm).

SAs of the FBI do not have peace officer status in the State of Oklahoma. One SA in the Oklahoma City Division, who is a full-time participant in the MFTF, is cross-deputized as an OCSO Deputy Sheriff. Except for this full-time participant, no other SAs routinely participate in the Task Force. An FBI SA in Oklahoma is authorized to effect arrests for violation of federal law, however, arrests for state/local violations can only be accomplished by a citizen's arrest.

ASAC Bogner advised that the Metro Fugitive Task Force is not a formally funded Safe Streets Task Force. It was initiated in 1992, under the direction of the U.S. Marshals Service (USMS). The FBI proposed that a formal Memorandum of Understanding (MOU) be signed by all participants; however, the USMS and the OCPD have never executed the MOU. The MOU would include the FBI, USMS, OCSO, OCPD, the Cleveland County Sheriff's Office, and the Oklahoma Department of Corrections.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide

the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary. b6 b7C

It was the unanimous decision of the SIRG that the use of deadly force in this shooting incident was justified, and that no action be taken against SA [redacted] as a result of this shooting incident. However, the subject of effecting arrests on non Safe Streets Task Forces was discussed. Members agreed that unless a UFAP preliminary inquiry has been initiated under guidelines established for Safe Streets Task Forces, the FBI should not be making arrests absent having state or local peace officer status. The SIRG recommended that the OGC and CID expeditiously research and provide written policy regarding FBI liability in effecting such arrests.

Mr. Gore 11/30/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/20/95
LOUISVILLE DIVISION

b6
b7C

Reference report of Special Agent (SA) [redacted] dated 10/5/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: That no adverse action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted], Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] oom 7427)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted], Room 7825
1 - Ms. [redacted], DOJ
1 - Mr. Doyle, Room 4042

1 - Mr [redacted] DOJ
1 - Mr [redacted], Quantico
1 - Ms [redacted] oom 3849
1 - Mr [redacted] Room 3787F
1 - Mr [redacted] MFO
1 - Mrs. [redacted] Room 7837

b6
b7C

LRR:lrr (20)

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
9/20/95
Louisville Division

(2) That SAC, Louisville, during scheduled firearms training, reiterate to all SAs the importance of utilizing body protective armor.

DETAILS: On 11/3/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

Roger A. Fein, an FBI fugitive, was involved in a shoot-out with Louisville Division SAs and Police Officer [redacted] of the Jeffersontown Police Department (JPD) on 9/20/95. Officer [redacted] was critically wounded during this shooting incident. Although Roger A. Fein was shot by Officer [redacted] and FBI SA [redacted] with probable mortal shots, the coroner's preliminary findings indicate that Fein died as a result of a self-inflicted gunshot wound to the head.

On 9/16/95, "America's Most Wanted" aired a show featuring FBI fugitive Fein. On Monday, 9/18/95, a Cooperating Witness (CW), known to the FBI, contacted SA [redacted] of the Lexington Resident Agency (LRA), Louisville Division. The CW was subsequently interviewed by SA [redacted] and was shown photographs of Fein. b6 b7C

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
9/20/95
Louisville Division

On 9/19/95, SA [redacted] notified Supervisory Senior Resident Agent (SSRA) [redacted] of the information provided by the CW. SSRA [redacted] knew of Fein based on previous FBI investigations in the LRA territory, and therefore, conducted a comprehensive review of the information and physically inspected the area believed to be the residence of Fein. SSRA [redacted] assigned an SA to discreetly surveil the area and then notified Assistant Special Agent in Charge (ASAC) Thomas W. Miller about the information provided by the CW. SSRA [redacted] formulated a plan to positively identify and apprehend Fein and then requested authority to utilize an FBI aircraft in the surveillance which was approved by ASAC Miller. Additional assistance was offered for the surveillance by ASAC Miller, however, was declined by SSRA [redacted] since eight SAs were available and assigned to conduct the surveillance. SSRA [redacted] held a conference with all participating SAs involved in the surveillance and the CW returned to the LRA to brief and assist the SAs conducting the surveillance of Fein. b6 b7C

Final briefings were held with the surveillance team on the morning of 9/20/95. Surveillance points were identified, assigned, and confirmed at this meeting.

Through communications with the CW, it was determined by the surveillance team that Fein's girlfriend, [redacted] departed the residence earlier than usual on the morning of 9/20/95. The surveillance team was dispatched to their respective pre-determined surveillance points anticipating seeing and surveiling Fein as he departed his residence. Within a short period of time, SA [redacted] received a telephone call from the CW and observed a vehicle described by the CW as normally being operated by Fein. A moving surveillance of this vehicle began based on instructions issued by SSRA [redacted]

The surveilled vehicle had tinted windows, and combined with the poor weather conditions, surveillance team members could not see inside the cab of the vehicle. At this point, the driver of the vehicle was unknown and it was also unknown if the vehicle contained any passengers. A license plate number was obtained and a computer check completed by the Louisville Division determined that the license plate did not match the vehicle. b6 b7C

SA [redacted] bureau vehicle had enhanced radio capability and was equipped with a cellular telephone. With this knowledge, SSRA [redacted] instructed SA [redacted] to coordinate the FBI surveillance with the Kentucky State Police (KSP). SA [redacted] observed an antenna

on the vehicle under surveillance and assumed that the subject was equipped with a police radio scanner. Using the cellular telephone, SA [redacted] coordinated most of the communications with the KSP.

At one point during the surveillance, it appeared that Fein was not following the routine activity described by the CW. Therefore, SSA [redacted] decided to stop the vehicle and instructed SA [redacted] to request a KSP marked vehicle to assist in the vehicle stop. The use of a marked KSP vehicle was expected to reduce a potential violent confrontation with the subject. b6 b7C

The request for assistance was frustrated by the fact that the surveillance was moving from one KSP Post area to another and this required renewed explanations and communications further delaying KSP assistance. SA [redacted] a former KSP Trooper, informed the KSP of the situation and advised that the subject was armed and dangerous.

After approximately 45 minutes of attempting coordination with the KSP, the surveillance moved into Jeffersontown, Kentucky. The area involved was between a rural area and a more populated city center. The KSP dispatcher coordinated communications with the JPD and Police Officer [redacted] responded to the FBI's request for assistance. Officer [redacted] came upon the surveillance from the opposite direction and made a U-turn to join in the surveillance. The surveillance team believed that this traffic maneuver by Officer [redacted] tipped Fein to the surveillance.

Office [redacted] pulled the police car next to the moving bureau vehicle of SA [redacted] and [redacted]. Through an open window, Officer [redacted] was advised of the situation. Officer [redacted] offered assistance and SSRA [redacted] ordered the vehicle stopped. At this time, the surveillance was slowly moving past the JPD and was approaching an intersection.

Officer [redacted] attempted to stop Fein's vehicle with the use of flashing lights and police siren. The subject's vehicle continued moving into the intersection of Watterson Trail and Talonsville Road in Jeffersontown. After passing through the intersection, Fein bolted from the vehicle while the vehicle continued moving. The vehicle came to a stop at a curb approximately one hundred feet down the roadway. As Fein exited the vehicle, he was firing a .9mm pistol. While in a combat position, Fein fired on Officer [redacted] through the windshield of the b6 b7C

police car as the officer was seated in the police car. Officer [redacted] exited the police car and returned fire hitting Fein. SA [redacted] whose vehicle was adjacent to Officer [redacted] police car, shouted at Fein and then fired shots. It is believed that SA [redacted] fired two shots and struck the subject both times taking him to the ground. Officer [redacted] was positioned at the rear of the police car bent over the trunk. Immediate assistance was provided to Officer [redacted] by SA [redacted] SSRA [redacted] approached Fein and positively identified him from tattoos on his body. SA [redacted] crawled to and cleared Fein's vehicle. SSRA [redacted] accounted for the safety of all FBI SAs and personnel at the scene, took charge and coordinated the crime scene, and telephonically advised ASAC Miller of the shooting incident. Louisville Division staff, including ASAC Miller, immediately responded to the scene.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The SIRG unanimously concurred that this was an intentional shooting and that the use of deadly force was warranted, and no administrative action should be taken against any SA involved in this shooting incident. SIRG members agreed that the Louisville Division's planning was more than adequate with the use of eight SAs. However, the group made the observation that although the incident initially involved only surveillance of the subject, of the eight SAs participating in the surveillance, only four were wearing bullet proof armor. At least one SA recalled that SSRA [redacted] had instructed all personnel to wear their body armor on the day of this shooting incident. Therefore, the SIRG recommended that all SAs be reminded of the importance of wearing body armor during these situations.

b6
b7C

It was noted by the SIRG that media coverage of this shooting incident cast the FBI in an unfavorable position and that there seemed to be some misunderstanding by police officials regarding FBI procedures following shooting incidents. Although these situations were diplomatically handled by Special Agent in

Charge (SAC) Vernon D. Kohl, the SIRG identified other issues relating to this shooting incident and also discussed ideas expressed by SAC Kohl. SIRG members discussed the use of improper dialogue used by one SA, the upgrading of protective body armor used by SAs, the need for equipment to identify FBI vehicles during felony stops thereby eliminating the need for local marked police cruisers, and that emphasis be placed on all SAs being fully trained and familiar with conducting felony stops.

Although no formal recommendations were issued by the SIRG regarding these issues, the Training Division (TD) representative advised that the language issue will be addressed during Principal Firearms Instructors training. The TD will also research the issue of upgrading body armor currently being used by the FBI including the use of some type of FBI identification.

SIRG members had a lengthy discussion about the need for some type of Bureau vehicle identification for use during this type of incident. Suggestions included having additional lights on vehicles as well as some type of slap-on door decal that can be easily applied during emergency situations. However, one DOJ representative who is a former prosecutor, emphasized that the presence of local marked police vehicles seems to assist in prosecutions and tends to avoid some problems associated with felony car stops.

Mr. Gore 1/23/96

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/1/95
LAS VEGAS DIVISION

Reference report of Supervisory Special Agent (SSA) [redacted] dated 10/6/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: None. For information only.

b6
b7C

66-19157-65
1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted], Room 6012
(1 - Mr. [redacted], Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7427)
(1 - Mr. [redacted], Room 7326)
1 - Mr. [redacted] Room 7825
1 - Ms. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico

1 - Ms. [redacted] Room 3849
1 - Mr. [redacted]t, Room 3787F
1 - Mr. [redacted], WMFO
1 - Mrs. [redacted] Room 7837

LRR:lrr (20)

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
10/1/95
Las Vegas Division

DETAILS: On 11/3/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Trial Attorney, Civil Rights Division, USDOJ; Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Trial Attorney, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] b6 b7C Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident.

## Synopsis of the Shooting Incident

On Sunday, 10/1/95, while off duty, SA Cullen Michael Butler became hostile with his current wife, [redacted] who is a Computer Specialist for the Las Vegas Division. The hostility with the current wife stemmed over finances with his former wife. SA Butler and his former wife, Regina Ann Butler, divorced in 1985 after almost 17 years of marriage. Through divorce proceedings, Regina Butler received one half of SA Butler's benefits, including his pension. SA Butler was contemplating retirement in December 1995, or January 1996. As a result of the divorce, Regina Butler b6 retained the residence because of two small children now aged 15 b7C and 23. SA Butler was to receive approximately $27,000.00 from the sale of the house if she remarried or when the youngest daughter graduated from high school. Although the daughter is now aged 15, and not due to graduate from high school for three years, SA Butler had been contacting his ex-wife to either receive the money for his share of the house or not allow her to receive one half of his pension.

Regina Ann Butler had been living with Russell C. Teresi at the residence but did not marry because Mrs. Butler would be required to sell the house.

On 10/1/95, SA Butler locked his current wife in the backyard, advised he would take care of the problem, and left home in his personally owned vehicle. [redacted] contacted a

neighbor who is an FBI co-worker to obtain a ride to the former wife's residence. The neighbor's husband drove the three to the residence. Upon arrival, they found SA Butler inside the doorway of the house arguing with his former wife and Russell Teresi. [redacted] and her two companions exited the vehicle and approached the house to talk SA Butler into returning home. When the three were approximately 25 feet away, SA Butler drew his service weapon, a Sig P226. Several individuals yelled that he had a gun. At approximately 7:10 p.m., SA Butler fired approximately eight rounds from the gun at Regina Butler and Russell Teresi. Initial indications from the Las Vegas Metropolitan Police Department revealed that Regina Butler was shot five times and Russell Teresi was shot twice. Both individuals were pronounced dead at the scene.

b6
b7C

After the shooting, SA Butler made comments to [redacted] and her companions. The only comment that they could recall was that SA Butler said he was going to the desert to kill himself. SA Butler walked down the street approximately 10 yards and entered his vehicle.

At approximately 8:30 p.m., a security guard for the Spanish Hills housing development discovered the body of SA Butler laying outside the complex. SA Butler had fired one shot from his service weapon into his right temple and was pronounced dead at the scene.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

All members of the SIRG agreed that no indication of a problem was foreseen and therefore, no opportunity for Employee Assistance Program intervention was available. SA Butler was considered to be a successful SA with no indication of a problem. The SIRG had no recommendations regarding this incident.

# 1995

Mr. Gore 7/25/95

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
2/1/95
OKLAHOMA CITY DIVISION

b6
b7C

Reference report of Supervisory Special Agent [redacted] dated 2/28/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

1 - Mr. [redacted], Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted], Room 7116
3 - Mr. [redacted], Room 6012
( 1- Mr. Leary, Room 6050)
( 1- Mr. [redacted], Room 4997)
1- Mr. Thompson, Room 7125
2 - Mr. [redacted], Room 7427
( 1- Mr. [redacted], Room 7326)
1 - Mr. [redacted], Room 7825
1 - Mr. Conforti, Room 5012
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], Room 3117
1 - Mr. [redacted], WMFO
1 - Mrs. [redacted], Room 7837
LRR:lrr (17)

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
2/1/95
Oklahoma City Division

DETAILS: On 7/18/95, the SIRG, consisting of Chairman [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

On January 31, 1995, an unidentified white male, who was later identified as David P. Milewski, robbed Commercial Federal Savings and Loan. The subject, according to victim tellers, entered the bank, brandishing what was described as a silver or chrome .25 caliber automatic. The tellers provided information indicating the subject appeared to be under a great deal of stress, being very nervous and scared. He was demanding and ordered tellers to get down on the floor. A subsequent investigation revealed that the subject made his get-away in a vehicle described as a white Cadillac.

On the morning of February 1, 1995, information was received from an Oklahoma County Sheriff's Deputy that he had been contacted by an informant who had spoken to the bank robber's [redacted] The individual revealed that [redacted] identified as David Milewski, had robbed Commercial Federal Savings and Loan, on 1/31/95. This identification, according to the informant, was made because of bank surveillance photographs displayed on television after the bank robbery. [redacted] further advised the [redacted] that Milewski had visited [redacted] Milewski was currently residing at a residence located at 2501 South 102nd Street, Oklahoma City, Oklahoma, and the white Cadillac used in the robbery was parked b6 b7C b7D

(CONTINUED - OVER)

b6
b7C

in the garage of this residence. Additionally, it was learned that the subject had a history of armed robberies. FBI Agents and Oklahoma City Police Department (OCPD) officers initiated a surveillance of the residence believed to be occupied by the subject. Agents observed Milewski exit the residence and go to a Corvette parked in front of the residence on two occasions, noting that the subject met the general physical description of the bank robber.

While efforts were being made to obtain an arrest photograph of Milewski to display to victim tellers for a positive identification, the garage door to the residence opened and the subject was observed leaving the residence in the white Cadillac. After following the subject for a short period of time, FBI Agents, along with OCPD officers, attempted to pull subject over, utilizing emergency lights and siren. The subject then attempted to flee by accelerating.

Following a 20-minute, high-speed chase, during which attempts to forcibly stop Milewski failed, he was blocked in a car stop by Bureau Agents and OCPD officers. The stop was effected with the vehicle driven by SA [redacted] immediately in front of subject's Cadillac. The stop was effected as the subject was proceeding west on Highway 152, toward the populated community of Mustang, Oklahoma, after the subject had attempted to go the wrong way on streets while being pursued at a speed in excess of 90 miles per hour. After the vehicle was stopped, SA [redacted] exited his vehicle and did not immediately observe the subject in the white Cadillac. He thought the subject may have exited the Cadillac although he did not see the subject on foot nor did other Agent's reaction indicate the subject was on foot. SA [redacted] approached the subject vehicle with his .10 mm Smith and Wesson handgun drawn. As he approached the driver's side of the Cadillac, he observed Milewski lying on the front seat, with his arms stretched out. SA [redacted] tapped on the windshield and ordered the subject out of his vehicle. At that point, SA [redacted] observed Milewski with a gun in his right hand, and he was beginning to move the gun toward SA [redacted] SA [redacted] fired three times through the windshield and still noticed the subject coming up with the gun. SA [redacted] then fired what he believed to be three additional times. SA [redacted] then observed blood in the vicinity of the subject's head as the subject slumped in the front seat of the vehicle.

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
2/1/95
Oklahoma City Division

b6
b7C

A medical examination of the deceased subject by Medical Examiner [redacted] M.D., revealed a wound to the chin which appeared to be self-inflicted but not fatal. The subject had a contact wound to the right temple, with a .25 caliber bullet lodged in the head that the Medical Examiner ruled as fatal and self-inflicted. Additionally, there were two .10mm wounds to the head, one to the right hand, and one to the left forearm. The pathologist ruled the cause of death as a gunshot wound to the head, and the manner of death was ruled as a suicide. All of the rounds fired by SA [redacted] were recovered in the autopsy or in a search of the interior of the vehicle.

**Observations and Recommendations of the SIRG**

The review of the above-captioned shooting incident as documented by the report dated 2/28/95, revealed that proper procedures were followed by SA [redacted] during this shooting incident.

After a thorough review of the facts regarding this incident, it is the opinion of the SIRG that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

Mr. Gore 7/26/95

[redacted]

b6
b7C

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
2/27/95
KANSAS CITY DIVISION

Reference report of SSA [redacted] dated 3/13/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting incident.

**RECOMMENDATIONS:**

1. That no adverse action be taken against any FBI employees in this matter.

b6
b7C

1 - Mr. [redacted]
1 - Mr. Gore (Enclosure)
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. [redacted]
(1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted]
JTP:jtp (17)

1 - Mr. [redacted]
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. Doyle
1 - Mr. Conforti
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mrs. [redacted]

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore b6 b7C
Re: Administrative Inquiry
Shooting Incident
2/27/95
Kansas City Division

2. That the Assistant Director, Training Division, and the Office of General Counsel implement changes to the Manual of Investigative Operations and Guidelines (MIOG) specifically addressing FBI policy regarding shooting to neutralize subjects.

3. That SAC, Kansas City, reiterate current FBI instructional policy regarding the incapacitation of subjects through wounding, at scheduled firearms training.

DETAILS: On 7/18/95, the SIRG, consisting of Chairman [redacted], Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, Washington Metropolitan Field Office; met to discuss the above-captioned shooting incident. b6 b7C

**Synopsis of the Shooting Incident**

On 2/24/95, [redacted] committed an armed bank robbery, utilizing a handgun. The same day, he used a handgun to commit an armed carjacking, during which three females were kidnapped, one of whom was raped by [redacted] On 2/27/95, he

(CONTINUED - OVER)

committed two additional bank robberies, threatening to kill the bank tellers if they did not comply with his demands for money.

On 2/27/95, subsequent to the bank robberies, SA [redacted] observed a vehicle that had been utilized by [redacted] during the 2/27/95 bank robberies, parked at a motel. He placed the vehicle under surveillance and called for back-up. Prior to the arrival of back-up Agents, [redacted] exited a motel room and walked directly towards SA [redacted] vehicle. SA [redacted] concluded that [redacted] had detected the surveillance, and decided to arrest [redacted] to prevent his escape. Believing [redacted] to be armed and extremely dangerous, and aware of [redacted] involvement in several violent felonies in the immediate past, SA [redacted] exited his vehicle, drew his weapon, identified himself, advised [redacted] that he was under arrest, and commanded [redacted] to freeze. [redacted] then advanced towards SA [redacted] who fired one shot, aiming at [redacted] thigh, in an attempt to disable, but not kill, [redacted] The shot missed, and [redacted] ran, repeatedly turning towards SA [redacted] from positions of cover. As SA [redacted] chased [redacted] SA [redacted] fired an additional seven rounds, one of which struck [redacted] in the lower leg. [redacted] surrendered to SA [redacted] after SA [redacted] cornered [redacted] trying to reach into his vehicle.

b6
b7C

## Observations and Recommendations of the SIRG

The SIRG found that SA [redacted] decision to employ deadly force against [redacted] was proper and in accordance with FBI policy. [redacted] was known to have committed several violent felonies in the immediate past, was believed to be armed, and began to advance towards SA [redacted] when SA [redacted] advised him he was under arrest. Further, [redacted] attempted to escape, behaving in a manner while being chased by SA [redacted] that SA [redacted] assessed as threatening.

The SIRG found that SA [redacted] decision to try and incapacitate the subject by shooting him in the leg was in violation of FBI procedure; however, this issue is not specifically addressed in the MIOG. SA [redacted] by not initially aiming at "center of mass" increased the possibility of a missed shot, which did occur. SA [redacted] failure to hit the subject with the first shot necessitated an additional seven shots being fired, during the subsequent foot chase, possibly exposing SA [redacted] and others to a dangerous situation.

b6
b7C

The firearms training given has in the past, and

(CONTINUED - OVER)

b6
b7C

currently continues to teach FBI Agents to shoot at "center of mass" or "for the most effective area". However, the SIRG determined that these instructions are not addressed in the MIOG or the Legal Handbook for Special Agents. It was the opinion of the SIRG that the instructional policy should be included in the MIOG.

# Memorandum

Dep. Dir.
Chief of Staff
Off. of Gen. Counsel
Asst. Dir.:
Crim. Inv.
CJIS
Finance
Info. Res.
Insp.
Lab.
National Sec.
Personnel
Training
Off. of EEOA
Off. of Public & Cong. Affs.
Director's Office

To : Mr. Gore Date: 8/22/95

From : W. D. Thompson, III

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/8/95
WASHINGTON METROPOLITAN FIELD OFFICE

Reference report of ADIC W. Lane Crocker, Jr., dated 5/26/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATIONS:** (1) That the Inspection and Personnel Divisions promptly resolve ongoing discussions and agree upon language to advise any employee under Office of Professional Responsibility (OPR) inquiry, of the availability of the Employee Assistance Program (EAP) and its initiatives.

**APPROVED:**

| | | | |
|---|---|---|---|
| Dir. | Crim. Inv. | Info. Res. | Training |
| Deputy Dir. | Crim. Jus. Info. Servs. | Inspection | Office of EEO Affairs |
| | Director | Laboratory | |
| | Deputy Director | Finance | |
| | | Gen. Counsel | |
| | | National Sec. | Office of Public & Cong. Affairs |
| | | Personnel | |

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1 - Mr. Leary, Room 6050)
( 1 - Mr. [redacted] Room 4997)
1- Mr. Thompson, Room 7125
2 - Mr. [redacted] Room 7427
( 1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] oom 7825
1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
LRR:lrr (18)

1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

(CONTINUED - OVER)

b6
b7C

(2) That the Training and Personnel Divisions incorporate and emphasize EAP training during inservices for new support and Special Agent supervisors.

APPROVED:

Crim. Inv. ____ Info. Res. ____ Training ____
Crim. Jus. Info. Servs. ____ Inspection ____ Office of EEO Affairs ____
Director ____ Finance ____ Laboratory ____ National Sec. ____ Office of Public & Cong. Affairs ____
Deputy Director ____ Gen. Counsel ____ Personnel ____

**DETAILS:** On 8/17/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, U.S. Department of Justice (USDOJ); Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident.

## Synopsis of the Shooting Incident

On 3/8/95, the wife of SA Bruce Eugene Schulz awoke at approximately 6:15 am, and walked to a bathroom located adjacent to the second floor master bedroom of the residence at [redacted] Washington, D.C. As she walked to the bathroom, she noticed that SA Schulz was awake and nervously pacing around.

b6
b7C

At approximately 6:42 am, while [redacted] was in the bathroom, she heard a gunshot and ran into the master bedroom. [redacted] did not see SA Schulz in the bedroom, and she ran out of the second floor foyer, where she found SA Schulz laying on his back on

(CONTINUED - OVER)

the floor with his arms outstretched, perpendicular to his body. It appeared that SA Schulz had a single gunshot wound to the left side of his head. Additionally, a black revolver was laying on the floor near SA Schulz' extended left arm. [redacted] immediately telephoned the Metropolitan Police Department (MPD) Emergency Services Unit. After advising [redacted] to wrap the wound, MPD and Emergency Medical Technicians arrived at 6:47 am, and rendered further medical assistance. SA Schulz was subsequently transported to the George Washington University Hospital Emergency Room (GWUHER) and WMFO agents arrived at the residence and the emergency room at approximately 6:55 am. SA Schulz was pronounced dead at 6:59 am from what appeared to be a single gunshot wound to the left side of his head. b6 b7C b7E

The crime scene was secured and processed by the WMFO Evidence Response Team and the MPD Mobile Crime Unit. [redacted] was asked to consent to a search of the residence. After the consent was obtained, WMFO agents searched the residence and found nothing unusual that is relevant to this administrative inquiry.

Interviews of [redacted] and WMFO personnel, as well as personal associates portrayed a troubled agent. It appears that SA Schulz had extensive debts and poor money management skills. On numerous occasions, SA Schulz told his wife that he was not adequately prepared for new work assignments given to him, and he had concerns about his added responsibilities and sophisticated equipment with which he had to become familiar. Squad associates described SA Schulz as troubled due to self-imposed pressure, new job expectations and poor investments in the real estate market. He had also indicated to his colleagues that he was afraid of being terminated from the FBI if it was determined that he could not do his job, that he was seriously in debt and that he was a poor money manager. SA Schulz' friends mentioned that he has made poor investments in the real estate market and that he was fearful of impending legal action against him by tenants of one of his rental properties. b6 b7C

funds which SA Schulz was among several individuals w/access access to disappeared from ~~an~~ a covert account.

~~Although still pending, an OPR investigation determined several major improprieties concerning SA Schulz.~~ He was aware that polygraph examinations of other individuals involved were completed and his was the only pending polygraph.

(CONTINUED - OVER)

Credit reports showed that SA Schulz had depleted a joint savings account that he had with his wife. He had taken out a substantial car loan and a significant first mortgage on a rental property. Additionally, a first mortgage and an owner held second trust note had been obtained by SA Schulz for another property being refurbished by he and his wife.

The black revolver recovered near SA Schulz was identified as his Bureau issued Smith and Wesson, Model 13-3, .38/.357 Magnum revolver, bearing serial number ACE 3034. The projectile which was recovered from SA Schulz' body was identified as a .38/.357 lead bullet. Further, the bullet removed during the autopsy was identified as having been fired from SA Schulz' service revolver.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The first recommendation made was done so after the Chairman noted the Inspection Division and Personnel Division were working on policy changes which would require notification to employees at the initiation of an OPR inquiry of the EAP services available to them. The second formal recommendation made was done so after it was determined by the SIRG that EAP training could be beneficial to all new support and SA supervisors. Such training is not being routinely done at this time.

It was further observed that it's uncertain whether formal EAP intervention would have prevented the suicide. That will never be known. However, in addition to the aforementioned recommendations, the SIRG concluded that SACs and ASACs should heighten their sensitivity awareness regarding the needs of employees who are notified that they are the subject of an OPR investigation and they should ensure that EAP availability continues to be emphasized at annual conferences.

Mr. Gore 7/31/95

[redacted]

b6
b7C

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/15/95
EL PASO DIVISION

Reference report of Supervisory Special Agent [redacted], dated 4/14/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATIONS:** (1) That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident; however, that SA [redacted] be reminded of the importance of wearing body armor during the execution of an arrest.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1- Mr. Leary, Room 6050)
( 1- Mr. [redacted] Room 4997)
1- Mr. Thompson, Room 7125
2 - Mr. [redacted] Room 7427
( 1- Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. Conforti, Room 5012
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837
LRR:lrr (17)

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/15/95
El Paso Division

**DETAILS:** On 7/18/95, the SIRG, consisting of Chairman [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident.

b6
b7C

## Synopsis of the Shooting Incident

On March 14, 1995, Special Agents (SAs) of Squad 3, El Paso Division were briefed on current data collected regarding the potential whereabouts of [redacted] federal fugitive from Norfolk wanted for Unlawful Flight to Avoid Prosecution for Capital Murder and Attempted Capital Murder. During the briefing, Agents were advised of [redacted] history of violence and were warned that [redacted] was considered armed and dangerous; a flight risk; and SAs were not to take any chances during a confrontation with the subject. On March 15, 1995, several SAs of the El Paso Division were assigned to conduct surveillance of a business location where [redacted] was suspected to patronize. During the surveillance, the subject was observed by Agents talking on the telephone outside the Circle-K Convenience Store. SA [redacted] parked the Bureau vehicle adjacent to the store and the telephone booth. After SA [redacted] radioed their location to other Agents in the area, SA [redacted] and [redacted] decided to approach [redacted] at the telephone booth. When they opened the car doors, the subject ran across Stanton Street on Nevada Street in an easterly direction. SA [redacted] yelled [redacted] Stop FBI" and the subject was chased. SA [redacted] knew that [redacted] used the nickname [redacted] As SA [redacted] yelled at [redacted] the subject turned toward the SAs and at the same time SA [redacted] fell in the middle of Stanton Street. SA [redacted] thought that [redacted] had shot SA [redacted] and she

b6
b7C

(CONTINUED - OVER)

immediately drew her weapon firing one shot at the subject while running toward him. SA [redacted]s shot did not hit [redacted] who continued running and was seen by Agents climbing a fence leading to California Street.

b6
b7C

El Paso Police Department (EPPD) officers subsequently located [redacted] in a dumpster on California Street. The subject was arrested and transported to the El Paso County Detention Center by the EPPD.

Agents were assigned to search the scene where SA [redacted] discharged her weapon and attempt to locate the empty cartridge and a point of impact; however, neither item was found.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above-captioned shooting incident and weighed the facts given with the FBI's deadly force policy. The SIRG considered the fact that the subject was wanted for capital murder and attempted capital murder and had a history of violence. Also considered was SA [redacted] sworn statement that "I thought [redacted] shot SA [redacted] and I immediately drew my weapon firing one shot at [redacted], while running toward him." Her assessment was made after [redacted] turned towards her and SA [redacted] fell in the middle of the street. SA [redacted] firing at the subject at this point was determined to be within the deadly force policy by all the members of the SIRG. It was the opinion of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in this shooting incident. However, the SIRG recommended that the SAC, El Paso Division, reiterate the importance of wearing protective clothing during an arrest situation.

b6
b7C

Mr. Gore 8/22/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/20/95
WASHINGTON METROPOLITAN FIELD OFFICE (WMFO)

Reference report of Special Agent (SA) [redacted] b6 b7C dated 6/27/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** That the Administrative Summary Unit (ASU), Personnel Division (PD), take appropriate administrative action against SA [redacted] for violating FBI policy regarding carrying a firearm. The ASU is requested to fully consider SA [redacted] commendable actions in this matter when weighing the facts with past precedents on determining appropriate administrative action.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1 - Mr. Leary, Room 6050)
( 1 - Mr. [redacted] Room 4997)
1- Mr. Thompson, Room 7125
2 - Mr. [redacted] Room 7427
( 1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
LRR:lrr (18)

1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6 b7C

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/20/95
Washington Metropolitan Field Office

**DETAILS:** On 8/17/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, U.S. Department of Justice (USDOJ); Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident.

b6
b7C

## Synopsis of the Shooting Incident

On 3/20/95, at approximately 12:45 p.m., a bank robbery occurred at the George Mason Bank, 4005 Wilson Boulevard, Arlington, Virginia. WMFO agents responded to the bank robbery and a joint investigation was initiated with the Arlington County Police Department. Witnesses advised that a lone black male in his late twenties or early thirties, heavy set with a small mustache, 5'9" to 6'1" tall, weighing between 250 and 300 pounds presented a robbery note to the bank teller and demanded money. The subject claimed to have a gun. The subject was given bank funds in the amount of $7,140.68 which he placed into a duffle bag and fled the bank. The subject was described as wearing dark plastic sunglasses, baseball cap, a blue waist length jacket and blue jeans. He was carrying a blue duffle or tote bag over his shoulder.

At approximately 1:30 pm, an officer of the Defense Protective Service (DPS) on duty at the Pentagon (approximately four miles from the bank robbery) observed an individual who fit the description of the bank robber. The subject was fatigued and sweaty and asked for directions to the closest metrobus stop. The officer furnished the subject with directions to the metrobus stop and then radioed the DPS dispatcher and advised that a man fitting

(CONTINUED - OVER)

the description of the bank robber was headed towards the Pentagon metrobus stop.

Shortly thereafter, uniformed DPS officers in marked police vehicles approached the subject and ordered him to stop. The subject drew a handgun from his waistband and fled on foot through the Pentagon's south parking lot towards Eads Street and the interstate 395 overpass (I-395). b6 b7C

SA [redacted] was conducting a separate investigation at the Pentagon when the subject was observed. SA [redacted] had parked his bureau car in a secured parking lot at the Naval Army Annex and had secured his service weapon and briefcase in the trunk of the car. He was dressed in soft street clothes and felt the possibility of an accidental exposure of his service weapon within the Pentagon confines might cause undue concern to the workers and to the security force within the Pentagon. SA [redacted] and DPS Investigator [redacted] traveled to the Pentagon in [redacted] unmarked government vehicle. Numerous uniformed DPS officers along with Investigator [redacted] and SA [redacted] responded to Eads Street and the I-395 overpass. Upon seeing the responding officers, the subject turned and pointed his weapon directly at them. Four DPS Officers fired upon the subject. The subject turned and ran up the I-395 exit ramp and continued fleeing across I-395. The DPS Officers and SA [redacted] pursued the subject on foot. When Investigator [redacted] got to the top of the I-395 exit ramp, he became fatigued and motioned to the other officers to continue their pursuit. [redacted] acknowledged to SA [redacted] that he was physically okay and then gave his service weapon to SA [redacted]

SA [redacted] continued pursuing the subject across I-395 but realized the subject's lead was increasing. SA [redacted] stopped a vehicle that was getting onto I-395 from highway 110. He identified himself as an FBI Agent and requested the driver's vehicle in order to continue pursuing the subject. The subject crossed over I-395 and ran through the ground level parking garage toward the Double Tree Hotel. SA [redacted] drove the commandeered vehicle to the rear of the Hotel and the subject emerged from the parking garage area and attempted to run past SA [redacted] SA [redacted] identified himself and ordered the subject to stop. The subject pointed his weapon directly at SA [redacted] who was approximately 20 feet away and SA [redacted] fired two rounds from Investigator [redacted] service weapon. b6 b7C

(CONTINUED - OVER)

b6
b7C

The subject continued to run approximately one half block and stopped in a grassy area near Eads Street with this back towards SA [redacted] A DPS marked cruiser with two uniformed officers was approximately 90 feet in front of the subject who again pointed his weapon at the uniformed officers. DPS officers and SA [redacted] fired upon the subject who immediately fell to the ground and lost consciousness. The subject never regained consciousness and died on March 21, 1995, at 11:47 pm.

Autopsy reports revealed that the subject had been shot twice, once in the left rear shoulder and the second wound was a through and through wound to the subject's neck (spine).

The FBI Laboratory, Firearms-Toolmarks Unit, determined the spent bullet found on Eads Street had been fired from [redacted] service weapon. Additionally, the bullet recovered from the subject's left rear shoulder was also determined to have been fired from the same weapon. FBI Laboratory results, the autopsy report, and witness statements indicate that SA [redacted] sixth shot, from approximately 120 feet, was the round responsible for the wound to the subject's neck. Two witnesses stated the subject appeared to be suffering from a wound when he arrived at the grassy area near Eads Street.

The subject's Stallard Arms 9mm pistol was determined to be operable by the FBI Laboratory; however, he never fired any rounds. Investigation also revealed that the deceased subject was not responsible for the robbery at the George Mason Bank on 3/20/95.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Members of the SIRG unanimously concurred with the use of deadly force in this shooting incident and commended the heroism displayed by SA [redacted] However, the group recognized the fact

b6
b7C

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
3/20/95
Washington Metropolitan Field Office

b6
b7C

that SA [redacted] violated Bureau rules and placed himself in unnecessary danger by not carrying or having immediate access to his firearm. In addition to the action taken by ASU, PD, as a result of this memorandum, SA [redacted] should be reminded that FBI SAs are expected to carry or have immediate access to their firearms at all times while on duty.

Mr. Gore 8/24/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/2/95
LAS VEGAS DIVISION

Reference report of Supervisory Special Agent (SSA) [redacted] dated 5/15/95. b6 b7C

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: That no adverse action be taken against Special Agent (SA) [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted], Room 7116
3 - Mr. [redacted], Room 6012
( 1 - Mr. Leary, Room 6050)
( 1 - Mr. [redacted] Room 4997)
1- Mr. Thompson, Room 7125
2 - Mr. [redacted], Room 7427
( 1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted], Quantico
1 - Mr. [redacted], Room 3117
LRR:lrr (18)

1 - Mr [redacted] Room 3787F
1 - Mr. [redacted] WMFO
(1) - Mrs. [redacted], Room 7837

b6
b7C

(CONTINUED - OVER)

(2) That the Training Division and the Office of General Counsel implement changes to the Manual of Investigative Operations and Guidelines (MIOG) specifically addressing FBI policy regarding the disabling of moving vehicles with the use of firearms.

(3) That SAC, Las Vegas, during scheduled firearms training, advise all SAs that experience has demonstrated that the use of firearms to disable moving vehicles is either unsuccessful or results in an uncontrolled risk to the safety of the officers or others.

**DETAILS:** On 8/17/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, U.S. Department of Justice (USDOJ); Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident.

b6
b7C

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
5/2/95
Las Vegas Division

Synopsis of the Shooting Incident

On 12/15/94, SA [redacted] initiated a joint investigation with the Office of Special Investigations (OSI), U.S. Air Force (USAF), Nellis Air Force Base (NAFB), Las Vegas, Nevada, into the alleged drug trafficking activities of [redacted] a member of the USAF assigned to NAFB. On 7/25/94, [redacted] had been court martialed based on a civilian drug arrest and sentenced to 18 months custody, a bad conduct discharge, and a reduction in rank. b6 b7C b7D

OSI SA [redacted] advised SA [redacted] that [redacted] who at the time was incarcerated in the military jail on the base, had offered to sell controlled substances to a civilian prisoner lodged at the Federal Correction Institution located on NAFB. [redacted]

The U.S. Attorney's Office in Las Vegas had declined prosecution of [redacted] at the on-set due to the minimal amounts of controlled substances being distributed by [redacted] It was decided that [redacted] would be prosecuted by the military authorities. Two controlled drug purchases were made from [redacted] prior to his arrest on 5/2/95.

The third controlled drug purchase was to be made by the [redacted] at which time [redacted] would be arrested by OSI Agents.

OSI SA [redacted] briefed four other OSI Agents on the investigation and planned arrest of [redacted] The car wash at the NAFB was selected as the site for the controlled purchase of the drugs and [redacted] subsequent arrest. The car wash was selected to provide maximum cover for the SAs and was believed to be the most optimum site for the arrest. b6 b7C b7D

SA [redacted] advised all present that he did not want any hostage type situation, nor shooting. Based on his prior arrest for an unregistered firearm [redacted] statement that [redacted] had a weapon, it was believed that [redacted] would be armed. SA [redacted] specifically advised that there was to be no pursuit of [redacted] on or off the base. He advised that, if necessary, [redacted] could be arrested at a later date.

OSI Agents were to surveil the transaction and broadcast

(CONTINUED - OVER)

the activity over the radio. When the arrest signal was broadcast, OSI SAs were to effect the arrest, and SA [redacted] and SA [redacted] were to [redacted] b6 b7C b7D

The prisoner was taken to the car wash and the surveillance was initiated. Shortly after noon on 5/2/95, [redacted] was observed driving his vehicle up to the car wash. The OSI Agents on surveillance broadcast the transaction and the arrest signal was broadcast after completion of the transaction. OSI Agents drove towards [redacted] and exited their vehicle. Before the arrest could be effected, [redacted] sped from the area at a high rate of speed and exited the NAFB.

SA [redacted] with SA [redacted] in the vehicle, followed [redacted] at a safe distance while broadcasting on the Las Vegas Metropolitan Police Department (LVMPD) frequency their location, direction of travel, and a request for assistance to arrest [redacted] SA [redacted] lost sight of [redacted] near Charleston Boulevard and Oliver Street. SA [redacted] advised that they were in the general area of [redacted] residence. While driving on Oliver Street, SA [redacted] observed [redacted] vehicle stopped on Del Almo Street, facing south towards Oliver Street. SA [redacted] drove towards the vehicle and parked at an angle in front of [redacted] vehicle.

SA [redacted] exited the Bureau vehicle and took up a position, with his weapon drawn, adjacent to the driver's side window of [redacted] vehicle. SA [redacted] exited the vehicle, weapon drawn, and took up a position in front of the vehicle. SA [redacted] then realized that [redacted] vehicle had stalled and that [redacted] was attempting to restart it. SA [redacted] could see one of [redacted] hands on the steering wheel and the other attempting to restart the car.

SA [redacted] who was wearing a protective vest with "FBI" on the front, identified himself and ordered [redacted] to raise his hands. b6 b7C [redacted] was able to restart the vehicle and drove directly at SA [redacted] and SA [redacted] SA [redacted] did not know if SA [redacted] had been struck by the vehicle; however, he spun out of the way and fired one round from his Bureau weapon at the left rear tire of [redacted] vehicle which was speeding out of the area.

SAs [redacted] and [redacted] returned to the Bureau vehicle and attempted to locate [redacted] While driving east on Olive Street, they observed [redacted] vehicle partially in a driveway at [redacted] with the driver's side door open. [redacted] could not be located.

(CONTINUED - OVER)

LVMPD Officers arrived on the scene and assisted in the search for [redacted] who was arrested a short time later in a parking lot of an apartment complex near his residence. b6 b7C

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The majority of the SIRG members concurred that SA [redacted] decision to employ deadly force against [redacted] was proper and in accordance with FBI policy. [redacted] was believed to be armed and fled in his vehicle behaving in a manner that SA [redacted] assessed as threatening.

The SIRG found that SA [redacted] decision to disable the subject's vehicle by shooting at the tire was in violation of FBI procedure. Experience has demonstrated that the use of firearms to disable moving vehicles is either unsuccessful or results in an uncontrolled risk to the safety of the officers or others. Therefore, the consensus opinion of the SIRG was that the SAC, Las Vegas should reiterate the current policy and reasons for that policy to all SAs in the division. The SIRG found that the MIOG does not specifically address the issue of disabling moving vehicles with firearms, resulting in recommendation number two being made. b6 b7C

Mr. Gore 11/14/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/12/95
LAS VEGAS DIVISION

b6
b7C

Reference report of Supervisory Special Agent (SSA) [redacted] dated 8/28/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That the Office of General Counsel (OGC) determine the ethicality of an SA participating in a demonstration of a particular manufacturer's product and if this is a violation of ethical responsibilities.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
4 - Mr. [redacted] Room 6012
(1 - Mr. [redacted] Room 6050)
(1 - Mr. [redacted] Room 4997)
(1 - Mr. Harp, Room 6646)
1 - Mr. Thompson, Room 7129
3 - Mr. [redacted] Room 7427
(1 - Mr. [redacted] Room 7427)
(1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Ms. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] DOJ
1 - Mr. [redacted] Quantico
LRR:lrr (20)

1 - Ms. [redacted] Room 3849
1 - Mr. [redacted], Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

(CONTINUED - OVER)

(2) That the Administrative Summary Unit (ASU), Personnel Division (PD) prepare and forward a letter of censure to SA [redacted] for his violation of standard firearm safety procedures, his neglect to obtain concurrence from the Special Agent in Charge regarding his participation in this demonstration, and his use of extremely poor judgement for continuing the demonstration after the first injury occurred. This letter should advise SA [redacted] that he is being decertified as a firearms instructor. Additional penalties for SA [redacted] should be determined by ASU, PD, based on past precedents.

b6
b7C

(3) That the Training Division remove SA [redacted] from the list of approved firearms instructors.

(4) That the ASU, PD, prepare and forward a letter of censure to SA [redacted] FBI, New York, for his failure to provide appropriate safety oversight during this shooting incident.

b6
b7C

DETAILS: On 9/29/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; Chief Inspector [redacted] Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
5/12/95
Las Vegas Division

Division, USDOJ; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Health Care Fraud Unit, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; [redacted] Supervisor, WMFO; and [redacted] Inspection Analyst, Office of Inspections, met to discuss the above-captioned shooting incident.

b6
b7C

## Synopsis of the Shooting Incident

SA [redacted] New York Division, was contacted by Ms. [redacted] Executive Director, National Independent Bank Equipment and Systems Association (NIBESA), Park Ridge, Illinois, requesting assistance in arranging for a demonstration of the various types of bullet resistant glass during their annual convention in Las Vegas, Nevada, being held on May 11-12, 1995. SA [redacted] who had assisted the NIBESA in past demonstrations, identified SA [redacted] of the Las Vegas Division as the appropriate employee to arrange for the demonstration. SA [redacted] was aware that SA [redacted] was the Principal Firearms Instructor (PFI) in the Las Vegas Division. SA [redacted] obtained proper management authorization from the New York Division for the FBI to participate in the demonstration.

SA [redacted] advised that the demonstration plan would include a burning of the safes, and a firearms demonstration involving the shooting at the bullet resistant glass. The last event would be a shooting demonstration using metal targets, similar to demonstrations he had witnessed in the past.

b6
b7C

SA [redacted] was contacted by Ms. [redacted] and a discussion was held between the two about shooting at the bullet resistant glass. Ms. [redacted] insists that SA [redacted] was not asked to participate in any other demonstrations, specifically shooting bullets at any safes or Automatic Teller Machines (ATMs).

Arrangements were made by SA [redacted] to utilize the police shooting range on 5/12/95. Arrangements were also made for the use of Bureau weapons and ammunition to be used during the

demonstration, and he coordinated the delivery of the safes, ATMs, and resistant glass by the Lomanto Exhibit Services. SA [redacted] chose to use his personally owned Bureau approved 30-06 rifle during the demonstration. He also provided the rifle ammunition which included military style armor piercing rounds and commercial 30-06 ammunition manufactured by Eldorado Cartridge Company in Boulder City, Nevada. This commercial ammunition was all copper 180 grain Barnes "X" bullets. b6 b7C

On the morning of 5/12/95, SA [redacted] met with SA [redacted] at the firearms range. SA [redacted] had arranged for the safes, ATMs, and the glass to be set up and he had marked off an area approximately 77 feet from the target area using tape stretched between two speakers. With between 100 and 150 spectators present, SA [redacted] directed the mechanics of the safe burning demonstration. Once this demonstration was completed, SA [redacted] directed the spectators behind the taped area.

SA [redacted] decided to include a demonstration of shots being fired at the safes as part of his presentation. SA [redacted] positioned himself 40 to 50 feet in front of the safe located near the middle of the target line and fired two rounds of armor piercing ammunition at the safe. SA [redacted] approached the safe to examine the bullet impact areas, and SA [redacted] who had heard noise from the spectator area, walked in that direction. SA [redacted] saw that one spectator had suffered a small crescent shaped wound to the shin area. First aid was administered and the spectator insisted that he was okay. SA [redacted] advised the group that it was common for individuals to receive minor splash back wounds. At that time, neither SA realized that a second spectator had also received a wound. The spectators were then moved to the back of the range area being used, approximately 60 yards from the target line and the demonstration continued. SA [redacted] then fired one of the all copper bullets at the target and the bullet, or a large fragment of the bullet, ricochetted back and struck SA [redacted] in the right anterior lower thigh. SA [redacted] was transported to the University Medical Center for treatment. b6 b7C

SAs [redacted] and [redacted] were also present during this demonstration. SA [redacted] asked if they would assist in completing the demonstration by firing rounds at the bullet resistant glass. SAs [redacted] and [redacted] concluded the demonstration with no further incidents.

Another spectator, it was later learned, had sustained a ricochet wound to the neck. Both spectators received medical treatment at the Lake Mead Hospital in Las Vegas. The second spectator was advised by hospital staff that a piece of metal was in her neck; however, that the piece would work its way out. The spectator later confirmed that the metal piece did eventually work its way out.

It was also later learned that the first spectator suffered an injury to his lower left calf muscle. He received medical treatment at the Lake Mead Hospital and was advised that the fragment was still in his leg. On 5/22/95, he sought medical treatment at the Marquette General Hospital and has been attended by a physician since that time. The fragment remains in his leg and he continues to suffer pain. He also advised that he has not sought legal advice; however, feels that compensation is due him for the hardships he has suffered as a result of the bullet wound.

## Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

Members of the SIRG agreed that this incident was an intentional discharge resulting in unintentional injury. However, three major observations were surfaced by the SIRG regarding this incident. The first observation involved the purpose and planning of the demonstration itself. SIRG members did not understand how the demonstration served a "law enforcement" purpose and questioned the ethical responsibility of an SA participating in a manufacturer's demonstration of a product. Therefore, SIRG members asked for a legal opinion regarding SA [redacted] participation in this demonstration.

b6
b7C

The second observation of the SIRG pertained to SA [redacted] lack of proper SAC notification of the demonstration, his extreme use of poor judgement in continuing the presentation upon learning of the first spectator injury, and the fact that proper safety precautions were not adhered to by either

SA involved in the incident. Additionally, the ammunition used by SA was not Bureau approved.

Based on a statement of SSA SA advised him on 5/11/95, that he would be shooting at bullet proof glass at the LVMPD range on 5/12/95, and that the bank would be providing the glass. SA never advised his supervisor that this was to be a demonstration of any sort, or that any spectators would be present. Further, SA neglected to provide his supervisor with any written documentation relating to the demonstration, nor was the supervisor informed that an SA from the New York Division would also be present during the demonstration. Based on the information provided to him and the knowledge that SA was the PFI for the Las Vegas Division and frequently tested ammunition, weapons, or various training methods, no SAC approval was sought. The SIRG also noted that had SAC approval been sought, injuries may have been prevented. Additionally, SIRG members stressed that SA extreme use of poor judgement heavily impacted the health and well being of the spectators, and to resume shooting at the ATMs after learning of the first injury was "cavalier." The group emphasized the need for medical personnel to be on-site during these types of demonstrations. Taking into consideration each of the above violations and the use of extremely poor judgement by SA the SIRG concurred with the SAC's recommendation that he be removed as the Las Vegas Division's PFI. Further, members unanimously agreed that SA be decertified as a PFI and, at a minimum, be provided with a letter of censure. b6 b7C

The last observation and recommendation of the SIRG involved SA of the New York Division. Members noted that SA sought and received proper SAC approval for his participation in this demonstration. A concern existed among the group regarding SA neglect of taking action after learning of the first spectator injury. Therefore, the SIRG recommended that SA be given a letter of censure for his failure to provide appropriate safety oversight during this incident. b6 b7C

Mr. Gore 10/3/95

W. D. Thompson, III

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/29/95
BALTIMORE DIVISION

b6
b7C

Reference report of Inspector-in-Place (IIP) [redacted] dated 7/6/95.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no administrative action be taken against any employee as a result of their involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7129 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted], Room 6012
( 1 - Mr. Leary, Room 6050)
( 1 - Mr. [redacted] Room 4997)
1 - Mr. Thompson, Room 7129
2 - Mr. [redacted] Room 7427
( 1 - Mr. [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] DOJ
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] OJ
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted] Room 3787F
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

b6
b7C

LRR:lrr (18)

(CONTINUED - OVER)

(2) That the ADIC, Washington Metropolitan Field Office (WMFO) and the SAC, Baltimore Division, continue to pursue and promptly implement a workable solution for operational procedures involving territorial strategies.

(3) That WMFO management review its operational procedures regarding command post operations including the need for ranking management presence and oversight as the event dictates.

DETAILS: On 8/17/95, the SIRG, consisting of Chairman Wiley D. Thompson, III, Deputy Assistant Director, Inspection Division; [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Deputy Chief, Civil Rights Division, U.S. Department of Justice (USDOJ); Jeremiah W. Doyle, Jr., Section Chief, Global Section - NS-2, National Security Division; Van A. Harp, Section Chief, Personnel Administration and Benefit Section, Personnel Division; [redacted] Deputy Section Chief, Terrorism and Violent Crimes Section, Criminal Division, USDOJ; [redacted] Unit Chief, Firearms Training Unit, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Firearms - Toolmarks Unit, Scientific Analysis Section, Laboratory Division; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

(CONTINUED - OVER)

Memorandum from W. D. Thompson, III, to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
5/29/95
Baltimore Division

Synopsis of the Shooting Incident

Based on a request from the Metropolitan Police Department (MPD), Washington Metropolitan Field Office (WMFO), Squad C-21 (the Cold Case Squad), initiated an Interstate Transportation in Aid of Racketeering (ITAR)-Murder investigation. This request was based on two incidents that occurred in January 1995, where MPD officers were shot and wounded in unprovoked attacks while on duty in full uniform.

In April 1995, a Prince George's County Police Department (PGCPD) officer was shot and killed in an unprovoked attack as he sat in full uniform in his patrol car. During this incident, the officer's service weapon, a 9mm Beretta, was taken by the assailant. Two days later a subject was arrested by the PGCPD and charged with this matter.

On 5/18/95 [redacted] met with PGCPD detectives and provided information regarding her association with a subject named Ralph McLean. She indicated that for the past year she had a relationship with the subject during which time he had physically and sexually assaulted her. Based on this information, an arrest warrant was issued for Ralph McLean for assault. [redacted] also furnished information which linked Ralph McLean to the assaults on the MPD officers as well as the murder of the PGCPD officer.

Special Agents (SAs) of the WMFO initiated technical surveillance of McLean on 5/25/95. Early that evening, SAs of Squad C-21 and Special Operations Group (SOG) personnel met to distribute descriptive data about McLean and to establish a plan of action if McLean was located. Surveillance was discontinued that night and resumed in the early morning of 5/26/95. Information was obtained indicating that McLean was traveling south towards Richmond, Virginia. b6 b7C

An arrest warrant was issued in the District of Columbia for McLean on 5/27/95, for the assault on an MPD officer. During the day, McLean responded to a page by [redacted] and during the conversation he indicated that he thought she was cooperating with law enforcement authorities. The MPD assaults were profiled on "America's Most Wanted" on the same night; however, McLean's name was not mentioned. Subsequently, on the evening of 5/28/95, a television reporter related that an arrest warrant had been issued for McLean for shooting the MPD officers and that there was an

(CONTINUED - OVER)

outstanding PGCPD arrest warrant for the same individual that identified McLean's girlfriend as cooperating. b6 b7C

Technical coverage during the afternoon of 5/28/95, indicated that McLean was headed north towards the District of Columbia area. A PGCPD detective also notified a C-21 Squad SA that afternoon and advised that McLean had contacted [redacted] and wanted to meet her that evening. Based on this information, SOG, Squad C-21 SAs, and Technical Services Squad SAs held a meeting and were advised that McLean was to meet his girlfriend at a shopping mall, and they anticipated trying to arrest him in an open area while he was enroute to the meeting. If this did not work, plans were made to attempt to pinpoint McLean's location, surveil him to a safe area, and make the arrest. Plans included the fact that if McLean was determined to be stationary for the night, the SWAT would be activated and if a felony car stop was required, the SOG would handle that part.

During the evening, the PGCPD detective with [redacted] advised that a meeting was planned between McLean and [redacted] at a Virginia mall. The meeting area was later changed to the Beltway Plaza Mall in Greenbelt, Maryland. [redacted] had previously advised McLean that she had a friend in the Greenbelt area and that would be a good place to meet. It should be noted that [redacted] was being operated solely by PGCPD detectives and all conversations between [redacted] and McLean were being relayed to the SAs by those detectives. b6 b7C

At approximately 6:00 pm, an SA of C-21 notified the Southern Maryland Metropolitan Resident Agency (SMMRA) that McLean was in the area but that it was not anticipated that anything would occur in PG County. The SMMRA was advised at approximately 10:40 pm, that the meeting place had changed and that the Beltway Plaza Mall, the SMMRA's territory, would be used for the meeting. WMFO SAs arrived in the Greenbelt area at approximately 10:00 pm.

Throughout the evening, McLean and [redacted] continued conversations and at approximately 11:30 pm, in response to [redacted] page, McLean contacted [redacted] She advised him that she had not seen him in the parking area of the mall and McLean then advised [redacted] that he would meet her at the Shell Gas Station in the area. Based on this information, SOG SAs William Christian and [redacted] moved their vehicles to a parking lot at the Greenbelt Middle School in order to observe the gas station. Between 10:30 pm and 12:40 am, surveillance indicated numerous activations of b6 b7C

(CONTINUED - OVER)

McLean's cellular phone although the conversations were not long enough to pinpoint his location. However, it was determined that McLean was in the area of the Greenbelt Middle School and this information was broadcast to all units.

An officer of the Greenbelt City Police Department (GCPD) notified a fellow officer at approximately 12:40 am, of suspicious vehicles in the area of Greenbelt Road and Kenilworth Avenue. While patrolling the area, the GCPD officer observed SA Christian's vehicle in the parking lot of the school. The officer drove past SA Christian's vehicle to obtain registration information, turned around in the parking lot, and returned to the area of SA Christian's vehicle. SA Christian exited his vehicle, identified himself as an FBI SA, and asked the GCPD officer to leave the area and requested that other marked units be requested to keep clear of this area due to law enforcement presence conducting surveillance. Approximately 10 minutes after the officer departed the area, Ralph McLean approached SA Christian's vehicle from the operator's side and fired 16 shots with an M-11, killing SA Christian. SA Christian was armed with a 10mm Smith and Wesson, Model 1076 pistol which was still holstered, and a 9mm H&K MP-5 submachine gun which was not fired. He was wearing his ballistic vest at the time of the shooting. b6 b7C

While positioned in a surveillance van, SA [redacted] heard the automatic weapon fire, called for assistance, exited the van, and observed McLean running around the corner behind the school. An MPD officer who was hiding in shrubbery across the street in the vicinity of the Shell Station, also saw McLean fleeing and broadcast the direction of McLean's travel. McLean attempted to escape from the area of the school through a wooded area to get to his vehicle which was parked in an apartment complex nearby. The route was blocked by law enforcement officers who had quickly set up a perimeter. McLean fled west several hundred yards to the Beltway Plaza Mall parking lot. During this time, McLean made a diversionary 911 call and advised emergency personnel that the assailant of the police officer drove away from the area in a black Maxima.

An SMMRA SA saw McLean moving from one concrete pillar to another in the parking area of the plaza near a Caldor's Store and, by Bureau radio, requested assistance. McLean, who was hiding behind the wheels of a box trailer parked on the Caldor loading dock, fired on the responding police officers and SAs and they

(CONTINUED - OVER)

returned fire. A total of 43 rounds were fired, 31 by three PGCPD officers and 12 by three SAs. After receiving numerous non-fatal bullet wounds, McLean took his own life by shooting himself with the 9mm Beretta taken from the PGCPD officer who was killed in April 1995.

Observations and Recommendations of the SIRG

The SIRG reviewed the above synopsized incident with the intent to (1) evaluate the application of deadly force; (2) provide the Director with an evaluative analysis, observations, and recommendations for corrective actions from an operational standpoint (if any); (3) provide recommendations concerning training and/or safety issues and, (4) provide recommendations for administrative action if deemed necessary.

The SIRG concluded that no FBI employees' actions contributed to or in any way could be construed to have been a causal factor in the tragic death of SA William Christian, Jr. The predisposition of his killer was well documented. Unfortunately, his last law enforcement victim was SA Christian whom he chose to cowardly ambush as he did his other law enforcement victims.

The events that immediately transpired following the shooting of SA Christian were found to be logical and appropriate given the circumstances faced by the law enforcement officers. The SIRG concluded that the three SAs who fired a total of 12 rounds either at the subject or at a disoriented police dog did so in compliance with the FBI's deadly force policy. The SIRG concluded that no administrative action was warranted for those three SAs and accordingly, none is recommended.

As documented in the report, the hunt for the subject Ralph McLean was intense, and highly technical equipment was used in tracking him. The Washington, D.C., MPD and the PGCPD both wanted McLean captured for assaults/killings of their own officers. The SIRG recognized the inherent problems in command and control of joint operations with local law enforcement agencies. Compounding the inherent problems was the PGCPD's refusal to allow the FBI direct access to the source being used to lure the subject into the area. The SIRG also noted that the Baltimore Division has responsibility for relations with the PGCPD and clearly has responsibility for any FBI enforcement actions occurring in its territory.

(CONTINUED - OVER)

FD-204 (Rev. 3-3-59)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: IIP [redacted] Office: FBIHQ
Date: March 3, 1994

Field Office File #: Bureau File #: 66-19157-21

Title: SHOOTING INCIDENT
INDIANAPOLIS, INDIANA
JANUARY 31, 1994

Character: ADMINISTRATIVE INQUIRY

Synopsis: [redacted] and [redacted] were suspects in 15 bank robberies which had been committed in the Indianapolis metropolitan area. In nine of those robberies, two black males had entered the victim bank, and in the other six of those robberies, only one black male had entered the victim bank. In all of the robberies, handguns had been displayed and ski masks had been worn by the robbers. One or more stolen GENERAL MOTORS cars had been used in each of the 15 bank robberies.

b6
b7C

Both [redacted] and [redacted] were known to have lengthy criminal records, including violent action against law enforcement officers. For example, on 11/30/93, [redacted] was stopped for questioning by Indianapolis Police, and attempted to ram a responding police vehicle with the vehicle he was driving. He fled on foot and was eventually arrested after wrestling with two police officers. During January, 1994 [redacted] was stopped by an Indianapolis Police Officer. Police reports revealed that [redacted] struck the officer in the head and body, then drove away dragging the officer alongside [redacted] vehicle. While dragging the officer, [redacted] grabbed a gun from the seat of his car and temporarily escaped.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

The Indianapolis FBI conceived a plan of action to acquire sufficient probable cause to charge and arrest [redacted] and [redacted] for one or more of the 15 bank robberies believed to have been committed by them or for any future crimes they may be found to have perpetrated.

Notice and general concepts of the plan were provided on 1/26/94 to representatives of the Indianapolis banking community, during a meeting hosted by the SAC and other agents at the Indianapolis FBI Office. Details of the plan were discussed and formulated on 1/28/94 at a meeting of representatives of the FBI, INDIANA STATE POLICE, INDIANAPOLIS POLICE, and MARION COUNTY SHERIFF'S OFFICE, which occurred at the INDIANA STATE POLICE Post 52 in Indianapolis. b6 b7C

The FBI was documented as the lead agency, and Case Agent/SWAT Leader [redacted] presented a written Operations Order/Warning Order to SAC WAYNE R. ALFORD. The plan was approved by SAC ALFORD, and on 1/31/94, a briefing for involved personnel took place at the INDIANAPOLIS STATE POLICE Post 52. This was an "ad hoc" group and not subject to formal memorandum of understanding. Copies of the Operations Order/Warning Order were given to participants. The stated purpose was to conduct a physical surveillance of [redacted] and [redacted] "to develop additional probable cause so as to be able to federally charge one or both suspects with a past or future armed robbery and gun violation."

The plan specified that a bank robbery would be prevented if at all possible and if a specific bank were known to have been targeted for robbery, but that vehicle thefts would not be immediately interdicted unless accompanied by physical assault upon a person/victim.

The planned surveillances were to be conducted from 10:00 a.m. to 3:00 p.m., 1/31/94 through 2/4/94, by two ground teams, supported by INDIANA STATE POLICE and FBI aircraft. Ground Team "A" was led by FBI SA [redacted] and was assigned coverage of WARD and primary responsibility for any necessary arrest(s). Ground Team "B" was led by FBI SA [redacted] and was assigned coverage of [redacted] b6 b7C

After an 8:00 a.m. briefing, 1/31/94, the surveillance was initiated by the following personnel:

Team "A"

SA [redacted] FBI
SA [redacted] FBI
SA [redacted] FBI
Corporal [redacted], MCSO
Detective [redacted] MCSO
Detective Sergeant [redacted] ISP
Lieutenant [redacted] IPD
Officer [redacted], ISP

b6
b7C

Team "B"

SA [redacted] FBI
SA [redacted] FBI
Officer [redacted] ISP
Master Trooper/Investigator [redacted] ISP
First Sergeant [redacted] ISP
Sergeant [redacted] PD
Sergeant [redacted], ISP
Detective Sergeant [redacted] ISP

ISP Aircraft

Master Trooper/Investigator [redacted] ISP, Observer
Sergeant [redacted] ISP, Pilot

FBI Aircraft

SA [redacted] Pilot
SA [redacted] Co-pilot/Observer

By agreement of the air crews, the ISP plane was assigned to provide air support from the initiation of surveillance until 1:00 p.m., and the FBI plane from 1:00 p.m. until termination. The FBI aircraft and crew, although airborne at 1:00 p.m., 1/31/94, did not take part in the surveillance.

The surveillance was initiated at approximately 10:00 a.m., 1/31/94; however, it was determined shortly after 10:00 a.m. that [redacted] and [redacted] were together at [redacted] residence. Thus, Team "A" and Team "B" joined at the latter location.

b6
b7C

Loose ground surveillance, augmented by intense air surveillance, revealed that [redacted] and [redacted] conducted, together, some apparently personal errands during the

morning of 1/31/94. However, later in the morning, both men were observed in a stolen, gold 1986 Oldsmobile, hereafter referred to as the Gold Olds.

From 11:35 a.m. until 12:19 p.m., [redacted] and [redacted] were observed, in the Gold Olds, to pass by eight different banks, the last of which was the UNION FEDERAL SAVINGS BANK, 6714 Rockville Road, the ultimate robbery target.

At 12:39 p.m., [redacted] and [redacted] entered the parking lot of BEN DAVIS HIGH SCHOOL, and there were observed stealing a blue 1985 Olds Cutlass, hereafter referred to as the Blue Olds. b6 b7C

At approximately this point, SA [redacted] joined the surveillance. He had been working in the Indianapolis Office, but upon hearing of [redacted] and [redacted] activities, departed the office because he believed [redacted] and [redacted] were going to commit a robbery.

At approximately 12:45 p.m., [redacted] and [redacted] placed the Gold Olds in a residential area about three-tenths of a mile north of the UNION FEDERAL SAVINGS BANK, with the hood up, emergency flashers on, and the engine running.

At or about 12:46 p.m., [redacted] and [redacted] drove through the parking lot of the UNION FEDERAL SAVINGS BANK in the Blue Olds, however continued to drive to the rear of a nearby KROGER FOOD STORE, where one of them exited the vehicle briefly.

It should be noted that, at this point in time, the involved law enforcement personnel believed that [redacted] and [redacted] intended to commit a robbery, but none was certain as to the location of the robbery--the KROGER FOOD STORE, UNION FEDERAL SAVINGS BANK, or some other bank which had been studied on 1/31/94. b6 b7C

The majority of the ground personnel took positions near the Gold Olds at Daisy Lane and Heather Drive, and a smaller contingent remained in the area of the UNION FEDERAL SAVINGS BANK. The engine of the Gold Olds was turned off, and ignition wires were pulled from its engine by ISP Officer [redacted]

[redacted] and [redacted] departed the area of the KROGER FOOD STORE and then drove through the residential area adjacent to the UNION FEDERAL SAVINGS BANK. At or about 1:07 p.m., [redacted] and [redacted] entered and robbed the

UNION FEDERAL SAVINGS BANK by display of handguns, completing same in about one minute.

The fact of the armed robbery was communicated to all of the law enforcement personnel by radio, and within a very short period of time [redacted] as driver, and [redacted] as passenger, arrived in the Blue Olds at the location of the Gold Olds.

Both [redacted] and [redacted] exited the Blue Olds, moved to or toward the Gold Olds, and [redacted] was observed by numerous officers to be carrying a handgun. Numerous Agents/Officers began to converge upon [redacted] and [redacted], identified themselves verbally and by wearing of raid jackets with respective law enforcement agency logos boldly displayed, and ordered both [redacted] and [redacted] to submit to arrest through phrases such as "get down," "freeze," etc. [redacted] and [redacted] ignored the commands and reentered the Blue Olds, both in the front seat, with [redacted] as driver and [redacted] as passenger. b6 b7C

ISP Officer [redacted] had driven his unmarked police vehicle to a position behind the Blue Olds, and exited his vehicle with his shotgun, ordering [redacted] and [redacted] to stop. [redacted] shifted the vehicle to reverse gear and backed toward Officer [redacted] at which time Officer [redacted] fired one round of #4 shot from his shotgun into the right rear tire of the Blue Olds. [redacted] shifted the Blue Olds into a forward gear, began spinning the tires on the icy road, and drove off the road into a yard.

While the subjects continued their escape attempt, SAs [redacted] and [redacted] respectively, fired MP-5 (9mm) and 12-gauge shotgun (rifled slug) at [redacted] and [redacted] While SAs [redacted] and [redacted] were firing at the passenger side of the vehicle, ISP Officer [redacted] fired several shots from his 9mm Beretta at the left rear tire of the Blue Olds. ISP Officer [redacted] then drove from the east and collided with the Blue Olds in an effort to stop the vehicle. b6 b7C

During this period of time [redacted] sustained all of his wounds. While the Blue Olds remained in the grass of the yard at Daisy Lane and Heather Drive, [redacted] exited or was pushed from the Blue Olds and was taken into custody.

[redacted] moved into the driver's seat and continued his flight, and ISP Officer [redacted] ran along the left side

of the Blue Olds, jumped over [redacted] on the ground, and continued firing his 9mm Beretta into the driver's side area of the vehicle until his weapon was empty.

[redacted] was able to push ISP Officer [redacted] vehicle to the side and reenter Daisy Lane. As [redacted] began to move east on Daisy Lane, SA [redacted] fired a second rifled slug through the rear window of the Blue Olds at [redacted] SA [redacted] also fired additional rounds from his MP-5 at the rear of the Blue Olds.

b6
b7C

As the Blue Olds proceeded east on Daisy Lane, ISP Officer [redacted] also fired three 9mm rounds at the rear of the vehicle.

After the Blue Olds had traveled about one-half block east on Daisy Lane from Heather Drive, ISP Officer [redacted] drove west on Daisy Lane, directly at the Blue Olds, causing the Blue Olds to veer right or south and through a yard. At that point, ISP Officer [redacted] fired three 9mm rounds at the driver's side of the vehicle. These were the last shots fired. A short vehicle and foot pursuit ensued and resulted in [redacted] arrest.

A .38-caliber revolver, all of the money taken in the robbery, as well as a .380 Walther semiauto pistol were recovered at the scene of the original altercation with [redacted] and [redacted] The .38-caliber revolver was found on [redacted] person, and the .380 Walther was apparently dropped by [redacted] at or after the point at which he reentered the Blue Olds.

Six law enforcement officers fired their weapons in their efforts to apprehend [redacted] and [redacted] as follows:

| Name | Weapon | Caliber | Estimated Rounds Shot |
|---|---|---|---|
| [redacted] (ISP) (Heather Drive/Daisy Lane) | 12G/Shotgun | #4 shot | 1 |
| [redacted] (FBI) (Heather Drive/Daisy Lane) | 12G/Shotgun | Rifled Slug | 2 |
| [redacted] (FBI) (Heather Drive/Daisy Lane) | H&K MP5/SF | 147/HP 9mm | 18-20 |
| [redacted] (ISP) (Heather Drive/Daisy Lane) | Beretta | 9mm | 15-16 |

b6
b7C

[redacted] (ISP) Beretta 9mm 3
(Heather Drive/Daisy Lane)

[redacted] (ISP) Beretta 9mm 3
(Daisy Lane/Bauman Avenue)

Estimated total rounds fired:

| | | |
|---|---|---|
| (ISP) | Shotgun | 1 - #4 Shot |
| (FBI) | Shotgun | 2 - Rifled Slug |
| (FBI) | H&K MP5/SF | 18-20 - 9mm 147/HP |
| (ISP) | Beretta | 21-22 - 9mm |

Total Rounds: 42-45

b6
b7C

As a result of the shots fired by law enforcement officers, the following wounds were inflicted:

[redacted]
- gunshot wound to right eye;
- gunshot wound to left upper back, which exited the left upper chest;
- gunshot wound to left wrist/forearm area.

[redacted]
- gunshot wound to mid-upper right arm;
- gunshot wound to left, upper back;
- gunshot wound to left shoulder area;
- gunshot wound to left hand.

No rounds were recovered intact from their bodies.

Throughout the week of 1/31-2/4/94, [redacted] and [redacted] were receiving a variety of medical care, surgically and otherwise, at WISHARD MEMORIAL HOSPITAL, Indianapolis, Indiana.

Both [redacted] and [redacted] were charged in authorized Federal complaints with violations of Title 18, U. S. Code, Sections 2113 and 924(c), for the 1/31/94 bank robbery and use of weapons in the commission of same. Both declined interview.

b6
b7C

Details of this incident will be reported as delineated in the table of contents.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted]

Date 6/27/94

From : [redacted]

b6
b7C

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/16/94
PHILADELPHIA DIVISION

Reference attached report of Inspector-in-Place [redacted] dated 4/14/94 (received 5/4/94).

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

1 - Mr. [redacted]
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr.
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted] Quantico

b6
b7C

(Continued - Over)

FD-204 (Rev. 3-8-07)

Copy to:

Report of:

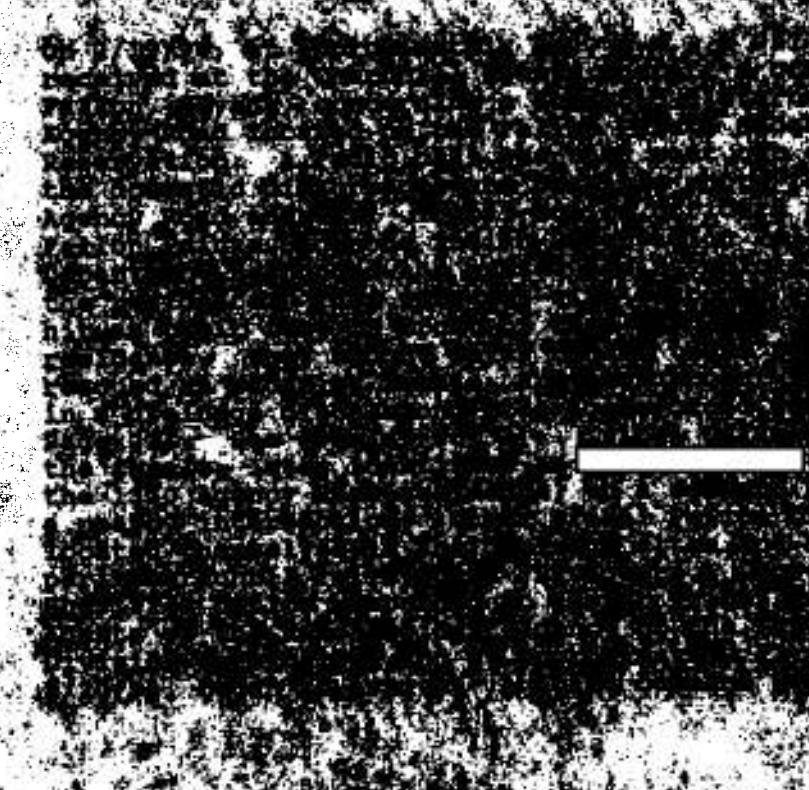
Date:

Field Office File #:

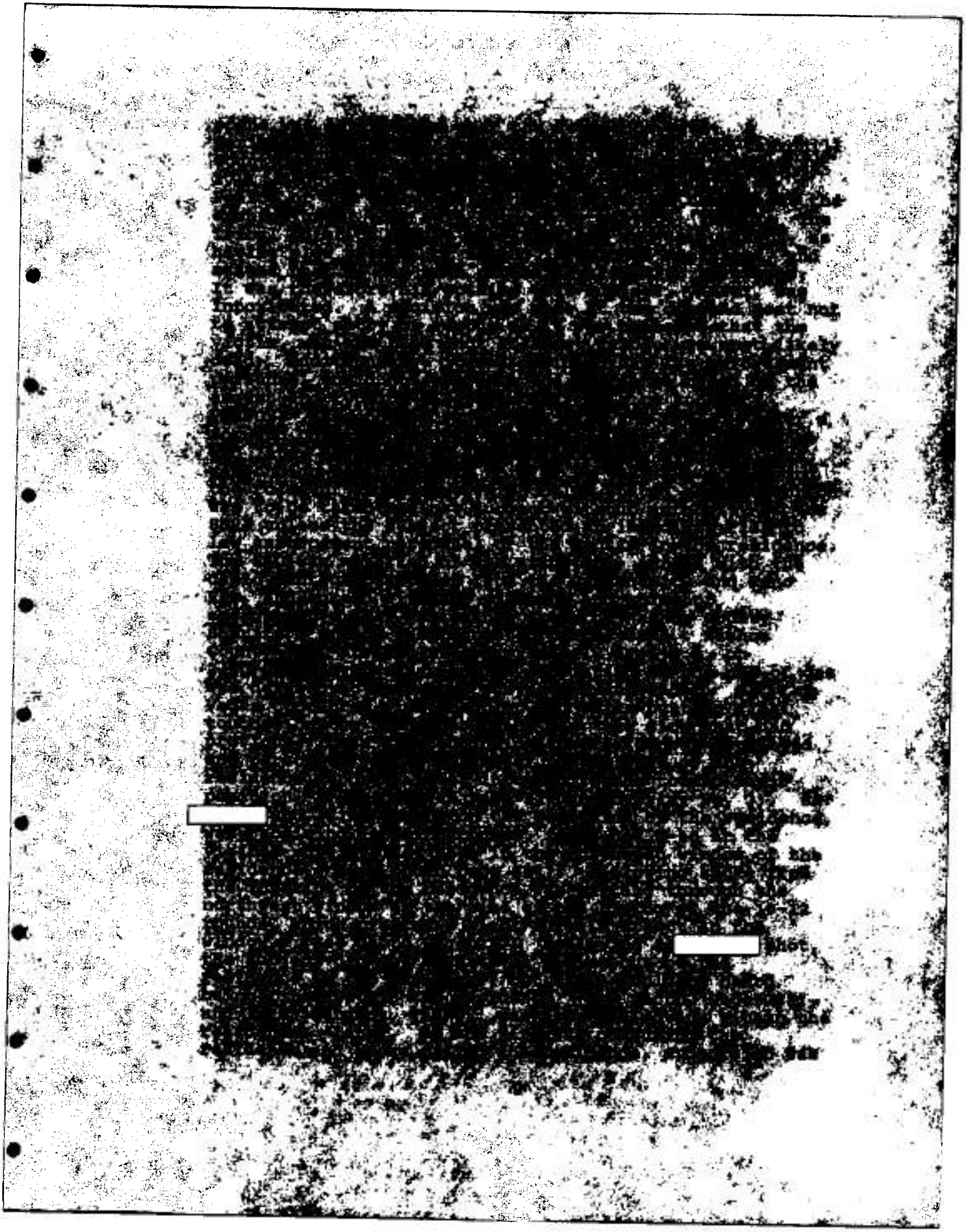
Title:

Classification:

Synopsis:



This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



FD-204 (Rev. 3-3-59)

Copy to:

Report of: SSA [redacted] Office: CHICAGO

Date: March 31, 1964

Field Office File #:

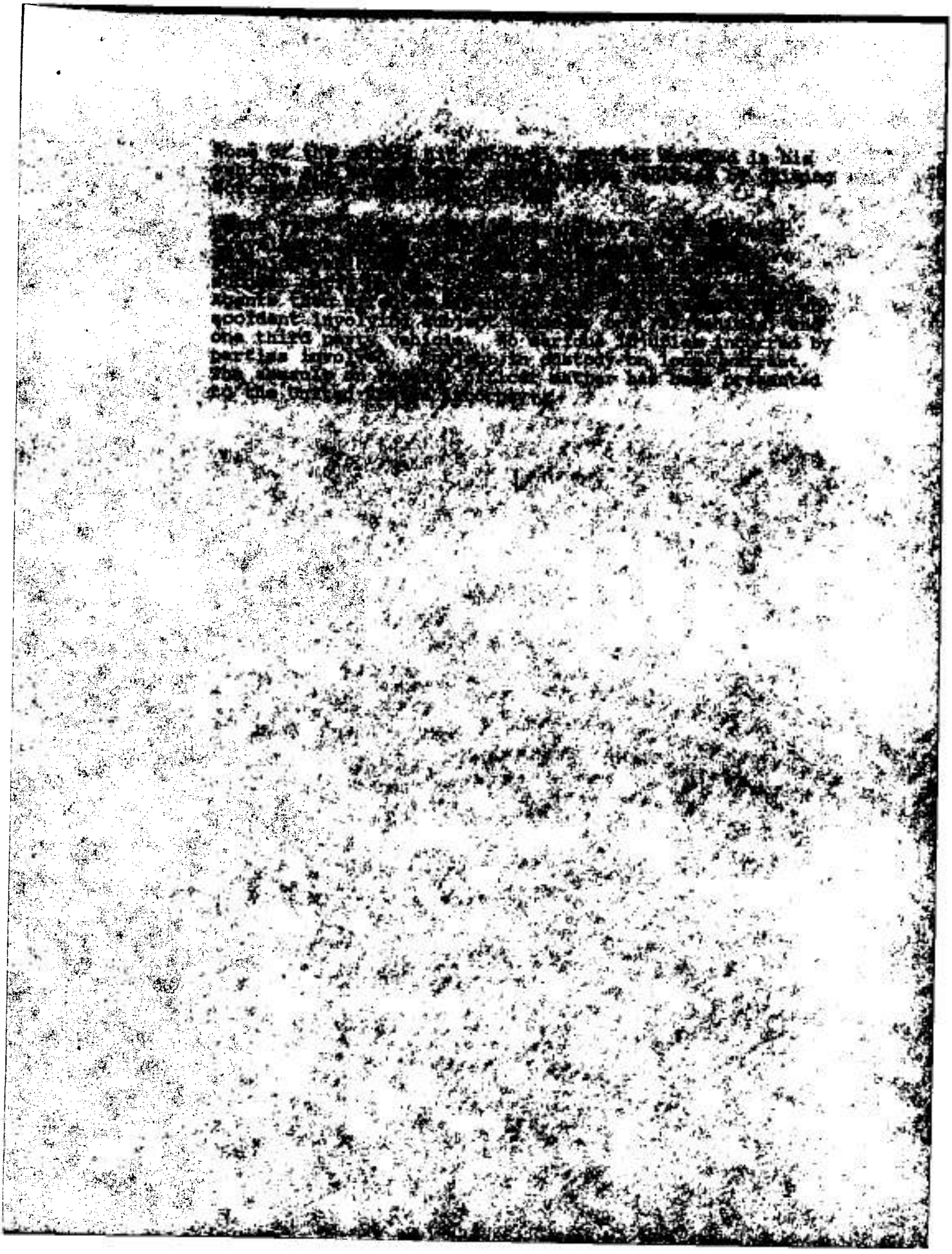
Title:

Character:

Synopsis:

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA J. [redacted] Office: CLEVELAND
Date: April 25, 1994

Field Office File #: 62A-CV-50901 Bureau File #:

Title: SHOOTING INCIDENT INVOLVING
SA [redacted]
NO INJURY
4/1/94
CLEVELAND DIVISION

b6
b7C

Character: ADMINISTRATION INQUIRY

Synopsis: SA [redacted] of the Cleveland Division of the FBI was involved in a Bureau automobile accident when struck brookside by a deer.

On April 1, 1994, SA [redacted] had met an informant at the latter's residence to debrief him while taking him to lunch. Subsequent to the debriefing at a local food vendor, SA [redacted] and his informant were returning to the informant's residence to drop him off before proceeding back to the office. While driving along Ohio State Rt. 322 at approximately 12:30 p.m. in the afternoon, SA [redacted] saw a deer running across the field along the road only moments before it impacted the driver's side of his car causing damage to the rear door panel and shattering the window glass. SA [redacted] maintained control of the vehicle and brought it to a complete stop on the shoulder of the road. He then doubled back to the point on the road that the deer had run into the car and observed the deer lying in the ditch on the side of the road, badly wounded. Fearing that the deer would somehow struggle back into the road and jeopardize the safety of other drivers and concerned about the pain and suffering the animal was in, SA [redacted] elected to dispatch the deer with one shot from his service pistol to the deer's head. There were no witnesses to the incident other than SA [redacted] informant. Thereafter, SA [redacted] contacted the

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

local police department and the Cleveland FBI office to report the incident. A deputy sheriff for Geauga County arrived on the scene, filed a report and arranged for the Ohio State Highway Department to pick up and dispose of the deer's body.

SA [redacted] drove the informant to the informant's residence and then returned to the office. b6 b7C

FD-204 (Rev. 3-2-89)

UNITED STATES DEPARTMENT OF JUSTICE

Copy to:

Report of:
Date: April 20, 1994

Field Office File #:

Title:

b6
b7C

Character:

Synopsis:

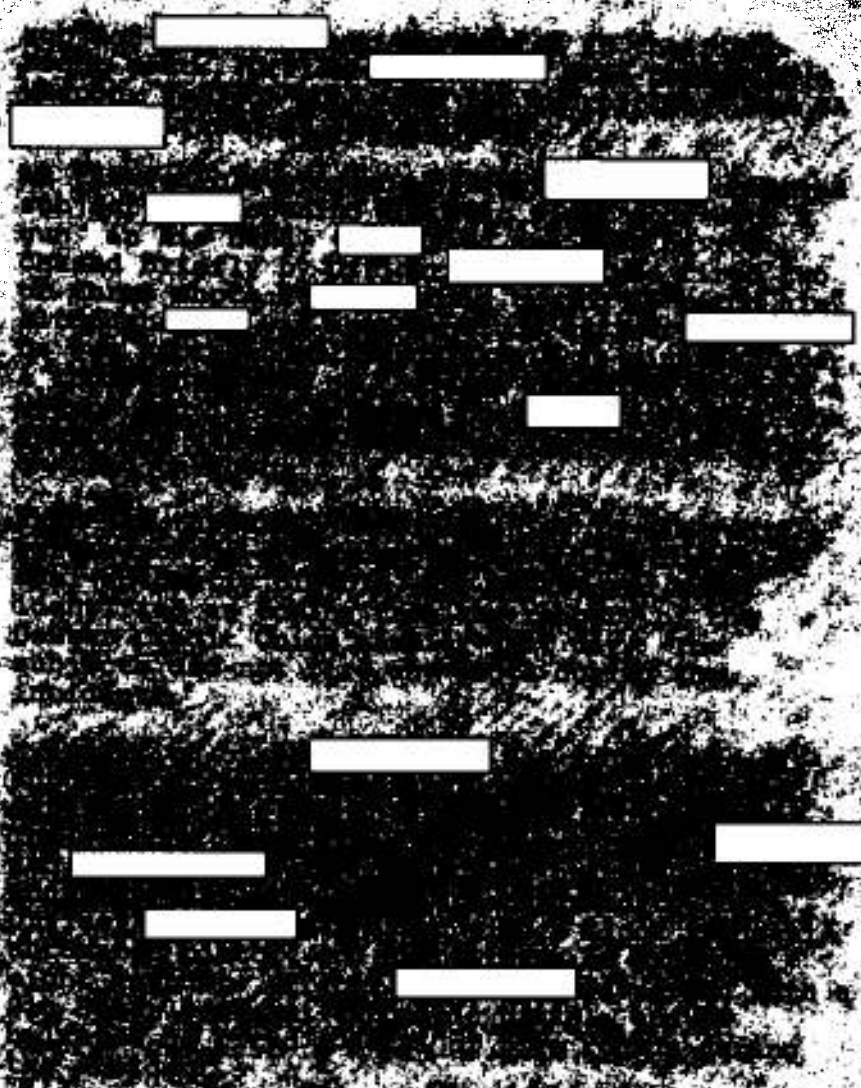
[redacted]

66F-BS-72003

SYNOPSIS: (Cont'd.)

[redacted]

b6
b7C



DETAIL 6

FD-302 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of: SA [redacted] Office: KLMN
Date: May 25, 1994

Field Office File #: 65F-69500 Bureau File #:

Title: SHOOTING INCIDENT
5/15/94
RUBY RIDGE

Character: ADMINISTRATIVE MATTER

Synopsis:

b6
b7C

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted]

b6
b7C

FD-204 (Rev. 3-3-59)

[redacted]

Copy to:

Report of:

Date:

Field Office File #:

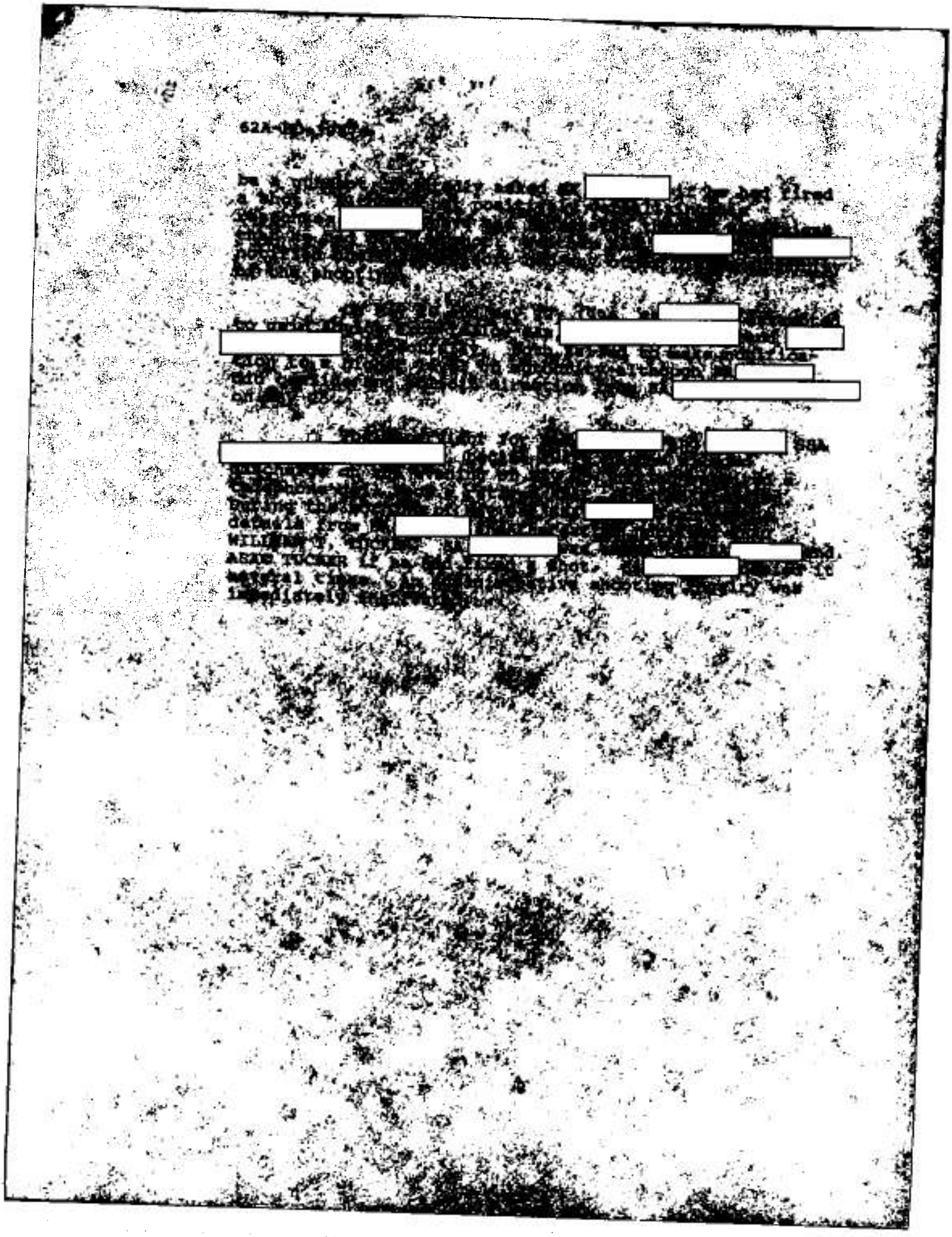
Title:

Character:

Synopsis:

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



FD-302 (Rev. 3-3-95)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Captain [redacted] ABI, Birmingham, Alabama

Report of: AGAC Jack F. CARLISS
Date: July 29, 1994

Field Office File #: 63F-BH-211651

Bureau File #:

Title: SHOOTING INCIDENT
BIRMINGHAM DIVISION
7/18/94

Character: ADMINISTRATIVE INQUIRY

Synopsis: [redacted] and state

[redacted] b6 b7C b7D

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] incident was a Highway
[redacted] with that
[redacted] than to
[redacted] a .45 caliber
revolver and [redacted] which were also found in his
vehicle.

[redacted]

DETAILS:

FD-518 (Rev. 2-17-82)

Report of: ASAC RICHARD C. STAVER
Date: August 10, 1994

Office: CLEVELAND

Field Office File #: 62A-CV-51465

Bureau File #:

Narrative of Offense: The criminal investigation which initiated the pursuit, and ultimately the July 29, 1994 shooting incident, is entitled [redacted]; CHARTER ONE BANK, 6555 PEARL ROAD, PARMA HEIGHTS, OHIO; 7/9/94; BR(A); OO: CV", file number 91A-CV-51378. [redacted] is also a suspect in eight other bank robberies in the Cleveland, Ohio area. b6 b7C

At the time of the shooting incident on July 29, 1994, [redacted], date of birth: [redacted] FBI #: [redacted] had been charged with bank robbery, in violation of Title 18, Section 2113(a), United States Code, and a warrant was issued by United States Magistrate Judge Patricia A. Hemann on July 12, 1994.

Participating in the apprehension of [redacted] were members of the Cleveland/Cuyahoga County Fugitive Task Force (FTF), which included Federal Bureau of Investigation (FBI) Special Agent (SA) [redacted] SA [redacted] SA [redacted]; Sergeant [redacted] Cleveland Police Department; and Deputy Sheriff [redacted] Cuyahoga County Sheriff's Office; as well as FBI Supervisory Special Agent (SSA) [redacted] and FBI SA [redacted] Acting on investigative information as to the specific whereabouts of [redacted] at approximately 12:01 a.m., on July 29, 1994, the FTF, under the on-scene supervision of SSA [redacted] attempted to apprehend [redacted] at [redacted], South Euclid, Ohio. Upon meeting near the scene, a plan was developed and specific assignments were made. All personnel were wearing protective vests and raid jackets. [redacted] and [redacted] were assigned to search the house and SSA [redacted] and [redacted] covered the outside. The arresting team, after announcing themselves, entered the house in search of [redacted] Upon searching a bedroom, [redacted] observed [redacted] jumping out of a first floor window and escaping on foot. Sergeant [redacted] attempted to pursue [redacted] through the open window and accidentally discharged his shotgun. As [redacted] escaped on foot through the backyard, FBI b6 b7C



This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Agents and law enforcement personnel pursued him. SA [redacted] while running across Suffolk Street, tripped on the curb while attempting to holster his weapon and accidentally discharged two rounds from his Sig Sauer 9MM pistol. As the pursuit continued, [redacted] was running in very low light conditions, through backyards and over fences. At one point, SA [redacted] was behind [redacted] and observed him pause by a fence, holding what appeared to [redacted] to be a weapon. [redacted] shouted "FBI" and when [redacted] did not stop [redacted] shot one round from his S&W 10MM pistol. [redacted] jumped over the fence and [redacted] pursued him and tackled him to the ground. [redacted] strongly resisted and [redacted] was immediately assisted by SA [redacted] and the other members of the FTF. [redacted] was handcuffed and transported to the Cuyahoga County Jail. There were no injuries as a result of the four discharges and no apparent property damage. No weapon was found on or near [redacted].

b6
b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC ANTHONY A. BETZ
Date: September 7, 1994

Office: BALTIMORE

Field Office File #: 66F-BA-84396

Bureau File #: 66A-BA-84396

Title: SHOOTING INCIDENT
BALTIMORE DIVISION/SMMRA
SEPTEMBER 2, 1994

Character: ADMINISTRATIVE INQUIRY

Synopsis: This administrative inquiry was initiated upon receipt of information from SA [redacted] on 9/2/94 at approximately 1:30 PM, wherein SA [redacted] stated that during an arrest of a subject believed to be armed and dangerous, she fired two rounds from her FBI issued weapon. SA [redacted] assigned to Safe Streets Squad in the Southern Maryland Metropolitan Resident Agency (SMMRA) and a member of the arresting party, was chasing a wanted subject on foot when she observed the subject reaching into his pants. SA [redacted] thinking that the subject was reaching for a gun and was about to turn and fire, fired two rounds at the subject. Both rounds missed the subject as both the agent and subject were running over uneven terrain. The subject was thereafter arrested after a brief foot chase.

b6
b7C

-C-

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

66F-BA-84396

DETAILS:

The Baltimore Division, in the Southern Maryland Metropolitan Resident Agency, had been conducting a joint investigation with the Prince George's County Police Department under 92D-BA-76761 entitled Violent Drug Gangs in the Southern Maryland Metropolitan Territory; ITAR - VIOLENT CRIME; OO: BA, code named operation HORNET. The focus of this investigation was to bring pressure on open air on crack markets being operated in Prince George's County, Maryland in an attempt to gather intelligence about drug trafficking in the Suburban Counties boarding Washington, DC.

On August 25, 1994 a federal search warrant was served at a Prince George's County residence under that investigation, seeking cocaine and firearms. A subject later identified as [redacted] fled the scene on foot. Previous informant information had reflected that [redacted] was always armed with a small caliber pistol and that he would hide it in his waistband or crotch. Informant information also reflected that [redacted] had been involved in a drive by shooting in Prince George's County several weeks prior to the search. SA [redacted] determined that [redacted] was wanted on drug trafficking charges in the state of Virginia, and initiated a preliminary inquiry under the Unlawful Flight to Avoid Prosecution category.

On September 2, 1994 SA [redacted] a Maryland State Police Sergeant and two other Special Agents stopped a vehicle in which they believed [redacted] was riding. While the subject was being questioned, he broke and ran with the agents in pursuit. As [redacted] was running into a heavily wooded area SA [redacted] observed [redacted] reaching into his pants and believing that he was about to turn and fire a handgun, SA [redacted] fired two nine millimeter rounds at [redacted] from her FBI issued weapon. OTT was not hit, continued running for a short distance and was apprehended by other agents.

b6
b7C

The following interviews were conducted regarding this incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: MIAMI
Date: October 11, 1994

Field Office File #: 66F-HQ-71227 Bureau File #:

Title: SHOOTING INCIDENT
9/9/94
MIAMI DIVISION

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: On September 9, 1994, at approximately 5:35 PM, during an arrest attempt by the Miami Division's Violent Crimes/Fugitive Task Force, the subject of the arrest, ARLIX FUENTES, a white male, date of birth 1/21/58, was shot and killed. Law enforcement officers involved in the shooting incident were FBI SA [redacted] Metro-Dade Police Department (MDPD) Detective [redacted] Florida Department of Law Enforcement (FDLE) SA [redacted] and Hialeah Police Department (HPD) Detective [redacted], who is not a member of the Fugitive Task Force, was present to assist in identifying the subject whom he had previously arrested.

FUENTES, who was a federal fugitive charged with Unlawful Flight to Avoid Confinement (UFAC), escaped from a Dade County Florida prison on 4/8/94 were he was serving a life sentence for attempting to kill a Florida Highway Patrolman.

Anticipating contact with FUENTES, members of the Fugitive Task Force followed FUENTES' girlfriend [redacted] a white female, date of birth [redacted] on 9/8/94 with negative results. On 9/9/94 at approximately 5:30 PM, she was followed to an area near the intersection of Southwest 62 Avenue and 15 Street, Miami where subject FUENTES was observed entering the passenger

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SAC COMMENTS:

SAC, Miami has reviewed all facts and circumstances surrounding this shooting incident and has concluded that SA [redacted] actions were justified. The fact that SA [redacted] discharged his weapon was necessary inasmuch as he was protecting his own life, as well as the lives of other law enforcement officers on the scene.

b6
b7C

SAC, Miami recommends no further action.

FD-204 (Rev. 3-3-59)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SSA [redacted] Office: SAN JUAN
Date: October 28, 1994

Field Office File #: 66F-HQ-19157 SUB 48H Bureau File #: 66F-HQ-19157

Title: SHOOTING INCIDENT
SAN JUAN DIVISION
8/31/94

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: During the morning hours of 8/16/94, San Juan Special Agent (SA) [redacted] was the victim of an attempted robbery at his residence. SA [redacted] was the [redacted] of San Juan's "Golden Trash" investigation (272A-SJ-30700) into several major money laundering organizations operating in Puerto Rico and the Caribbean. The first phase of the takedown of this case was carried out on 8/16/94.

Investigation established that SA [redacted] was at his residence in Dorado, Puerto Rico, preparing to leave for work at the FBI Office. At approximately 7:30 a.m., SA [redacted] notified SA [redacted] that he had encountered problems with starting his Bucar, which was parked on the street in front of his residence. He opened the hood to look at the engine and determine what the problem might be. After opening the hood and deciding to wait for one of the local security guards to give him a battery jumpstart, SA [redacted] headed back toward his house and sat in the porch area. While he was sitting down, he was accosted by a masked man pointing a revolver at him. The gunman had arrived riding a bicycle. The gunman ordered SA [redacted] to open the house. SA [redacted] unarmed and fearing that once inside the house the gunman would kill him, told the gunman that he did live there, however, he was staying at the residence

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

while visiting the island. The gunman asked if there was someone else in the house and if SA [redacted] could get inside, to which SA [redacted] responded that there was nobody there, he could not open the house, and the house was alarmed and the alarm would go off it he or the gunman attempted to enter. SA [redacted] advised the subject that the residence was occupied by a lady, who had probably gone to the grocery store. The gunman then decided that they would both wait for her to arrive. He ordered SA [redacted] toward the far end of the porch which is located on one side of the residence and where they would not be visible from the street. The gunman held SA [redacted] there for approximately one and one-half hours during which SA [redacted] noticed a large tattoo of a woman on one of the gunman's calves and that he had a second large frame revolver tucked under his shirt. The mask worn by the gunman was of a gray color and from a sweatshirt-like material sewn at the top and with two holes cut for the eyes. The mask extended below the gunman's chin, and he apparently attempted to conceal his real voice by biting on a piece of the mask as he spoke. The gunman seemed very cautious and kept more than an arm's distance from SA [redacted] at all times. He also kept SA [redacted] seated while he stood most of the time.

b6
b7C

After approximately one and one-half hours of waiting, while he asked SA [redacted] if there were money and jewelry inside the house, the gunman ordered SA [redacted] to open the door, even if the alarm sounded, and told SA [redacted] that if the alarm sounded and SA [redacted] did not silence it, he would kill SA [redacted] SA [redacted] walked to the front door, whereby the gunman came close enough that SA [redacted] was able to shove the arm with the gun up and away from himself. As he did so, the gunman fired one shot into the air. SA [redacted] was able to get inside the house and close the door behind him, proceeding then to get his Bureau weapon and return to the front door. As he did so, SA [redacted] was yelling at the gunman and looking through the windows toward the area where the gunman had been but he saw no trace of the gunman. SA [redacted] then opened the front door expecting that the gunman would have fled the area. As he opened the door, SA [redacted] saw that the gunman was standing on the same spot where he had left him and saw that the gunman was raising his revolver toward him. SA [redacted] attempted to back away from the door at the same time that he raised his weapon and fired several shots at the gunman. SA [redacted] does not recall if the gunman fired any shots at

b6
b7C

this point. SA [redacted] fired approximately two shots from inside his residence before the gunman started to back away and two more shots outside but directly in front of his doorway. SA [redacted] then lost sight of the gunman. He retrieved another pistol magazine from inside the residence before pursuing the gunman. SA [redacted] saw the gunman again after running past three houses adjacent to his own to the edge of a golf course. The gunman, riding his bicycle, turned around and fired at SA [redacted] SA [redacted] returned fire, firing approximately four rounds. The gunman continued on his bicycle through the golf course until he was able to exit through a hole in the perimeter fence leading to a street and disappearing from view.

b6
b7C

Upon receiving notification of the incident described above, the Criminal Assistant Special Agent in Charge, the Acting Supervisory Special Agent and the Reactive Squad agents responded to the residence. Liaison was initiated with the Police of Puerto Rico (POPR) at the scene and potential witnesses were located. Several neighbors and golf players reported hearing shots and seeing the cyclist leaving the area. A neighborhood investigation conducted near the area where the subject exited the golf course into the adjacent neighborhood of Mameyal developed information that a man riding a bicycle had been seen in the area at the time in question. This man was known to have a large tattoo on one of his calves and had been arrested previously by POPR for burglary. Neighbors identified this individual by a street name of [redacted]" Local POPR officers located a police officer from the area who knew of an individual named [redacted] Further inquiries located the suspect's residence where the family was interviewed and consent to search the suspect's room was obtained. A gray sweat pant was located, which had been cut around the mid-thigh area with a section missing, that would fit the description of the material used to make the gunman's mask. The suspect was located at his grandparents' home a few blocks away where several items of clothing fitting SA [redacted] description of the clothing worn by the gunman were located after consent to search was obtained. SA [redacted] viewed a tattoo on the suspect's left calf which he identified as the same as that seen on the gunman. A short distance away, SAs located a minor who had loaned his bicycle to the suspect the previous night. The bicycle was located and it fit the one described by SA [redacted] in detail. POPR took possession of the bicycle.

b6
b7C

The facts of this matter were related to AUSA [redacted] who instructed that, given the circumstances and SA [redacted] recent UCA work, investigation should continue. b6 b7C

The POPR and local DA determined that they had enough information and material evidence to hold the subject until a lineup could be conducted on 9/1/94. He was held overnight at the Bayamon Detention Center. The subject had been released from jail approximately 17 days prior where he was serving time for armed robbery. Preliminary record checks indicate no federal criminal record; however, several arrests and convictions locally for armed robbery, threats and weapons violations were found.

Several latent prints were lifted at the scene and will be analyzed to determine if they belong to the subject.

The subject has refused to cooperate in this matter. While at the grandparents' residence, he attempted to convince the grandparents not to grant consent to search the residence before he was removed by POPR.

On 9/2/94, a criminal complaint was filed against subject. [redacted] was charged with violation of Title 18, U.S. Code, Section 111. On the same date, an arrest warrant was issued for [redacted] b6 b7C

On 9/1/94, agents of the POPR, Criminal Investigation Corps (CIC), Bayamon, Puerto Rico, charged [redacted] in the Tribunal Superior de Puerto, San Juan, Puerto Rico. He was charged with violating four separate laws related to the assault of SA [redacted] The local magistrate remanded [redacted] into the custody of the local marshals and held him on $80,000.00 bond. [redacted] was then incarcerated in the Bayamon Judicial Jail.

On 9/6/94, [redacted] was arrested by agents of the FBI. U.S. Magistrate ARENAS, San Juan, Puerto Rico, ordered that he be detained without bond until his scheduled 9/20/94 preliminary hearing.

Subsequent to the arrest and indictment of subject [redacted], SA [redacted] has stated that it is possible subject is not the one who assaulted him. As a result, AUSA [redacted] stated on 10/25/94 that he will contact the local prosecutor to determine if subject pleads out in local court, the federal charges will be dropped. b6 b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: ASU, PERSONNEL DIVISION

Report of: SSA [redacted] Office: DALLAS
Date: December 22, 1994

Field Office File #: 62-A-DL-71228 Bureau File #:

Title: SHOOTING INCIDENT INVOLVING [redacted]
SPECIAL AGENT (SA)
DALLAS DIVISION
12/10/94

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: This inquiry concerns a discharge of a firearm by SA [redacted] when he was confronted by a charging rottweiler dog.

Enclosed for the Bureau is the documentation that has been prepared regarding this matter.

SAC, Dallas determined, based upon policy and the details of the circumstances regarding this shooting incident that SA [redacted] was justified in firing his Bureau issued pistol at the charging dog.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

DETAILS:

On the night of Saturday, December 10, 1994, SA [redacted] was babysitting his children and the children of a neighbor at the residence of his estranged wife. Upon the return of SA [redacted] wife, he left the residence to return to his own residence. As SA [redacted] was walking to his personal vehicle, he was charged by a neighbor's rottweiler dog. SA [redacted] fired at the charging dog one time, striking the dog in the front chest and causing the dog to run away. b6 b7C

Immediately after the shooting of the dog occurred, SA [redacted] called the Dallas Office of the Federal Bureau of Investigation (FBI) and asked the office personnel to contact SSA [redacted] and notify him of the incident. This was immediately accomplished.

On December 11, 1994, SA [redacted] submitted a memorandum to the SAC, Dallas, detailing the shooting incident.

On December 14, 1994, [redacted] the owner of the rottweiler dog that was shot by SA [redacted] was interviewed. He confirmed that on the night of December 10, 1994, his dog was loose in the neighborhood and had been shot in the front left chest. [redacted] advised that he had the dog examined by a veterinarian on the same night that he was shot and the veterinarian confirmed that the dog had been shot in the front left chest with the exit wound just behind the dog's left shoulder.

Interviews conducted of the neighborhood residents on December 14, 1994, December 15, 1994, and December 20, 1994 determined that no one actually witnessed the actual shooting, but several persons advised that they had seen the rottweiler dog of [redacted] running loose in the neighborhood on the night of December 10, 1994.

On December 14, 1994, an interview of [redacted] determined that she had seen the rottweiler dog on the night of December 10, 1994, in the immediate area of [redacted] residence. Even though she did not witness the actual shooting, she saw the dog immediately prior to the shooting in an area where it could have confronted persons leaving from the front of the residence of [redacted] residence. b6 b7C

On December 20, 1994, an interview was conducted with [redacted] a neighbor of [redacted] She advised that she had previously seen [redacted] rottweiler dog chase a young boy and it is her opinion that the dog would have caused bodily harm to the boy had the dog not hooked its dragging chain around an object.

Therefore, based on the fact that SA [redacted] was confronted by a charging rottweiler dog, placing him in fear of

grievous bodily harm, he was justified in drawing his Bureau issued pistol and firing one time at the dog, striking the dog and causing the dog to run away, thus eliminating the threat to SA [redacted]

b6
b7C

# FBI
# Shooting Incident Report Summaries

# 1994

FD-204 (Rev. 3-3-59)

Copy to:

Report of: SSA [redacted] Office: LAS VEGAS
Date: May 16, 1995

Field Office File #: 62A-LV-28913 Bureau File #:

Title: SHOOTING INCIDENT
May 2, 1995
LAS VEGAS DIVISION

b6
b7C

Character: Administrative Inquiry

Synopsis: On December 15, 1994, SA [redacted] initiated a joint investigation with the Office of Special Investigations, U.S. Air Force, Nellis Air Force Base, Nevada, into the alleged drug trafficking activities of [redacted] a member of the U.S. Air Force stationed at Nellis Air Force Base. [redacted] had been court martialed based on a civilian drug arrest, and sentenced to 18 months custody, a bad conduct discharge and a reduction in rank.

OSI Special Agent [redacted] advised SA [redacted] that [redacted] who at the time was incarcerated in the military jail on the base, had offered to sell controlled substances, [redacted] and making contact with [redacted]

b7D

The U.S. Attorney's Office in Las Vegas, Nevada, had declined prosecution of [redacted] on the case due to the minimal amount of controlled substances being distributed by [redacted] It was decided that [redacted] would be prosecuted by the military authorities. Two controlled drug purchases were made from [redacted] prior to his arrest on May 2, 1995.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[redacted] was permitted to occur on
NAFB at noon on May 1, 1958, [redacted] held by arrested by
OSI agents at that time.

OSI Agent [redacted] advised [redacted] that he was on the
investigation and the purpose of [redacted] was
[redacted] was valid authority for the controlled
purchase of the drugs and the subsequent arrest of [redacted]
The search was executed so as to provide adequate cover
for the agents and the [redacted] in the west entrance
area of the array.

OSI Agent [redacted] advised [redacted] that he did not
want any [redacted] to know that any
subsequent [redacted] involved on his
property. [redacted] the
[redacted] weapon.
[redacted] he had no
purpose [redacted] of [redacted] he did not
believe [redacted] evidence [redacted]

OSI Agents [redacted] and [redacted] then surveilled
the transaction [redacted]
activity. When the [redacted] OSI
Agents [redacted] and [redacted] arrest him.
OSI Agent [redacted] and [redacted] entered the
compartment [redacted]

[redacted] and
the surveillance was terminated shortly after noon on
May 2, [redacted] was observed driving his vehicle, a
Buick [redacted]
surveillance [redacted]
signal [redacted]
[redacted] and [redacted]
[redacted]
area at a high [redacted]

SA [redacted] with OSI Agent [redacted] in the [redacted] vehicle,
followed [redacted]
Las Vegas [redacted]
location [redacted]
to [redacted] at a safe distance.

SA [redacted] [redacted] and
observed [redacted] they
were [redacted]
on [redacted]
SA [redacted]
facing [redacted]
towards [redacted] and [redacted] in front
of [redacted]

OGI Agent [redacted] took up a position [redacted] window of [redacted] vehicle. SA [redacted] exited the vehicle, weapon drawn, and took up a position in front of [redacted] vehicle. At this time SA [redacted] realized [redacted] vehicle had stalled, and [redacted] was attempting to restart his vehicle. SA [redacted] could see one of [redacted] hands on the steering wheel, and the other attempting to restart the vehicle.

SA [redacted] [redacted] vehicle with "FBI" on the [redacted] ordered [redacted] to raise his hands. [redacted] [redacted] vehicle, and drove directly [redacted] SA [redacted] did not [redacted] by [redacted] vehicle. SA [redacted] out of the way of [redacted] vehicle, and fired one round from his Bureau weapon at the left rear tire of [redacted] vehicle. [redacted] sped out of the area.

SA [redacted] and OGI Agent [redacted] returned to their [redacted] vehicle, and attempted to locate [redacted] vehicle. While driving [redacted] vehicle [redacted] [redacted] was not [redacted]

LVMPD officers arrived on the scene, and assisted in the search for [redacted] was arrested a short while later in a parking lot of an apartment complex near his residence.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: 1Lp [redacted]

Report of: November 28, 1994 Office: FBIHQ
Date:

Field Office File #: Bureau File #: 66-19157-26

Title: SHOOTING INCIDENT
LOS ANGELES DIVISION
OCTOBER 13, 1994
ADMINISTRATIVE INQUIRY

b6
b7C

Character:

Synopsis: The events which led to this shooting incident began at approximately 12:30 am on 10/13/94 when [redacted] the 22 year old son of wealthy businesswoman, Mrs. [redacted] was abducted from his Riverside, California, residence by unknown individuals. Approximately 11 hours later, Mrs. [redacted] received a telephone call from her son and he stated that he was being held for a $300,000 ransom. Mrs. [redacted] subsequently contacted the Riverside Resident Agency (RIVRA) of the Los Angeles FBI and a kidnapping investigation was initiated.

Subsequent investigation confirmed that the victim, had in fact, been abducted from his residence and in a telephone call to his mother at 11:24 am on 10/13/94, [redacted] delayed the kidnappers' demands for a $300,000 ransom and told her that she would be contacted again at her residence that evening at 10:00 pm.

The Los Angeles Office kidnapping plan was activated and Assistant Special Agent in Charge (ASAC) RONALD L. IDEN, Associate SAC KATHLEEN MCCHESNEY and SAC CHARLIE J. PARSONS were notified. ASAC IDEN and Supervisory Senior Resident Agent [redacted] agreed that Special Operations Group (SOG) support would be provided, technical assistance, e.g., [redacted] and [redacted] trap/traces, pen register, etc., would be furnished and additional SA personnel would be deployed to the RIVRA. Mrs. [redacted] was

b7E
b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

instructed by SAs to tell the 10:00 pm caller that she was attempting to obtain the money and to call back the next day. On 10/12/94, an emergency Title III was obtained for [redacted] which had been utilized by the abductors, and a trap and trace was placed on [redacted]

At approximately 10:00 pm on 10/12/94, Mrs. [redacted] received a telephone call from an unidentified male who told her that the ransom should be paid on the next day and when she would be contacted with instructions between noon and 1:00 pm on 10/13/94.

[redacted] b3 b6 b7C

ASAC IDEN arrived at the RIVRA during the morning of 10/13/94 and met with SSRA [redacted] and SOG SSA [redacted] to devise a tentative operational plan.

At approximately 12:25 pm on 10/13/94, the victim telephoned his mother regarding the ransom money and he was told to call back in an hour. At approximately 1:15 pm, [redacted] called and relayed the kidnappers' instructions for the mother to take the money to a specific outside pay phone located at the Moreno Valley Shopping Center between 7:00 to 8:00 pm that evening, and await a call for additional instructions.

At approximately 6:00 pm on 10/13/94, SAC CHARLIE J. PARSONS, arrived at the RIVRA to assume on-scene command, and a final operational plan was drawn up.

Surveillance coverage of the public telephone at the Moreno Valley Mall would be furnished by 4 SOG teams, consisting of 24 SAs operating approximately 20 vehicles, with air support. b7E A drop package containing $300,000 in marked money, at [redacted] and a [redacted] had been prepared. It was recognized that due to the shopping center's layout, the access to freeways, as well as the semi-rural setting, it might prove difficult to follow the package and the subject, if the drop occurred at the shopping center. Accordingly, SAC PARSONS instructed that the SOG should follow the subject, but that he should be apprehended if there was the slightest chance that he might elude them. SAC PARSONS also made clear at this meeting that the decision whether to follow or arrest the subject would be made by SOG SSA [redacted] b6 b7C

At approximately 7:30 pm SAC PARSONS contacted SSA [redacted] on his cellular phone to again emphasize that SSA [redacted] was the agent designated "to make the call" to either follow or arrest the subject. SAC PARSONS stressed to SSA [redacted] that if he had any doubt as to the SOG's ability to follow this subject out of the area without losing him, that the subject should be stopped.

The surveillance plan provided that 1 SOG team would escort the mother to the bank for the ransom money, 2 SOG teams would assume primary surveillance of the mother from the bank and at the shopping center, and the last SOG team would serve as reserve or outer perimeter coverage.

SA [redacted], was hidden in the rear seat area of Mrs. [redacted] vehicle and was instructed to radio information to the SOG units after Mrs. [redacted] spoke with the kidnappers. At approximately 6:00 pm Mrs. [redacted] arrived at the mall and received a telephone call at the pay telephone. Upon her return to her vehicle, she informed SA [redacted] that the subject on the phone told her that she was to give the money to a man on a motorcycle wearing a white helmet, that he would come up to her for the ransom. She told the subject on the phone that the motorcyclist should go to the passenger side of the car as the money was heavy. b6 b7C

SA [redacted] told Mrs. [redacted] to make sure the motorcyclist went to the passenger side to prevent him from seeing SA [redacted] SA [redacted] relayed the SOG units that Mrs. [redacted] was to meet the subject on the motorcycle at the Great Western Bank. Mrs. [redacted] then stopped her vehicle in a parking area between the Great Western and the Wells Fargo Banks. As Mrs. [redacted] exited her vehicle she became entangled in her seatbelt and it took a little time to unhook herself. She walked around the vehicle to open the passenger door and pick up the bag of money; however, the passenger side was still locked. Mrs. [redacted] returned to the driver's side, picked up her car keys and again began to open the passenger side door. Apparently, Mrs. [redacted] movements made the motorcyclist suspicious and he drove from the parking area without making direct contact with her.

At this time SOG SA [redacted] began moving toward the Wells Fargo Bank and drove into the shopping center parking lot. As SA [redacted] drove past the banks, he observed the motorcyclist within several feet of the driver's side of Mrs. [redacted] vehicle and it appeared to him that the subject was talking to Mrs. [redacted] When SA [redacted] noted that the motorcyclist adjusted a bag on his shoulder, he radioed "He's got the bag. Are we going to take him?" SBA [redacted] responded that the subject should be arrested to prevent him from leaving the scene. b6 b7C

The motorcycle was now exiting the mall and stopped at a red traffic signal at Center Point Drive. SOG SA [redacted] who was also stationed in the vicinity of the Great Western Bank, heard the radio transmissions of SBA [redacted] and SA [redacted] and he pulled in behind the motorcycle, which was stopped at the red traffic light. At this time, SA [redacted] requested SA [redacted] to drive in front and block the motorcycle from exiting onto Center Point Drive. As SA [redacted] executed this

maneuver, SA [redacted] pulled behind the motorcycle, "nudged" it with his vehicle and the motorcyclist fell to the ground. Both SAs had expected the subject to remain on the ground; however, as they exited their vehicles, he began to run east on the curb along Center Point Drive. When SA [redacted] yelled "FBI, halt or I'll shoot", the subject turned towards him and although SA [redacted] "could not clearly see the subject's hands", he believed "they appeared to be reaching for something in the bag". SA [redacted] fired one shot from his 9mm Sig Sauer pistol and missed. SA [redacted] had now joined in the foot chase and although he does not recall seeing SA [redacted] he heard the command and the shot but did not know who had fired. SA [redacted] ran down Center Point Drive and yelled for the subject to stop and fired two shots from his 9mm Sig Sauer pistol which missed the subject. As the subject continued to run along Center Point Drive, SOG SA [redacted] attempted to drive in front of him and block his escape but he dodged around [redacted] vehicle and continued his flight.

b6
b7C

SOG SA [redacted] had stationed nearby on Frederick Street when he heard SSA [redacted] give the arrest command. As SA [redacted] drove onto Center Point into the westbound lane, he observed the chase and heard the shots. Because of the traffic median, SA [redacted] could not block the subject. SA [redacted] stopped his vehicle, pulled his Bureau issue Remington 870 shotgun from the roof mount and exited his vehicle.

SA [redacted] ran after the subject and commanded him to halt but the subject continued to run. SA [redacted] then fired one round of 00-buck and the subject immediately dropped to the ground. The subject was not wounded and was immediately taken into custody. When questioned at the scene, the subject, subsequently identified as [redacted] stated that he did not have the money but then denied involvement in the extortion and refused to answer any additional questions.

Upon SAC PARSON's arrival at the scene, he determined that although shots had been fired, there were no injuries and one subject was in custody. SAC PARSONS ordered the Los Angeles Shooting Team to be dispatched to the Moreno Valley Mall to process the crime scene. The photographs and other information initially obtained by the Los Angeles Office Shooting Team were subsequently turned over to the Shooting Incident Review Team from FBIHQ.

Additional investigation conducted by the Los Angeles Division resulted in the release of [redacted] and the arrest of [redacted] (brother of [redacted]), and [redacted]. All four subjects were charged with Violation of Title 18, U.S. Code Section 1951-Conspiracy to Obstruct and or Delay Interstate Commerce by Means of Extortion.

b6
b7C

A review of criminal history records for the four subjects disclosed that [redacted] has a criminal history dating to 7/24/93, regarding drug violations; [redacted] has no prior criminal history; and [redacted], has a criminal history dating to 9/8/88, for firearms violations.

b6
b7C

Mr. [redacted] Date 7/24/95

D. R. Knowlton

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/21/94
NEW YORK DIVISION

[redacted] Reference report of Supervisory Special Agent [redacted] dated 1/6/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting. b6 b7C

**RECOMMENDATION:** That no administrative action be taken against SA [redacted] as a result of his involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. [redacted] Room 7125 (Enclosure)
2 - Mr. [redacted] Room 7427
( 1- [redacted] Room 7326)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1- Mr. Leary, Room 6050)
( 1- Mr. [redacted] Room 4997)
1- Mr. [redacted] Room 7125
1 - Mr. [redacted] Room 7825
1 - Mr. [redacted] Room 5012
1 - Mr. [redacted] Room 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted] WMFO
1 - Mrs. [redacted] Room 7837

LRR:lrr (17)

(CONTINUED - OVER)

Memorandum from D. R. Knowlton to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
11/21/94
New York Division

**DETAILS:** On 7/18/95, the SIRG, consisting of Chairman David R. Knowlton, Acting Chief Inspector, Office of Inspections, Inspection Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; Robert S. Conforti, Section Chief, Violent Crime and Major Offenders Section, Criminal Investigative Division; John Danna, Supervisory Special Agent, Washington Metropolitan Field Office; [redacted] Unit Chief, NS-2-D, Global Section, National Security Division; [redacted] Unit Chief, Quantico - Firearms Training Unit, Training Division, and Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division, met to discuss the above-captioned shooting. b6 b7C

## Synopsis of the Shooting Incident

On November 21, 1994, SA [redacted] who was scheduled to work a 2:00 pm to 10:00 pm shift at the FBI Office in Manhattan, boarded a subway train to Manhattan. While on the train, he observed a passenger walking from the rear area of the car to the front area of the car displaying a sheathed long knife on his right hip. The passenger was muttering to himself, holding the handle of the knife in plain view, and continually pacing back and forth. SA [redacted] decided action needed to be taken fearing that the passenger might injure him or other passengers on the car. SA [redacted] stood, walked one or two steps away from the subject, drew his weapon, and pivoted to face the passenger and advised that he was a police officer. The passenger started to draw the knife from the sheath and charged towards SA [redacted] Fearing for his life, SA [redacted] fired one shot at the subject causing the subject to fall to the floor, face down, while losing control of the knife. On arrival at the first Manhattan stop, SA [redacted] requested that another passenger notify the conductor and subsequently asked the conductor to notify the Transit Police and Emergency Medical Services. The Transit Police arrived and took custody of the subject. All witnesses interviewed corroborated SA [redacted] account of the events. b6 b7C

## Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the report dated 1/6/95, revealed that proper procedures were followed by SA [redacted] during this shooting

b6
b7C

incident. SA [redacted] fired his weapon while fearing for his life as well as other passengers on the subway car.

After a thorough review of the facts regarding this incident, it is the opinion of the SIRG that no administrative action should be taken against SA [redacted] as a result of his involvement in this shooting incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: Assistant Director, Criminal Investigative Division, Shooting Incident Review Group

Report of: SSA [redacted] Office: EL PASO

Date: April 14, 1995

Field Office File #: 67E-HQ-957077 Bureau File #: 67E-HQ-957077

Title: [redacted]
EL PASO DIVISION SHOOTING INCIDENT 3/15/95

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis:

DETAILS:

During the arrest of [redacted] in El Paso, Texas, Special Agent (SA) [redacted] discharged her weapon, on March 15, 1995. The following is a summary of events surrounding this incident:

On March 14, 1995, SA [redacted] briefed the agents of Squad 3, El Paso Division, on current data collected regarding the potential whereabouts of [redacted] and agents were briefed on [redacted] history of violence. SA [redacted] and SSA [redacted] briefed these agents that [redacted] was wanted for Capital Murder and Attempted Capital Murder from the state of Virginia. All agents were warned that [redacted] was considered armed and dangerous; a flight risk; and agents were not to take any chances during a confrontation with [redacted] Several agents of the El Paso Division of the FBI were assigned to conduct surveillance of a business location where [redacted] was suspected to patronize on March 15, 1995. SAs [redacted] and [redacted] were members of the surveillance team in the morning hours of March 15, 1995.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

At approximately 9:00 am on March 15, 1995, SAs [redacted] and [redacted] received a message that [redacted] picked up money from a WESTERN UNION, 2310 N. Mesa Street, El Paso, Texas at 8:47 am. [redacted] was last reported to be walking south on Mesa Street. All four agents left their original surveillance site and proceeded to the vicinity of 2310 N. Mesa Street. SAs [redacted] and [redacted] located [redacted] at a telephone located on the corner of Nevada and Stanton Streets. When SAs [redacted] and [redacted] parked their vehicle, [redacted] started to run east on Nevada Street. SAs [redacted] and [redacted] gave chase. SA [redacted] yelled for [redacted] to stop, at which time he turned toward the agents. SA [redacted] fell in the middle of the street and SA [redacted] thought [redacted] shot SA [redacted]. SA [redacted] immediately drew her weapon and fired one shot at [redacted] while running toward him. SA [redacted] jumped up and ran with SA [redacted] toward [redacted] escaped through a residential area and he cleared several tall chain link fences. Within a short period, EL PASO POLICE DEPARTMENT (EPPD) was contacted for assistance in the apprehension of [redacted] was located and arrested by EPPD in a dumpster located on California Street. [redacted] was not impacted by SA [redacted] shot and no other point of impact could be located. No weapon could be located for [redacted] in the vicinity of his arrest and chase.

b6
b7C

-P-

ADMINISTRATIVE:

SAC El Paso recommends no action against SA [redacted] for discharge of her weapon. At the time of [redacted] arrest, all agents were warned that [redacted] was armed and dangerous with the potential for a hostile arrest. Additionally, no injuries were sustained during this incident.

b6
b7C

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: A/ASAC WILLIAM O. KROGER Office: WMFO
Date: March 7, 1985

Field Office File #: 66F-WF-196703 Bureau File #: WMFO 66F-WF-196703

Title: SHOOTING INCIDENT
NOVEMBER 22, 1984
WASHINGTON METROPOLITAN
FIELD OFFICES

Character: ADMINISTRATIVE INQUIRY

Synopsis:

On October 28, 1984, A/ASAC Kroger was committed in Washington, D.C. (WDC). During the ensuing investigation, the WDC Homicide Branch Detachment (MPD) [redacted] advised Kroger that [redacted] was a viable suspect.

On November 4, 1984, MPD homicide detectives interviewed [redacted] at the MPD headquarters (MPDHQ) building about his suspected involvement in the murders. The interview took place in an interview room that is located inside [redacted] During the course of the interview, [redacted] was allowed to use a locked bathroom [redacted] to prevent [redacted] from the homicide detectives. [redacted] a total of five hour interview, [redacted] and did so.

On November 13, 1984, [redacted] went to the third floor of the MPDHQ building [redacted] the Homicide Branch [redacted] approximately [redacted] as they were walking to the [redacted] in the CCTV in the [redacted] a [redacted] and his close friend, [redacted] were on their way to pick up a

b6
b7C
b7D

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

voucher from a MPD detective, so that they would have money for the upcoming Thanksgiving holiday. LAWSON asked [redacted] for directions to the homicide office. [redacted] who understood homicide to mean the CCTF, indicated to LAWSON that he knew where the office was.

[redacted] and [redacted] then continued to walk to the CCTF office with LAWSON following them. As they passed the bathroom that is located across the hall from the Homicide Branch office, LAWSON asked whether they were passing the homicide office. LAWSON stated that he believed the office to be the homicide office, because he had been there before, and he also stated that he would go into the office to locate the way to the bathroom. At this time, [redacted] and [redacted] continued on towards the CCTF office and LAWSON, who is believed to have paused, followed behind them. While walking to the CCTF office, LAWSON advised [redacted] a matter that he had hidden under his shirt, and he stated, "This is going to shock."

b6
b7C

At approximately 3:15 p.m., the three males entered the CCTF office and passed SA GEORGE DIXON HARTMAN, who was seated at a desk in the main portion of the office. As they entered, [redacted] was ahead of [redacted] and LAWSON followed behind them. All three continued back to a partitioned-off, smaller area of the office, where MPD Sergeant (Sgt.) EDWARD J. DALY, SA [redacted] and SA MICHAEL JOHN HITSON were seated in a conversation. Sgt. DALY was seated behind a desk, SA [redacted] was seated on a couch to Sgt. DALY's left, and SA HITSON was [illegible] or near a computer terminal located behind a desk, across from Sgt. DALY.

[redacted] interrupted that conversation and started to talk to Sgt. DALY. At this time, LAWSON pulled the gun out from under his clothing and pointed it. LAWSON's gun was later determined to be a 9mm semi-automatic pistol Model M-11, which is known on the street as a "Mac-11". The gun has been specially modified to allow it to fire in the full automatic mode. As LAWSON fired the first shot, the projectile fired struck [redacted] on the left side of his face. [redacted] then ran into an adjoining interview room, closed the door, and dove over under a desk.

b6
b7C

LAWSON fired shot at Sgt. DALY, who was hit four times: once in the front of his right forearm; once in

the right portion of his rib cage with the bullet continuing through the right lung, the right pulmonary artery, and the aorta; once in the back, left side of his head; and once in the back, upper portion of his left arm.

LAWSON then turned to his left, toward where SA MILLER was. While turning, LAWSON fired two shots at [redacted], one bullet ricocheting off the floor and hit [redacted] in the right calf. [redacted] then entered the copy office and into an adjoining [redacted] where he was subdued by MMFO personnel. [redacted] was taken to the MMC General Hospital for treatment.

b6
b7C

LAWSON continued to his left and shot SA MILLER, who he did not see, [redacted] in the left side of his back, with the bullet continuing on to the back, and once in the left arm, with the bullet continuing on into his body, through the left lung, the heart, and the liver.

After shooting SA MILLER, LAWSON engaged SA [redacted] in a firefight, during which both men moved to opposite sides of the room. SA [redacted] was sitting on SA [redacted] when [redacted] shot SA [redacted] in the right upper [redacted] and one shot to the upper [redacted] which continued through the [redacted] heart, the liver, and into the left kidney. SA [redacted] also received a bullet wound to his right [redacted] grazed wounds. SA [redacted] momentarily lost consciousness and collapsed onto the floor as a result of his injuries.

b6
b7C

LAWSON then left the partitioned-off area of the office and returned to the [redacted] where SA MARTINEZ had been [redacted] SA MARTINEZ in a [redacted] shot twice in the [redacted] During the [redacted] SA MARTINEZ [redacted] causing [redacted] disabling [redacted] was hit [redacted] is believed [redacted] forearm and continued [redacted] through the heart, the [redacted] vena cava, and the right

lung. It is possible, however, unlikely, that the bullet caused the injury to the arm and a second bullet entered the chest.

SA MARTINEZ received a third wound that is believed to have been inflicted by her service weapon, and a fourth wound that was inflicted by her service weapon. These wounds are: a shot to the left side of her back and a shot to the right, front portion of the top of her head, respectively. Analysis of the crime scene suggests a scenario where SA MARTINEZ was shot in the arm and chest, she could no longer use her weapon and attempted to take the officer's, at this time, officer picked up SA MARTINEZ's weapon, shot her in the back, and then, from above, shot her in the head.

After shooting SA MARTINEZ, LARSON walked around a partition, back toward the area where Sgt. DALY, SA [redacted] and SA MILLER were. LARSON's body was later found just outside that area and it was determined that LARSON committed suicide by firing one contact shot, from SA MARTINEZ's weapon, into the right side of his head.

At this time, all remaining [redacted] personnel [redacted] office [redacted] [redacted] building [redacted] [redacted] [redacted] [redacted] then pulled SA [redacted] [redacted] MPD personnel were also [redacted] [redacted] was lying in front of the [redacted] and they pulled him out to the [redacted]. SA RUCKER was taken by [redacted] to the HUNTINGTON HOSPITAL CENTER (HHC), where he underwent trauma surgery. Sgt. DALY was flown by helicopter to [redacted], where he was pronounced dead on arrival.

b6
b7C

At the time that MPD personnel pulled Sgt. DALY and SA [redacted] [redacted] who was also in the [redacted] behind [redacted] [redacted] [redacted] [redacted]

directed out of the office and into the hallway. Efforts then turned to identifying others, who were still in the CCFF office. Pages were sent to SA MATTIMOE and SA MILLER, who both remained unaccounted for by their squad at WMFO. The agents' pagers could be heard by MPD personnel outside the office; however, neither agent responded. In this manner, it was determined that both agents appeared to still be in the CCFF office.

EMT personnel then saw SA MILLER laying on the floor behind a desk. Shortly thereafter, the EMT entered the office and found SA MATTIMOE, SA MILLER, and LAWSON unconscious. SA MATTIMOE and LAWSON were pronounced dead at the scene. SA MILLER was taken to the GEORGE WASHINGTON UNIVERSITY HOSPITAL by ambulance, where he was pronounced dead on arrival.

The crime scene was subsequently processed by the MPD Mobile Crime Unit and FBI agents from WMFO and FBI Headquarters. From the evidence collected, it was determined that SA [redacted] fired his weapon twelve times; that eight of nine rounds fired struck SA MATTIMOE's weapon; and that twelve rounds approximately twenty pounds from his weapon. SA MILLER and LAWSON, having not fired their weapons, [illegible]. All evidence was submitted to the FBI laboratory for analysis and crime scene interpretation.

Trauma surgery performed on SA [redacted] saved his life. SA [redacted] had one-third of his left kidney removed during initial surgery, and a steel rod was inserted into his right femur a few days later. SA [redacted] is expected to fully recover from his injuries.

A review of LAWSON's criminal history shows that he was arrested three times for [illegible] and once on gun charges. An FBI arrest record, dated September 30, 1980, shows that LAWSON was arrested along with four associates, including one [redacted] and one [redacted]. At the time of arrest, LAWSON and his associates were in possession of one bulletproof vest, one shotgun, a rifle, three pistols, a revolver, and fourteen cartridges of Teflon-coated ammunition. LAWSON was found guilty of the gun charges and subsequently served twenty-six months in prison. LAWSON was paroled on July 8, 1991.

b6
b7C

WMFO 667-HF-196703

A search warrant executed at Lemmon's residence after the shootout revealed writings that glorified the life of the supervisor and staff of the MPD Homicide Branch, and Explorer Unit glorified shooting officers and hanging police officers.

It should be noted that Lemmon's associates, [redacted] and [redacted] were [redacted] on February 27, 1995, [redacted] and [redacted] running a Fugitive [redacted] would have been charged in the murders. Investigation has determined that [redacted] and [redacted] were all members of the First and Kennedy Street Crew (gang) in WDC. WMFO has learned that [redacted] at two of the murder victims' funerals and [redacted] members of the gang believed that Lemmon was [redacted] when he was interviewed by the MPD. It is very possible that his actions were an attempt to eliminate ties with the gang. b6 b7C

The murder weapon used by Lemmon was an obliterated serial number [redacted] with the exception of one digit. [redacted] that the gun had been purchased [redacted] by one [redacted] in 1987. [redacted] on the MPD side, Detective [redacted] Homicide Branch, and [redacted] of the First and Kennedy Street Crew have been active both [redacted] and [redacted] were arrested on federal charges by the Fugitive Mobile Division and the BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS on February 21, 1996.

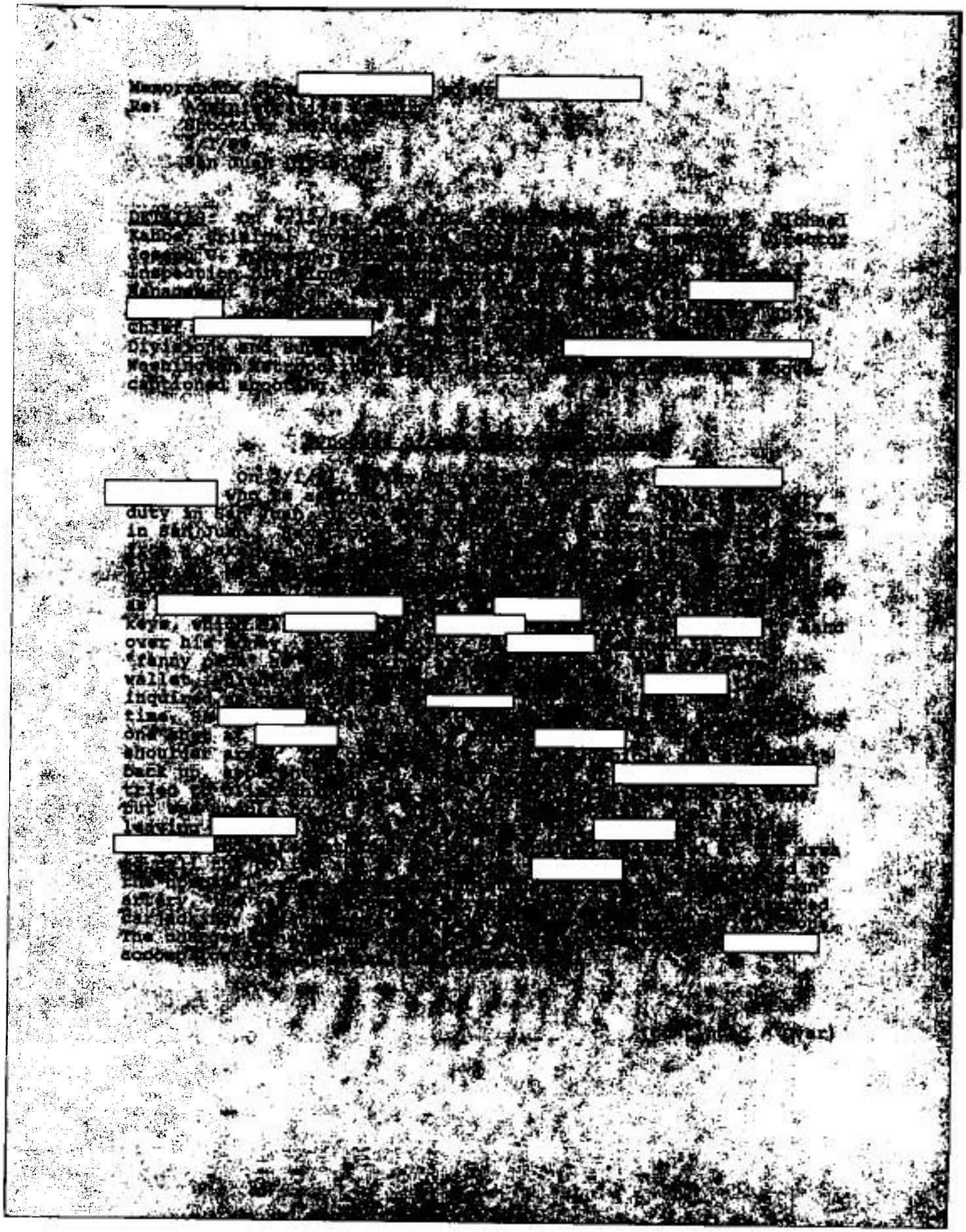
[redacted]

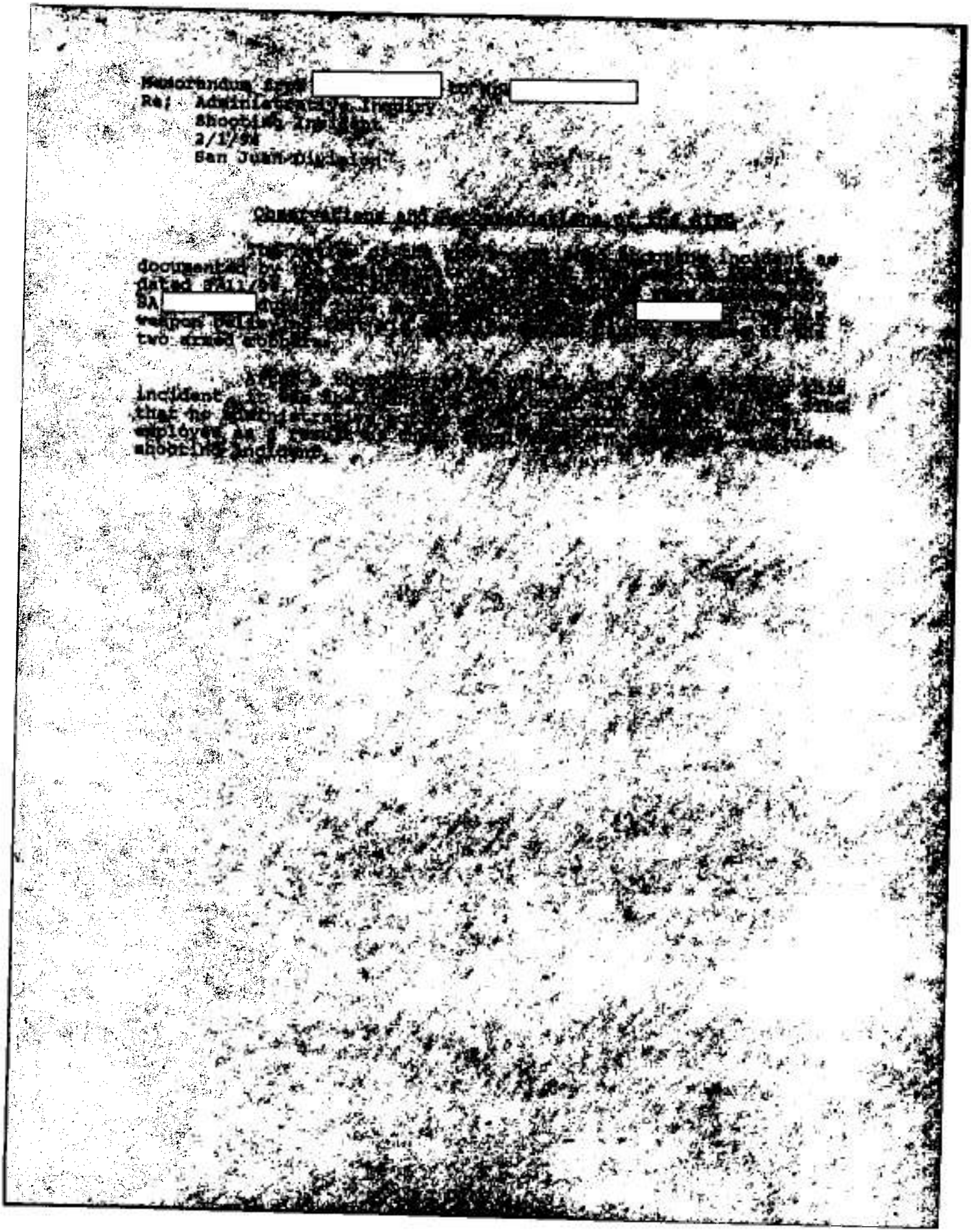
[redacted] dated 3/11/94.

[redacted]

[redacted]

[redacted]





FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SA [redacted] Office: SAN JUAN
Date: February 17, 1994

Field Office File #: 66F-SJ-19157 Sub 48 Bureau File #: 66F-SJ-19157

Title: [redacted]
SA [redacted] -VICTIM;
1/17/94

Character: SHOOTING INCIDENT-AFO

Synopsis: On January 17, 1994, at approximately 8:30pm, SA [redacted], was the victim of an attempted robbery. SA [redacted] had completed making a call from a public phone near a shopping center in Guaynabo, Puerto Rico, when he noticed a car approaching him slowly with its lights off. SA [redacted] continued walking towards his vehicle when the front seat passenger of the suspicious car announced "this is a robbery." SA [redacted] reacted by drawing his bureau issued pistol, a Smith & Wesson 10mm, model 1076, and fired at the assailant who had by now exited his vehicle. SA [redacted] fired at the assailant who reacted by attempting to flee in the vehicle. SA [redacted] continued to shoot at the suspect as he attempted to flee, in a vehicle SA [redacted] identified as a dark colored Datsun.

b6
b7C

SA [redacted] fearing that the assailants might return, immediately drove to his residence and called SSA [redacted] as well as the Police of Puerto Rico (POPR). Later that same evening, POPR Officers attempted to stop a vehicle (Datsun) traveling at a high rate of speed. The vehicle engaged the police in a high speed chase, but was eventually stopped. The POPR Officers found three subjects in the vehicle, two of which were injured. One suffered a gunshot wound to the jaw, the other was shot in his left hand. The vehicle also had 5 or 6 bullet

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

holes on the passenger side. All three subject were arrested, and identified as [redacted] and [redacted]

An interview of subject [redacted] was attempted with negative results. An interview of [redacted] however, resulted in a confession, wherein he implicated himself and the others in the robbery attempt. Subject [redacted] is a minor and was not interviewed.

b6
b7C

Interviews were obtained of the POPR Officers involved in the Felony car stop and subsequent arrest of the subjects. Immediately following the incident, SSA [redacted] notified the SAC as well as the ASAC, who was out of the Division but nevertheless called and apprised of the situation. At the request of the SAC, SSA [redacted] Duty Agent of the SIOC, FBIHQ, was called and apprised of the facts known at the time immediately following the incident.

A crime scene was conducted at the parking lot where the incident occurred, and six (6) FEDERAL 10mm shell casings were recovered. A bullet trajectory analysis was conducted on 1/29/94 of the vehicle involved with the assistance of the Laboratory Section, FBIHQ. All physical evidence obtained by the FBI has been appropriately handled and/or forwarded to the FBI Laboratory for examination.

On February 17, 1994, [redacted] and [redacted] were indicted by a Federal Grand Jury in San Juan, Puerto Rico, for Assault on a Federal Officer (AFO), Title 18 USC 111 (a) & 114. [redacted] is a minor and was not indicted at this time. However, it is anticipated that [redacted] will be indicted once his status as an adult is determined by the Court.

b6
b7C

On January 19, 1994, SSA [redacted] contacted SSA [redacted] Critical Incident/Peer Support Program Manager, Behavioral Sciences Unit, FBI Academy, to advise him of the incident and seek additional guidance relating to SA [redacted] needs as a result of this incident. SSA [redacted] scheduled SA [redacted] to attend the next critical incident Seminar during the week of April 11, 1994.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copies to:

Reported by: [redacted] Los Angeles

Date: [redacted]

Title: [redacted]

Character: ADMINISTRATIVE INQUIRY

Synopsis: [redacted]

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

stationing SSA [redacted]
on Ventura [redacted]
address, [redacted]
were in [redacted]

b6
b7C

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: ALBUQUERQUE
Date: February 3, 1994

Field Office File #: 62A-AQ-46502 Bureau File #:

Title: SA [redacted]
ADMINISTRATIVE INQUIRY -
SHOOTING INCIDENT
ALBUQUERQUE DIVISION
JANUARY 26, 1994

Character: ADMINISTRATIVE INQUIRY

Synopsis: At approximately 6:00 p.m., dusk, on January 26, 1994, SA [redacted] Albuquerque Division, went to the residence of [redacted] NW, Albuquerque, New Mexico, in order to conduct an interview in conjunction with a bank robbery investigation. SA [redacted] had previously called the residence to set up an appointment for the interview. As he approached the house, he noticed a "Beware of Dog" sign on the front door of the residence, but did not notice any dog in the vicinity of the residence. After knocking, a dog began barking. SA [redacted] noticed the dog rise and began to run toward him barking. SA [redacted] stepped away from the dog and drew his service pistol and shot the dog once in the head when he was within striking distance.

b6
b7C

Interview of the dog's owner revealed that the dog is usually tethered; however, on the date of this incident, he had let the dog out after feeding him, without chaining him. The resident of the house where SA [redacted] was to conduct his interview, the grandmother of the dog owner, advised that she ran through the house to let the agent in when she heard the dog barking.

SA [redacted] assisted the dog owner in getting veterinary care of the injured canine.

- C -

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE

Copy to:

Report of: [redacted] Office: MIAMI

Date: FEBRUARY 27, 1974

Field Office File #: [redacted] Bureau File #: [redacted]

Title: [redacted]

Character: [redacted]

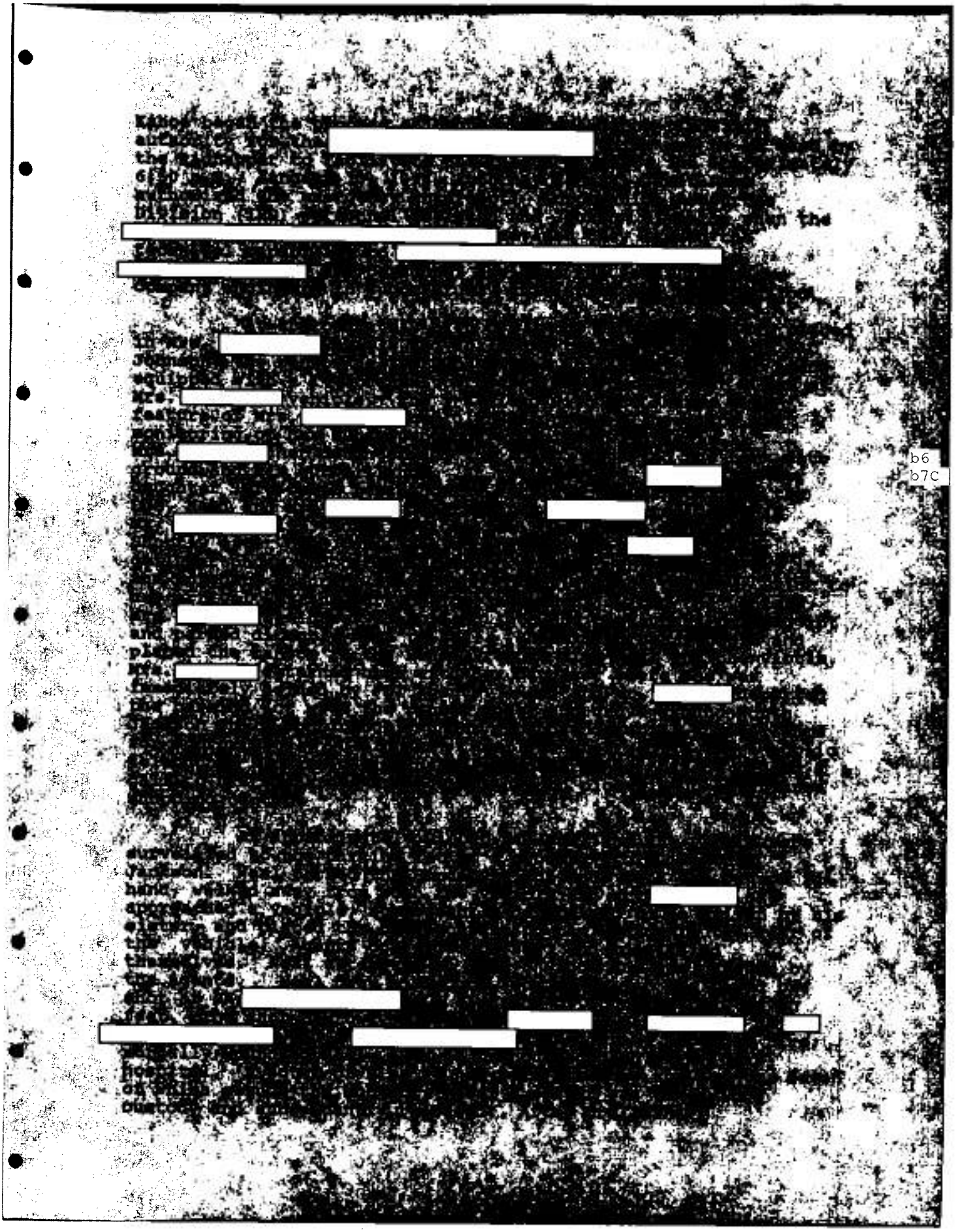
Synopsis:

[redacted]

the gunmen [redacted] responded to [redacted] and [redacted] the CP, [redacted] section chief (SC) [redacted] director) James Pratt [redacted] SC

[redacted]

your agency's [redacted]


b6
b7C

investigation established that [redacted] to be an unwitting accomplice. [redacted]

[redacted] coordinated the [redacted]

# 1994

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 3/25/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/17/94
SAN JUAN DIVISION

b6
b7C

[redacted] Reference attached report of SA [redacted] dated 2/17/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
1/17/94
San Juan Division

DETAILS: On 3/17/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Assistant Section Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Position Classification Unit, Personnel Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

At approximately 8:30 p.m., on 1/17/94, SA [redacted] had just completed making a call from a public phone located outside a shopping center in Guaynabo, Puerto Rico. As he was returning to his personally-owned automobile, SA [redacted] noticed a suspicious-looking car with three occupants slowly approaching him. As the car came even with him, the occupant of the front passenger seat stated to SA [redacted] "This is a robbery." The subject then exited the vehicle. SA [redacted] drew his Smith & Wesson 10mm, model 1076, and fired at the subject. The subject then got back into the vehicle and the vehicle and its three occupants sped away. SA [redacted] continued to fire shots at the vehicle as it fled. b6 b7C

SA [redacted] reported the incident to officials of the San Juan Division as well as to the local police. A short time later, SA [redacted] was contacted by the Police of Puerto Rico, who advised that they had arrested three individuals in a car fitting the description of the vehicle described by SA [redacted] as having been used in the attempted robbery. SA [redacted] identified the vehicle as the one which approached him near the shopping center. Two of the subjects have been indicted by a Federal grand jury in San Juan, Puerto Rico, for Assault on a Federal Officer (Title 18, USC, Sections 111(a) and 114. One of those subjects admitted that at the time of the attempted robbery they had a handgun; however, they subsequently discarded that weapon after the failed robbery attempt. It is anticipated that the third subject will be indicted once his status as an adult is determined by the court.

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
1/17/94
San Juan Division

b6
b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 2/17/94, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon after an attempted robbery in which at least one suspect had a weapon.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1357

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 3/25/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/26/94
ALBUQUERQUE DIVISION

b6
b7C

Reference attached report of SSA [redacted], dated 2/3/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TUG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
1/26/94
Albuquerque Division

DETAILS: On 3/17/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Assistant Section Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Position Classification Unit, Personnel Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

Synopsis of the Shooting Incident

On 1/26/94, SA [redacted] went to the residence of [redacted] in order to interview [redacted] regarding a recent bank robbery. [redacted] mother had reportedly attempted to exchange some burnt currency for new currency, which raised suspicion as to whether or not the money could have been burnt by an exploding dye pack. As SA [redacted] neared the residence, he noticed a "Beware of the Dog" sign on the front door; however, he did not see a dog. When he knocked on the door, a dog began to bark and ran towards him. SA [redacted] drew his weapon, and the dog continued to approach. When the dog was approximately two feet away, SA [redacted] fired one shot at the dog, which hit the animal in the head. The dog then turned and ran away.

The dog's owner, [redacted] then came out of the house. He and SA [redacted] took the dog for veterinary treatment. SA [redacted] apparently fired his weapon believing that the dog was about to attack him.

b6
b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 2/3/94, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon believing that his life was in danger because of the dog which was coming toward him.

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted] b6 b7C
Re: Administrative Inquiry
Shooting Incident
1/26/94
Albuquerque Division

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1360

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 3/25/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/31/94
INDIANAPOLIS DIVISION

b6
b7C

Reference attached report of Inspector-in-Place [redacted] dated 3/3/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
1/31/94
Indianapolis Division

DETAILS: On 3/17/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Assistant Section Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Position Classification Unit, Personnel Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

Synopsis of the Shooting Incident

On 1/31/94, Agents of the Indianapolis Division, along with state and local police, were involved in the surveillance of two bank robbery subjects who were believed to be responsible for at least 15 bank robberies in the Indianapolis area. The two subjects, [redacted] and [redacted] came under suspicion after a bank received some cash which had been sprayed with a "dye pack" and this discolored money was traced to one of the subjects. A plan was formulated, which called for a one-week surveillance of [redacted] and [redacted] The Agents and police officers who were to participate in the surveillance were briefed and given an operations plan prior to the initiation of the surveillance. On 1/31/94, the surveillance began. [redacted] and [redacted] were seen driving a gold Oldsmobile which had been reported stolen. Shortly thereafter, they were seen stealing a second car, a dark blue Oldsmobile, from a high school parking lot. Their general modus operandi during previous robberies had been to use stolen cars, with one being parked near the target bank and used as a "switch" car after the robbery. When [redacted] and [redacted] were seen parking the gold Oldsmobile along the side of a road near several banks, it was believed that they were about to commit a robbery. They were then seen driving the blue Oldsmobile to the Union Federal Savings Bank. At this point, several Agents and officers stationed themselves near the gold Oldsmobile, believing that [redacted] and [redacted] would return there. [redacted] and [redacted] robbed the Union Federal Savings Bank, fled in the blue Oldsmobile, and returned to where the gold Oldsmobile was parked. They exited the blue Oldsmobile and headed for the gold Oldsmobile. At that time, Agents and officers yelled at the

b6
b7C

(Continued - Over)

b6
b7C

two to freeze and identified themselves as law enforcement officers. The two subjects got back into the blue Oldsmobile and attempted to flee. During this time, the two tried to use their vehicle as a weapon and backed toward the officers and Agents. SAs [redacted] and [redacted] both fired shots at the subjects as the subjects were backing up their vehicle towards the Agents. The subjects eventually ran off the road and collided with a surveillance vehicle. Both subjects were injured by the gunfire; however, both survived their injuries. They were transported to a hospital and were both subsequently charged with bank robbery.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 3/3/94, revealed that proper procedures were followed by SA [redacted] and SA [redacted] Both fired their weapons in order to protect their own lives, as well as the lives of their fellow officers and the civilian public.

b6
b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1363

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted]

Date 3/25/94

From : [redacted]

b6
b7C

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
2/1/94
LOS ANGELES DIVISION

Reference attached report of ASAC Jerry Dale Thornton, dated 2/11/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
2/1/94
Los Angeles Division

DETAILS: On 3/17/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Assistant Section Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Position Classification Unit, Personnel Division; Unit Chief [redacted], Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted], Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

Synopsis of the Shooting Incident

At approximately 7:30 on the morning of 2/1/94, several Agents of the Los Angeles Division, including SSA [redacted] and SA [redacted] met to formulate a plan for effecting the arrest of [redacted] a Federal fugitive wanted for murder. A plan was set, and preliminary assignments were made by SA [redacted] Surveillance was then set up in the area around [redacted] apartment. The plan called for the arrest of [redacted] whenever he departed the residence. Around 9:30 a.m., [redacted] exited the apartment for a brief amount of time, then went back inside. At that time, final assignments were issued, which called for the arrest of [redacted] the next time he exited the apartment. A short time later, [redacted] again came outside. The command to arrest him was then given, and Agents approached [redacted] while identifying themselves and ordering him to stop. [redacted] began to flee in a southerly direction toward where SSA [redacted] and SA [redacted] were located. SA [redacted] began to pursue [redacted] on foot, as he ran through back yards and jumped over several block fences. SSA [redacted] also set off in pursuit. At one point, while SA [redacted] was jumping over a fence, SSA [redacted] saw [redacted] stop and turn back towards SA [redacted] SSA [redacted] at that point thought that [redacted] was going to fire at SA [redacted] SSA [redacted] then fired two shots at [redacted] from his Bureau shotgun. [redacted] continued to flee and evaded the Agents. [redacted] was arrested later that morning with the assistance of a Los Angeles Police Department canine unit.

b6
b7C

(Continued - Over)



Savage-1365

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
2/1/94
Los Angeles Division

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 2/11/94, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon reasonably believing that the life of SA [redacted] was in danger. b6 b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1366

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 3/25/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
1/13/94
JACKSON DIVISION

b6
b7C

Reference attached report of Inspector-in-Place [redacted] dated 2/22/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
1/13/94
Jackson Division

DETAILS: On 3/17/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Assistant Section Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Position Classification Unit, Personnel Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 1/13/94, the Jackson Division learned of a kidnapping incident involving three members of the [redacted] family. [redacted] his wife [redacted] and his daughter [redacted] were taken hostage inside their residence on the evening of 1/12/94 by a subject later identified as Kenneth Fay Neal. Neal demanded that the family pay him $750,000 or he would kill [redacted] On the morning of 1/13/94, [redacted] made the necessary telephone calls to have $750,000 wired to his bank account in Jackson. Neal took [redacted] in one of the family's cars, while [redacted] and [redacted] went in another car to the bank to pick up the money. Neal kept in phone contact with [redacted] by using the cellular phones in both cars.

While [redacted] and [redacted] were in the bank picking up the cash, bank officials questioned why such a large amount of cash was needed. [redacted] told them that her husband had been kidnapped and she needed the money for a ransom payment. The bank officials then contacted the Jackson Division. Jackson immediately sent Agents to the bank. Arrangements were made to have an Agent ride in the back floor of Mrs. [redacted] car when she went to deliver the ransom. Neal contacted Mrs. [redacted] via the cellular phone and instructed her where to meet him to deliver the ransom. The payment was made, and [redacted] and [redacted] were instructed to return home and wait for Mr. [redacted] release. Neal drove around for approximately 30-45 minutes with Mr. [redacted] still in the car. He then stopped, made a telephone call, and proceeded to the parking lot of a local convenience b6 b7C

(Continued - Over)

store. A woman was waiting for him there in another car. Neal exited his vehicle, placed the bags of money in the other car, and started to get in the car with the woman. Agents who had been following Neal yelled at Neal to freeze, and identified themselves as FBI Agents. Neal started to run, then stopped and pulled a weapon from his waistband. He fired one shot at SA [redacted] who was approximately seven feet away. The shot missed [redacted]. At that point SSA [redacted] SA [redacted] and SA [redacted] all fired at Neal. Neal fell to the ground and died at that location. The woman in the car who was not injured was identified as Neal's sister. She was unaware of the kidnapping and had merely responded to Neal's request that she pick him up at the convenience store.

b6
b7C

## Observations and Recommendations of the SIRG

b6
b7C

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 2/22/94, revealed that proper procedures were followed by SSA [redacted], SA [redacted] and SA [redacted] during this incident. All fired their weapons in order to protect their own life as well as the lives of their fellow Agents and the civilian public.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 6/27/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/28/94
OMAHA DIVISION

b6
b7C

Reference attached reports of SSRA [redacted] and SSA [redacted] dated 4/4/95 and 5/11/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: That no administrative action be taken against any FBI employee as a result of this shooting incident.

1 - Mr. [redacted]
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
3/28/94
Omaha Division

DETAILS: On 6/14/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Section Chief Edward R. Leary, Personnel Management Section, Personnel Division; Unit Chief [redacted] Office of Professional Responsibility, Inspection Division; Unit Chief [redacted] Investigative Law Unit, Office of the General Counsel; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On the morning of 3/28/94, Agents of the Omaha Division were conducting a surveillance of [redacted] a suspect in a series of Omaha area bank robberies who also was named in a local arrest warrant. An anonymous tip had provided [redacted] identity as the robber, and indicated that he was about to commit another bank robbery. Agents set up surveillance of [redacted] residence at approximately 6:30 a.m. on 3/28/94. A few minutes before 9:00 a.m., [redacted] exited his residence and got into his vehicle. At this time, SAs [redacted] and [redacted] who were together in a Bureau vehicle, pulled their vehicle behind [redacted] vehicle and blocked it in the parking place. SA [redacted] approached the driver's side of Davis' car, and SA [redacted] approached the passenger's side. SA [redacted] identified himself and ordered [redacted] out of the vehicle. [redacted] did not comply, and SA [redacted] leaned over the hood of the car to look at [redacted] through the windshield, as the side windows were tinted a dark color. [redacted] started to move his vehicle forward, over a curb and onto the grass, while SA [redacted] was leaning over the hood. Believing that [redacted] was trying to run over SA [redacted] SA [redacted] fired one shot at [redacted] continued to move forward, and SA [redacted] fell off the hood of [redacted] car. SA [redacted] and SA [redacted] each fired one more shot at [redacted] however, he fled the area in his vehicle. The surveillance of [redacted] continued by other Agents, and he was arrested during a vehicle stop a short time later. b6 b7C

(Continued - Over)



Savage-1371

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
3/28/94
Omaha Division

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, revealed that proper procedures were followed by the individuals involved in this shooting incident. SAs [redacted] and [redacted] apparently fired their weapons believing that their own lives were in danger. b6 b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1372

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 6/27/94

From : [redacted] b6 b7C

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
2/20/94
LAS VEGAS DIVISION

Reference attached report of ASAC Thomas M. Kuker dated 3/17/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted]) b6 b7C
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr [redacted] Quantico
1 - Mr [redacted] WMFO
1 - Mr [redacted] Quantico
(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
2/20/94
Las Vegas Division

DETAILS: On 6/14/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Section Chief Edward R. Leary, Personnel Management Section, Personnel Division; Unit Chief [redacted], Office of Professional Responsibility, Inspection Division; Unit Chief [redacted] Investigative Law Unit, Office of the General Counsel; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

During the late night hours of 2/19/94, Agents of the Reno Resident Agency, Las Vegas Division, were called to assist with the resolution of an incident on the Fallon Paiute Shoshone Indian Reservation, in which one individual was believed to have been murdered. Since the murder had occurred on an Indian Reservation, the FBI assumed lead agency control of the investigation. When Agents arrived at the scene, at approximately midnight on 2/19/94, Tribal Police and the local Sheriff's Department were already present. SSRA [redacted] was briefed on the situation and learned that William Taft Vannoy was inside his residence at 1330 Agency Road, and that Vannoy was believed to have shot Martin George. Vannoy's wife, [redacted] had safely fled from the house, and told the police that William Vannoy had been drinking alcohol and was armed with several weapons.

Agents and local law enforcement officers formed a perimeter around the residence. Attempts were made throughout the night and early morning hours of 2/20/94 to encourage Vannoy to surrender. Several times, [redacted] fired shots from inside the residence. At approximately 6:45 a.m., [redacted] appeared at a window and started firing shots at the law enforcement personnel. At this time, SA [redacted] fired one shot from his M-16. Although SA [redacted] indicated that he did not actually see Vannoy, he could see the muzzle flash simultaneous with the sound of the shots being fired from the residence. Sometime after this shot was fired, a fire started inside the residence. The fire department was called to extinguish the fire. During the b6 b7C

(Continued - Over)

b6
b7C

subsequent crime scene investigation, the bodies of Vannoy and George were found inside the house. Vannoy had apparently shot George the previous evening, and then shot himself after starting the fire. There was no indication that either Vannoy or George were hit by the round fired by SA [redacted]

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident, as documented by the administrative inquiry furnished to the SIRG, dated 3/17/94, revealed the proper procedures were followed by the individuals involved in this incident. SA [redacted] fired at William Vannoy after Vannoy had fired several shots at the law enforcement officers present.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 6/27/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
4/6/94
BOSTON DIVISION

b6
b7C

Reference attached report of ASAC Dennis M. O'Callaghan, dated 4/20/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
4/6/94
Boston Division

DETAILS: On 6/14/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Section Chief Edward R. Leary, Personnel Management Section, Personnel Division; Unit Chief [redacted], Office of Professional Responsibility, Inspection Division; Unit Chief [redacted] Investigative Law Unit, Office of the General Counsel; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

Synopsis of the Shooting Incident

On 4/6/94, Agents of the Providence Resident Agent, Boston Division, were involved in the surveillance of subjects who were believed to be responsible for at least five recent bank robberies in the Providence area. Information provided by a source had identified these subjects as possibly being responsible for the robberies; however, the source had no direct knowledge of their involvement. For this reason, a task force had been formed, including the FBI, Providence Police Department, Cranston Police Department, Pawtucket Police Department, and the Rhode Island State Police. As most of the robberies had occurred on either a Monday or Tuesday, the task force regularly checked the residences of the subjects on those days. On 4/6/94, a Providence Police Department officer observed the four subjects in a Nissan Pathfinder, the tags of which did not match the vehicle. This information was passed to the FBI, and a meeting of the task force was called. During the task force meeting, word was received that the Dexter Credit Union had been robbed by four males. Members of the task force were dispatched to the residences of the four subjects to see if they would return to one of those locations. As SA [redacted] along with Providence Police Department Officers [redacted] and [redacted] approached the residence of subject [redacted] they saw the Nissan Pathfinder enter the parking lot. They followed the Pathfinder until it parked. SA [redacted] requested backup, then parked his Bureau vehicle at an angle behind the Pathfinder. [redacted] and [redacted] exited their vehicle and ordered the subjects out of the Pathfinder. The Pathfinder then backed up around [redacted] vehicle, narrowly missing the police officers. The officers fired shots at the Pathfinder. At this

b6
b7C

(Continued - Over)

b6
b7C

point, SAs [redacted] and [redacted] had entered the parking lot. SA [redacted] intentionally struck the Pathfinder with his vehicle, which brought the Pathfinder to a stop. A gun was observed in the hand of one subject, and this fact was relayed to the other officers and Agents. SA [redacted] fired four shots at the Pathfinder. When the Pathfinder stopped, subject [redacted] exited and fled the area on foot. He was apprehended a short time later. The other three subjects were arrested on the spot.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 4/20/94, revealed that proper procedures were followed by the individuals involved in this shooting incident. SA [redacted] fired shots at the subjects in order to protect himself and other law enforcement officers from armed subjects.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 9/6/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/15/94
MIAMI DIVISION

b6
b7C

Reference attached report of SSA [redacted] dated 5/16/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

1 - Mr. [redacted]
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Gore
66F-HQ-69500
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/15/94
Miami Division

DETAILS: On 8/30/94, the SIRG, consisting of Acting Chairman [redacted] Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Personnel Division; Acting Section Chief [redacted] Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Firearms Training Unit, Training Division; SSA [redacted] Employment Law Unit, Office of the General Counsel; and SSA [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

## Synopsis of the Shooting Incident

Early on the morning of 5/15/94, SSA [redacted] received a telephone call from his daughter, who stated that as she was returning in her vehicle to the family home, she observed a person lying in the driveway of the house. She assumed this person was attempting to steal her father's car. SSA [redacted] quickly got out of bed, dressed, armed himself with his personally-owned revolver, and went to the front door. He called out to an individual who was inside his (SSA [redacted] vehicle. This individual exited the vehicle and began firing shots as SSA [redacted] with one of the shots striking SSA [redacted] in the left foot. SSA [redacted] fired two shots in return, and took cover behind a retaining wall in his front yard. The subject fled, got into a car with four other subjects, and drove away from the scene. SSA [redacted] was transported to a local hospital and treated for the gunshot wound to his foot. b6 b7C

On 5/20/94, [redacted] was arrested for attempted theft and the shooting of SSA [redacted] and is being charged locally. On 5/23/94, two additional subjects in the get-away vehicle were arrested and charged with auto theft.

## Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 5/16/94, revealed that proper procedures were followed by

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/15/94
Miami Division

SSA [redacted] during this shooting incident. SSA [redacted] fired his weapon after he had been fired at, and hit, by his assailant. b6 b7C

After a thorough review of all the facts regarding this incident, it was the opinion of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 9/6/94

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/18/94
HOUSTON DIVISION

b6
b7C

Reference attached report of SSA [redacted] dated 7/5/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) The SIRG concurs with the recommendation of SAC, Houston, that SA [redacted] be given a letter of censure from SAC, Houston, citing his lack of professional responsibility in not being forthright and candid following the accidental discharge; be suspended for five (5) calendar days without pay; be placed on six (6) months probation; and be removed from serving as a firearms instructor.

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. Gore
62A-HO-39876
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

b6
b7C

(2) The SIRG concurs with the recommendation of SAC, Houston, that SA [redacted] be given a letter of censure from SAC, Houston, citing his lack of responsibility in promptly ensuring that a higher level of authority was made aware of the shooting incident in a more timely manner.

b6
b7C

(3) The SIRG concurs with the recommendation of SAC, Houston, that SA [redacted] be orally reprimanded for failure to dutifully notify a higher level of authority once the pertinent information was provided by SA [redacted]

(4) The SIRG concurs with the recommendation of SAC, Houston, that SA [redacted] be orally reprimanded for failure to dutifully notify a higher level of authority once the information was provided by SA [redacted]

b6
b7C

DETAILS: On 8/30/94, the SIRG, consisting of Acting Chairman [redacted] Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Personnel Division; Acting Section Chief [redacted] Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted] Global Section, National Security Division; Unit Chief [redacted] Firearms Training Unit, Training Division; SSA [redacted] Employment Law Unit, Office of the General Counsel;

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/18/94
Houston Division

and SSA [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 5/18/94, SA [redacted] received information from a source that [redacted] a fugitive, was currently at a local blood bank, selling his blood. SA [redacted] requested the assistance of SA [redacted] and the two left in a Bureau vehicle for the blood bank. As the two approached the blood bank, they saw an individual meeting the description of [redacted] walking outside. They followed him for a few blocks, then stopped him under the ruse of questioning him about a bank robbery. After effectively stopping [redacted] SA [redacted] attempted to restrain [redacted] but he broke free. SA [redacted] returned to his Bureau vehicle, and SA [redacted] was given a ride by a private citizen to [redacted] vehicle. Both Agents then pursued [redacted] in [redacted] vehicle. When [redacted] ran between some houses, [redacted] and [redacted] followed on foot. [redacted] went along the west side of the house, and [redacted] went along the east side. [redacted] indicated that he heard what sounded like a gunshot, but when he got to the back of the house he saw only SA [redacted] asked [redacted] if he had fired a shot, and [redacted] responded by indicating that maybe the man who gave [redacted] a ride fired the shot. [redacted] eluded arrest at this time, but was apprehended later that afternoon.

Following press reporting that a shot was fired during b6 b7C the attempt to apprehend [redacted] SAs [redacted] and [redacted] were questioned by SSA [redacted] indicated that he heard what sounded like a shot fired, but he did not fire his weapon. SA [redacted] indicated that he, too, thought he heard a shot, but he did not fire. [redacted] and [redacted] were later interviewed by ASAC William Tucker, and both denied that they had fired their weapon. When an official inquiry was opened to determine whether a shot had been fired, SA [redacted] admitted that he had experienced an accidental discharge while scaling a fence in pursuit of [redacted] The bullet from SA [redacted] gun went into the wall of a neighboring house.

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/18/94
Houston Division

Observations and Recommendations of the SIRG

During review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 7/5/94, the SIRG expressed concern over the failure of SA [redacted] to report the accidental discharge he experienced. When they became aware of the accidental discharge, SAs [redacted] and [redacted] also failed to advise higher authorities of the incident. b6 b7C

After a thorough review of the facts regarding this incident, the SIRG concurred with the recommendations of SAC, Houston, that SA [redacted] receive a letter of censure, five days suspension without pay, six months probation, and be removed from serving as a firearms instructor; that SA [redacted] receive a letter of censure; and that SAs [redacted] and [redacted] each receive oral reprimands.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 9/6/94

From : [redacted] b6 b7C

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/18/94
BIRMINGHAM DIVISION

Reference attached reports of ASAC James F. Carlile dated 7/28/94, and 8/26/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATIONS: (1) That no administrative action be taken against any FBI employee as a result of this shooting incident.

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Gore
66F-BH-43054
TJG:tjg (14)

1 - Mr. [redacted]
(1 - Mr. [redacted]) b6 b7C
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted], Quantico
(Continued - Over)

b6
b7C

(2) That the Training Division address the tactics employed by the Birmingham Division during this incident, the deficiency in firearms training by SA [redacted] and the failure of arresting personnel to wear body armor.

(3) That SAC Birmingham reinforce to Agents in the Birmingham Division the importance of wearing body armor during an arrest situation.

DETAILS: On 8/30/94, the SIRG, consisting of Acting Chairman [redacted] Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Personnel Division; Acting Section Chief [redacted], Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted] Global Section, National Security Division; Unit Chief [redacted], Firearms Training Unit, Training Division; SSA [redacted] Employment Law Unit, Office of the General Counsel; and SSA [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C
b7D

Synopsis of the Shooting Incident

On 7/18/94, Agents of the Birmingham Division became aware that Gary Chris Griffith, a federal fugitive, was possibly located in their territory. [redacted] Griffith, a plan was set in motion to locate him. Griffith [redacted] at a location near Wheeler Dam in Lawrence County, Alabama. SAs [redacted] and [redacted] went to this location in a Bureau vehicle. Captain [redacted]

(Continued - Over)

and Lieutenant [redacted] of the Alabama Bureau of Investigation (ABI) went in their vehicle. A uniformed Alabama State Police officer who was familiar with Griffith conducted a "drive-by" of Griffith's location to confirm that he was in fact present. When they were certain that Griffith was there, the FBI and ABI Agents went to the location to arrest Griffith. SAs [redacted] and [redacted] arrived at the scene and attempted to block Griffith's vehicle with their Bureau car. Captain [redacted] and Lieutenant [redacted] arrived at about the same time. As SA [redacted] exited his vehicle and walked toward Griffith's vehicle, Griffith attempted to run over SA [redacted] Griffith, at that point, also began firing a weapon at SA [redacted] SA [redacted] fell to the ground, but was not wounded. SA [redacted] Captain [redacted] and Lieutenant [redacted] all fired at Griffith, striking him several times. SA [redacted] then got up and fired his shotgun at Griffith. Griffith was pronounced dead at the scene.

b6
b7C

SAs [redacted] and [redacted] as well as the other officers, fired their weapons at Griffith after Griffith fired. All were attempting to protect their own lives as well as the lives of their fellow officers.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the reports of the administrative inquiry furnished to the SIRG, dated 7/28/94 and 8/26/94, revealed that proper procedure was followed regarding the use of deadly force by Birmingham Agents. The SIRG expressed concern, however, over the tactics employed during the execution of this arrest. The SIRG also was concerned over the deficiency in firearms training by SA [redacted] and the failure of arresting personnel to wear body armor when entering into a known arrest situation.

b6
b7C

After a thorough review of all the facts regarding this incident, it was the opinion of the SIRG that no administrative action should be taken against any FBI employee as a result of this shooting incident. The SIRG recommends, however, that the Training Division address the tactics issue, as well as the firearms training of SA [redacted] and the failure of arresting personnel to wear body armor. It is also recommended that SAC Birmingham reinforce the importance of wearing body armor when effecting an arrest.

To : Mr. [redacted] Date 2/15/95

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
4/1/94
CLEVELAND DIVISION

b6
b7C

Reference Cleveland report of Supervisory Special Agent (SSA) [redacted] dated 4/28/94, one copy of which is attached to the original.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** The SIRG recommends that no action be taken against Special Agent (SA) [redacted] as a result of his involvement in this shooting incident.

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. Gore
(1 - Mr. [redacted]

1 - Mr. [redacted]
(1 - Mr. [redacted])
1 - Mr. Conforti
1 - Mr. Doyle
1 - Mr. [redacted] WMFO
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - SIRG File

b6
b7C

66-HQ-19157-SUB 11
DEA:dea (17)

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
4/1/94
Cleveland Shooting

b6
b7C

**DETAILS:** On 1/20/95, the SIRG, consisting of Chairman Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted] Investigative Law Unit, Office of the General Counsel; Section Chief Jeremiah W. Doyle, Jr., Global Section, National Security Division; Inspector in Charge [redacted] Inspection Division; SSA [redacted] Firearms Training Unit, Training Division; and SSA [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

**Synopsis of the Shooting Incident**

SA [redacted] met an informant at his residence on 4/1/94 and was taking him to lunch in order to debrief him. While driving along Ohio State Road 322 the informant noticed a deer running perpendicular to the car. The informant shouted out, but at that point the deer had already run into the vehicle impacting the rear door panel and shattering the window glass. SA [redacted] indicated in his statement that he had seen the deer only moments before it ran into the car door. SA [redacted] maintained control of the vehicle and brought it to a complete stop on the shoulder of the road.

After determining that he and the informant had not been injured, SA [redacted] doubled back to where he had seen the deer enter a ditch. Both SA [redacted] and the informant agreed the animal was in pain, and could possibly struggle back to the road and jeopardize the safety of another driver. SA [redacted] elected to put the animal down with one shot from his service revolver to the animal's head.

b6
b7C

SA [redacted] immediately reported the accident to the local police and the Cleveland FBI office. A report was filed by the Geauga County deputy sheriff. As well, arrangements were made with the Ohio State Highway Department to dispose of the deer's body.

(CONTINUED - OVER)



Savage-1390

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
4/1/94
Cleveland Shooting

**Observations and Recommendations of the SIRG**

b6
b7C

The review of the above-captioned shooting incident as documented by the Cleveland Division report furnished to the SIRG, dated 4/28/94, revealed that proper procedures were followed by SA [redacted]

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of the members of the SIRG that no administrative action be taken against SA [redacted] as a result of his involvement in the above-captioned shooting incident.

Mr. [redacted] 2/27/95

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/31/94
SAN JUAN DIVISION

b6
b7C

Reference San Juan report of Supervisory Special Agent (SSA) [redacted] dated 10/28/94, one copy of which is attached.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** That no administrative action be taken against Special Agent (SA) [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. Gore
(1 - Mr. [redacted]

1 - Mr. [redacted]
(1 - Mr. [redacted]
1 - Mr. Conforti
1 - Mr. Doyle
1 - Mr. [redacted] MFO
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - SIRG File

66-HQ-19157-SUB 48
DEA:dea (17)

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
8/31/94
San Juan Division

b6
b7C

**DETAILS:** On 1/20/95, the SIRG, consisting of Chairman Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted] Investigative Law Unit, Office of the General Counsel; Section Chief Jeremiah W. Doyle, Jr., Global Section, National Security Division; Inspector-in-Charge [redacted] Inspection Division; SSA [redacted] Firearms Training Unit, Training Division; and SSA [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

**Synopsis of the Shooting Incident**

SA [redacted] experienced trouble with his Bucar on the morning of 8/31/94. [redacted] contacted the office and informed his supervisor, SA [redacted], that he had experienced car trouble. [redacted] decided to wait and have one of the security guards jumpstart his car. While waiting for a security guard to pass by, [redacted] decided to take a run around the golf course. During the run [redacted] was always in eye contact with his residence and Bucar. At 8:00 a.m., [redacted] completed his run and decided to cool down by sitting outside on his patio. [redacted] heard a noise, similar to someone walking on the grass, turned around to see who it was, but did not see anyone. As [redacted] turned back around someone suddenly came from around the patio wall and pointed a gun at his head. The Unsub, later identified as [redacted], told [redacted] in Spanish to shut up and be quiet. [redacted] continued talking in Spanish stating, "do what I say or I will kill you."

b6
b7C

According to [redacted] carried a stainless steel, six inch, large caliber revolver pointed at his head. As well, [redacted] had a .357 revolver tucked away in his waistline. During this time, [redacted] asked [redacted] to open the door to the house, but [redacted] indicated the alarm was on, the house was not his, and he did not know the code/combination. They remained on the patio where [redacted] questioned Suarez regarding who resided at the residence, alarm system, code/combination, and if there were any valuables in the house. SA [redacted] advised [redacted] that he did not know the code, was a guest at the residence, but expected the lady of the house to return shortly. [redacted] decided to wait until the "lady" of the house returned.

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
8/31/94
San Juan Division

[redacted] ordered [redacted] to bring his bicycle from the front yard to the patio area. He remained behind the patio walls, and kept his gun pointed at [redacted], while [redacted] moved the bike. SA [redacted] described the bicycle as a used white mountain bike. b6 b7C

Around 9:00 or 9:10 a.m., after waiting approximately an hour and a half, [redacted] decided not to wait any longer and asked SA [redacted] to open the front door. [redacted] told [redacted] that if the alarm went off, and he did not deactivate it, he would kill him. As he opened the door, [redacted] felt [redacted] standing right behind him. [redacted] stepped back and stuck his left shoulder into the midsection of [redacted] body. He then used his left arm and pushed [redacted] left arm into the air. At this point, [redacted] heard one shot fired from the Unsub's weapon. [redacted] ran inside and locked the door.

SA [redacted] retrieved his service revolver and shouted to [redacted] that he was coming outside. As [redacted] opened the door completely and stepped outside, he unexpectedly saw [redacted] standing in front of the door. [redacted] saw him raise his arm holding the firearm. SA [redacted] stepped back and fired two or four times.

[redacted] left running, while [redacted] closed the door and obtained a second pistol magazine. [redacted] returned to the front door, but [redacted] was no longer in sight. [redacted] saw that [redacted] bicycle was missing. [redacted] knew the Unsub had left the area down the street towards an open area of the residential neighborhood. [redacted] believes, however he is not sure, that he may have shot once, while in front of the neighbors yard, as the Unsub was turning the corner. As [redacted] himself turned the corner at the end of the street, he saw the Unsub riding his bicycle towards one of the first palm trees in the area. The Unsub stopped his bicycle and fired one shot at [redacted] stated he took cover near a concrete electrical pole and returned fire. [redacted] fired several shots at the Unsub, until he thought he had run out of ammunition. b6 b7C

[redacted] observed the Unsub pedal his bicycle towards the back of the residential area leading towards the fence line and hill. [redacted] returned back to his residence and obtained his shotgun, however the Police of Puerto Rico arrived and took charge of the incident. [redacted] advised that he contacted the San Juan Field Office to advise the office of the incident.

Subsequently, SA [redacted] identified the tatoo on [redacted] leg as the one he had seen on his assailant's leg.

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
10/31/94
San Juan Division

[redacted] was arrested. Subsequent to the arrest and indictment of [redacted], SA [redacted] had stated that it is possible the subject is not the one who assaulted him. As a result, Assistant United States Attorney [redacted] stated on 10/25/94, that he would contact the local prosecutor to determine if the subject plead out in local court, the federal charges would be dropped.

b6
b7C

**Observations and Recommendations of the SIRG**

The review of the above-captioned shooting incident as documented by San Juan report, dated 10/28/94, and furnished to the SIRG, revealed that proper procedures were followed by SA [redacted] during this shooting incident. SA [redacted] life had been threatened several times by the [redacted] When the opportunity finally presented itself, SA [redacted] attempted to neutralize the situation by using his service revolver.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of the members of the SIRG that no administrative action be taken against SA [redacted] as a result of his involvement in the above-captioned shooting incident.

Mr. [redacted] 10/21/94

b6
b7C

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/2/94
BALTIMORE DIVISION

Reference attached report of Assistant Special Agent in Charge Anthony A. Betz, dated 9/9/94.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

b6
b7C

1 - Mr. [redacted]
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr.
1 - Mr. [redacted]

DEA:dea (15)

1 - Mr. Gore
1 - Mr. [redacted]
(1 - Mr. [redacted]
1 - Mr. Conforti
1 - Mr.
1 - Mr.
1 - Mr. [redacted] Quantico

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
7/2/94
Baltimore Division

b6
b7C

**DETAILS:** On 10/14/94, the SIRG, consisting of Chairman Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted], Global Section, National Security Division; Unit Chief [redacted], Investigative Law Unit, Office of the General Counsel; Supervisory Special Agent [redacted], Washington Metropolitan Field Office; and Special Agent (SA) [redacted], Firearms Training Unit, Training Division; met to discuss the above-captioned shooting.

## Synopsis of the Shooting Incident

On 9/2/94, SA [redacted] two other Special Agents and a Maryland State Police Sergeant (Sgt.) assigned to the Southern Maryland Metropolitan Resident Agency, and all participants in OPERATION HORNET (High Output Residential Narcotic Enforcement Team), were involved in a felony car stop. Two subjects were inside the vehicle. One of these individuals was believed to be [redacted] who was wanted on drug trafficking charges in Virginia. The subjects were removed from the vehicle and positioned spread-eagle against their vehicle. The individual believed to be [redacted] was given a cursory pat down for weapons by SA [redacted] As SAs [redacted] and [redacted] questioned [redacted] SA [redacted] indicated a "crotch" search should be conducted on the subject since previous informant information indicated [redacted] always armed himself with a small calibre handgun which he concealed in his waistband or crotch area. At this point, the subject bolted into the woods with SAs [redacted] and Sgt. [redacted] in pursuit. SA [redacted] called for the subject to stop. As [redacted] ran in the woods he kept his hands held out in front of him. SA [redacted] stated [redacted] hands did not swing at his sides, but were positioned in front of him, out of her line of sight. Fearing that [redacted] was reaching for a gun and would "wheel around" on them, SA [redacted] called for [redacted] to stop or she would shoot. While running, SA [redacted] fired one shot. The subject stumbled, but [redacted] did not believe she hit [redacted]. A second shot was fired by SA [redacted] approximately two seconds later. [redacted] disappeared into a thicket. [redacted] was observed by SA [redacted] as he exited the thicket into a clearing. [redacted] continued the chase. Sensing [redacted] was becoming tired, SA [redacted] commanded [redacted] to stop. Subsequently, [redacted] was ordered onto the ground and handcuffed by SA [redacted]

b6
b7C

(CONTINUED - OVER)

All officers and agents displayed their badges, which hung around their necks from chains. Their weapons were displayed and all wore Ballistic Protective Undergarments. As the subjects exited their vehicle the officers and agents identified themselves as "police." b6 b7C

**Observations and Recommendations of the SIRG**

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 9/09/94, revealed that proper procedures were followed by SA [redacted] during this shooting incident. SA [redacted] fired shots at the subject believing that her life and the life of other law enforcement officers were in danger.

After a through review of all the facts regarding this incident, it was the unanimous opinion of the members of the SIRG that no administrative action be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Serv.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted] Date 2/27/95

From : [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
SA [redacted] b6 b7C
9/9/94
MIAMI DIVISION

Reference Miami report of Supervisory Special Agent (SSA) [redacted], dated 10/10/94, one copy of which is attached to the original.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** The SIRG concurs with the recommendation of the Special Agent in Charge (SAC), Miami that no action be taken against Special Agent (SA) [redacted] as a result of his involvement in this shooting incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Gore
(1 - Mr. [redacted])

1 - Mr. [redacted]
(1 - Mr. [redacted])
1 - Mr. Conforti
1 - Mr. Doyle
1 - Mr. [redacted] WMFO
1 - Mr. [redacted], Quantico
1 - Mr. [redacted] Quantico
1 - SIRG File

66-HQ-19157-SUB 29
DEA:dea (16)

(CONTINUED -OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
SA Paul J. Russell
9/9/94
Miami Division

b6
b7C

**DETAILS:** On 1/20/95, the SIRG, consisting of Chairman Robert S. Conforti, Section Chief, Violent Crime and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted] Investigative Law Unit, Office of the General Counsel; Section Chief Jeremiah W. Doyle, Jr., Global Section, National Security Division; Inspector in Charge [redacted] Inspection Division; SSA [redacted] Firearms Training Unit, Training Division; and SSA [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

## Synopsis of the Shooting Incident

On 9/9/94, at approximately 5:35 p.m., during an arrest attempt, the subject of the arrest, Arlix Fuentes, was shot and killed. Fuentes, who was on the Florida Department of Law Enforcement's (FDLE) Ten Most Wanted List, was armed with and believed to have fired one time from a Colt .45 caliber Gold Cup pistol loaded with a magazine containing 6 cartridges.

During a surveillance on Funetes' girlfriend, and after she had picked up Fuentes, it was decided that a felony car stop would be made. Deputy United States Marshal [redacted] blocked the street with his vehicle. SA [redacted] who was armed with his personally owned 12 gauge, Remington 870 shotgun and a 9MM Sig Sauer semi-automatic pistol, Model 228, rammed his vehicle into the back of the subject's vehicle as the car stop was made. SA [redacted] indicated he saw both occupants inside the vehicle move forward and back during the impact. After the impact, [redacted] saw Fuentes again bend forward and move toward the door. As [redacted] stepped outside of his vehicle he leaned over the roof of the car with his Sig Sauer P-220 .45 pointed at the subject's vehicle. Although [redacted] heard shouts of "gun, gun, he's got a gun", he did not fire his weapon because fellow officers would have been caught in the crossfire. SA [redacted] stated he had racked his shotgun and felt the safety with his finger as he exited his vehicle. He heard someone yell "police, don't move. He has a gun" from his left. On his right he heard "police, police. He's got a gun. Gun, gun, gun." SA [redacted] heard two or three shots while the officers were shouting "police, police". He did not know where the gunshots originated,

b6
b7C

(CONTINUED -OVER)

but from the sound thought they came from the right passenger side of the Toyota. Fearing his life and the lives of the other officers were in danger, [redacted] aimed the shotgun and fired one round, which hit the subject in the head. b6 b7C

SA [redacted] FDLE, was carrying an FDLE issued 9MM Beretta when he approached the subject's vehicle from the right rear side. [redacted] observed Fuentes sitting in the right front passenger seat. [redacted] indicated that Detective (Det.) [redacted] Metro-Dade Police Department, and [redacted] Hialeah Police Department, were located to his right, approaching the vehicle from the right side. [redacted] said "police" was yelled several times. He heard someone say, "He's got a gun," followed by the discharge of firearms, from unknown persons. [redacted] fired toward Fuentes, approached the right side of the vehicle with Det. [redacted] and saw that the subject was neutralized. He observed what appeared to be an automatic pistol on the ground.

At the same time, Det. [redacted] who was carrying a 9MM Beretta, approached the right side of the subject's vehicle, while yelling "police, police, police." [redacted] opened the passenger side door and observed Fuentes holding a semi-automatic stainless steel or silver pistol. This was pointed at Fuentes' chest with Fuentes' hands on the trigger. [redacted] ordered Fuentes to drop the weapon, but instead Fuentes cocked the weapon and pointed it in [redacted] direction. [redacted] was not clear on how many rounds he fired, but thought it may have been three and Fuentes one round. [redacted] indicated he was a little confused since he was bitten by a K-9 as this was occurring. [redacted] stated he believed that Fuentes' female companion had shot him by mistake, while trying to shoot [redacted] As he pointed his gun at Fuentes' girlfriend she was being dragged out of the car by some of the other officers. b6 b7C

[redacted] stated he and [redacted] approached the subject's vehicle from the rear passenger side. While approaching the vehicle, a car came from their left side and hit the Toyota, which momentarily distracted him, but he continued approaching the vehicle. [redacted] stated the subject moved from a leaning forward position to a sitting position, which he believed was due to the impact from the collision. He observed the passenger holding a large Smith & Wesson pistol in his right hand and saw the left hand come up toward the weapon. [redacted] thought Fuentes may have been attempting to take the safety off of the gun.

(CONTINUED -OVER)

During this time [redacted] was yelling "Policia, Policia." As soon as he saw the gun, he screamed "gun" several times, while using his left hand to try and move [redacted] out of the line of fire since he was closer to the car than [redacted]. [redacted] continued trying to move [redacted] out of the way, saw the gun being turned toward them, and fearing he or his associate were going to be shot, opened fire. [redacted] said he saw Fuentes' weapon recoil in his hands. After the shooting stopped, [redacted] ran to the back of the Toyota, and looked around fearing that there was more than one person shot. As he was picking up the radio something flashed by [redacted] which is when the K-9 bit [redacted] was carrying a Glock model 19 during this shooting incident.

b6
b7C

## SAC COMMENTS

SAC, Miami has reviewed all facts regarding this incident and has concluded that SA [redacted] actions were justified since he was protecting his life and the lives of other officers on the scene.

SAC, Miami recommends no further action.

## Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the Miami report, dated 10/10/94, and furnished to the SIRG, revealed that proper procedures were followed by SA [redacted]

b6
b7C

After a thorough review of all the facts regarding this incident, the SIRG concurred with the SAC, Miami's recommendation that no administrative action be taken against SA [redacted] as a result of his involvement in the above-captioned shooting incident.

Mr. Gore 7/26/95

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
10/13/94
LOS ANGELES DIVISION

b6
b7C

Reference report of Inspector-in-Place [redacted] dated 12/7/94.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

**RECOMMENDATION:** That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

1 - Mr. [redacted] Room 7142
1 - Mr. Gore, Room 7125 (Enclosure)
1 - Mr. [redacted] Room 7116
3 - Mr. [redacted] Room 6012
( 1- Mr. Leary, Room 6050)
( 1- Mr. [redacted] Room 4997)
1- Mr. [redacted]n, Room 7125
2 - Mr. [redacted] Room 7427
( 1- Mr [redacted] Room 7326)
1 - Mr. [redacted] Room 7825
1 - Mr. Conforti, Room 5012
1 - Mr. Doyle, Room 4042
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Room 3117
1 - Mr. [redacted]FO
1 - Mrs. [redacted] Room 7837
LRR:lrr (17)

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
10/13/94
Los Angeles Division

**DETAILS:** On 7/18/95, the SIRG, consisting of Chairman [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, WMFO, met to discuss the above-captioned shooting incident. b6 b7C

## Synopsis of the Shooting Incident

On 10/12/94, [redacted] the 22 year old son of wealthy businesswoman, Mrs. [redacted] was abducted from his Riverside, California, residence by unknown individuals. Approximately 11 hours later, Mrs. [redacted] received a telephone call from her son and he stated that he was being held for a $300,000 ransom. Mrs [redacted] contacted the Riverside Resident Agency (RIVRA) and a kidnapping investigation was initiated.

Investigation confirmed that the victim had been abducted from his residence and the victim, in a 10/12/94 telephone call to him mother, relayed the kidnappers' demands for a $300,000 ransom and told her that she would be contacted again at her residence that evening at 10:00 p.m. b6 b7C

After the Los Angeles Office's kidnapping plan was activated, Mrs. [redacted] was instructed by Special Agents (SAs) to tell the 10:00 p.m., caller that she was attempting to obtain the money and to call back the next day. At approximately 10:00 p.m. on 10/12/94, Mrs. [redacted] received a telephone call from an unidentified male who told her that the ransom should be paid the next day and that she would be contacted with instructions between noon and 1:00 p.m. on 10/13/94. It was subsequently determined that the call had been made from the victim's cellular telephone from somewhere near the Ontario Airport.

On the morning of 10/13/94, ASAC Iden arrived at the
(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
10/13/94
Los Angeles Division

b6
b7C

RIVRA and met with SSRA [redacted] and SOG SSA [redacted] to devise a tentative operational plan.

At approximately 12:25 p.m., on 10/13/94, the victim telephoned his mother regarding the ransom money and he was told to call back in an hour. At approximately 1:15 p.m., the victim called and relayed the kidnappers' instructions for the mother to take the money to a specific outside pay phone located at the Moreno Valley Shopping Center between 7:30 and 8:00 p.m., that evening and await a call for additional instructions. SAC Parsons arrived at the RIVRA to assume on-scene command at approximately 6:00 p.m., and a final operational plan was drawn up.

Surveillance coverage of the public telephone at the Moreno Valley Mall was furnished by four SOG teams, consisting of 24 SAs operating approximately 20 vehicles, with air support. A drop package containing $300,000 in marked money, an [redacted] It was recognized that due to the shopping center's layout, the access to freeways, as well as the semi-rural setting, it might prove difficult to follow the package and the subject, if the drop occurred at the shopping center. Accordingly, SAC Parsons instructed that the SOG should follow the subject, but that he should be apprehended if there was the slightest chance that he might elude them. SAC Parsons also made it clear that the decision whether to follow or arrest the subject would be made by SOG SSA [redacted] SAC Parsons stressed to SSA [redacted] that if he had any doubt as to the SOG's ability to follow this subject out of the area without losing him, that the subject should be stopped.

b7E

SA [redacted] was hidden in the rear seat area of Mrs. [redacted] vehicle and was instructed to radio information to the SOG units after she spoke with the kidnappers. At approximately 8:00 p.m., Mrs. [redacted] arrived at the mall and received a telephone call at the pay telephone. Upon returning to the vehicle, she informed SA [redacted] that the subject told her that she was to give the money to a man on a motorcycle wearing a white helmet, that he would come up to her for the ransom. She told the subject on the phone that the motorcyclist should go to the passenger side of the car because the money was heavy. SA [redacted] radioed the SOG units that Mrs. [redacted] was to meet the subject on the motorcycle at the Great Western Bank.

b6
b7C

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
10/13/94
Los Angeles Division

Mrs. [redacted] exited the vehicle, after problems with her seatbelt, walked around to open the passenger door, determined the passenger door was still locked, returned to the driver's side, picked up her car keys and began to open the passenger side door. Apparently Mrs. [redacted] movements made the motorcyclist suspicious and he drove from the parking area without making direct contact with her.

SA [redacted] began moving toward the bank and drove into the shopping center parking lot. As he drove past, he observed the motorcyclist within several feet of the driver's side of Mrs. [redacted] vehicle and thought he was talking to her. When SA [redacted] observed the motorcyclist adjust a bag on his shoulder, he radioed "He's got the bag. Are we going to take him?" SSA [redacted] responded that the subject should be arrested to prevent him from leaving the scene.

As the motorcyclist exited the mall, he stopped at a red traffic signal at Center Point Drive. SA [redacted] pulled in behind the motorcycle. SA [redacted] requested that SA [redacted] drive in front and block the motorcycle from exiting onto Center Point Drive. As SA [redacted] did this, SA [redacted] pulled behind the motorcycle, "nudged" it with his vehicle and the motorcyclist fell to the ground. As the SAs exited their vehicles, the subject began to run east. When SA [redacted] yelled "FBI, halt or I'll shoot", the subject turned towards him and although SA [redacted] could not clearly see the subject's hands", he believed "they appeared to be reaching for something in the bag". SA [redacted] fired one shot from his 9mm Sig Sauer pistol and missed. SA [redacted] joined in the foot chase and although does not recall seeing SA [redacted] he heard the command and the shot but did not know who had fired. SA [redacted] ran down Center Point Drive and yelled for the subject to stop and fired two shots from his 9mm Sig Sauer pistol which missed the subject. Additionally, SA [redacted] attempted to drive in front of the subject and block his escape; however, he dodged around the SA's vehicle and continued his flight.

b6
b7C

SA [redacted] was stationed on Frederick Street when he heard SSA [redacted] give the arrest command. As SA [redacted] entered Center Point, he observed the chase and heard the shots. Since he could not block the subject due to traffic, SA [redacted] stopped his vehicle, pulled his Bureau issued Remington 870 shotgun from the roof mount and exited his vehicle. SA [redacted]

(CONTINUED - OVER)

b6
b7C

ran after the subject and commanded him to halt, but the subject continued to run. SA [redacted] fired one round of 00-buck and the subject dropped to the ground. The subject was not wounded and was immediately taken into custody.

## Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the report dated 12/7/94, revealed that proper procedures were followed during this shooting incident.

After a thorough review of the facts regarding this incident, it is the opinion of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in this shooting incident.

Mr. Gore 7/21/95

[redacted]

b6
b7C

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
11/22/94
WASHINGTON METROPOLITAN FIELD OFFICE

Reference attached report of SAC William C. Megary, dated 3/7/95.

**PURPOSE:** This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting incident.

**RECOMMENDATION:** That no administrative action be taken against any FBI employee as a result of their involvement in this shooting incident.

1 - Mr. [redacted]
1 - Mr. Gore
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
2 - Mr. [redacted]
(1 - Mr. [redacted])
JTP:jtp (17)

1 - Mr. [redacted]
1 - Mr. Conforti
1 - Mr. Doyle
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mrs. [redacted]

b6
b7C

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
11/22/94
Washington Metropolitan Field Office

**DETAILS:** On 7/19/95, the SIRG, consisting of Chairman [redacted] Acting Chief Inspector, Office of Inspections, Inspection Division; Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Edward R. Leary, Section Chief, Personnel Management Section, Personnel Division; [redacted] Unit Chief, NS-2D Unit, Global Section - NS-2, National Security Division; [redacted] Unit Chief, Firearms Training Unit, Training and Administration Section, Training Division; [redacted] Unit Chief, Undercover and Sensitive Operations Unit, Public Corruption and Civil Rights Section, Criminal Investigative Division; [redacted] Unit Chief, Investigative Law Unit, Legal Advice and Training Section, Office of the General Counsel; and [redacted] Supervisor, WMFO; met to discuss the above-captioned shooting incident.

b6
b7C

## Synopsis of the Shooting Incident

On 11/22/94, BENNIE LEE LAWSON entered the Metropolitan Police Department (MPD) Headquarters building and walked to the office of the cold homicide case task force, which is comprised of MPD detectives and WMFO Agents. LAWSON entered the office behind a MPD Cooperating Witness (CW) and the CW's friend. He proceeded to a partitioned-off, smaller area of the office, where two WMFO Agents and MPD Sergeant HENRY DALY were engaged in conversation. Lawson then proceeded to pull a fully automatic pistol and begin firing, fatally shooting Sergeant DALY, who was seated at a desk, and SA MICHAEL JOHN MILLER, who was standing in front of the desk. SA [redacted] who was seated nearby on a couch, then engaged LAWSON in a fire fight. After critically wounding SA [redacted] LAWSON went to another part of the office and engaged SA MARTHA DIXON MARTINEZ in a fire fight. SA MARTINEZ shot Lawson twice, in the thigh, and was herself disabled by shots in the right arm and chest, causing her to drop her weapon. LAWSON, whose weapon had been disabled by SA MARTINEZ' gunfire, then recovered SA MARTINEZ' weapon and fatally wounded her with it, before fatally shooting himself.

b6
b7C

The CW was not injured, and the CW's friend was treated and released for a minor gunshot wound from LAWSON's weapon. Investigation determined that SA [redacted] fired 12 times, that SA MARTINEZ fired eight or nine times, and that LAWSON fired approximately 20 rounds. Neither SA MILLER nor Sergeant Daly fired their weapons.

Memorandum from [redacted] to Mr. Gore
Re: Administrative Inquiry
Shooting Incident
11/22/94
Washington Metropolitan Field Office

b6
b7C

**Observations and Recommendations of the SIRG**

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 3/7/95, revealed that proper procedures were followed by SA [redacted] during this shooting incident. SA [redacted] fired shots at a subject who was inflicting deadly force against fellow Agents and police officers, and who was attempting to inflict deadly force against SA [redacted]

After a thorough review of the facts regarding this incident, it was the unanimous opinion of the members of the SIRG that no administrative actin be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

To : Mr. [redacted] Date 2/13/95

From : [redacted]

b6
b7C

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/10/94
DALLAS DIVISION

Reference report by Supervisory Special Agent (SSA) [redacted] dated, 12/22/94, of which one copy is attached.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against Special Agent (SA) [redacted] as a result of his involvement in this shooting incident.

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr. [redacted]
1 - Mr. Gore
(1 - Mr. [redacted]

1 - Mr. [redacted]
(1 - Mr. [redacted]
1 - Mr. Conforti
1 - Mr. Doyle
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] Quantico
1 - SIRG File

b6
b7C

66-HQ-19157-SUB 12
DEA:dea (17)

(CONTINUED - OVER)

Memorandum from [redacted] to Mr [redacted]
Re: Administrative Inquiry
Shooting Incident
12/10/94
Dallas Division

b6
b7C

DETAILS: On 1/20/95, the SIRG, consisting of Chairman Robert S. Conforti, Section Chief, Violent Crimes and Major Offenders Section, Criminal Investigative Division; Unit Chief [redacted], Investigative Law Unit, Office of the General Counsel; Section Chief Jeremiah W. Doyle, Jr., Global Section, National Security Division; Inspector in Charge [redacted] Inspection Division; SSA [redacted] Firearms Training Unit, Training Division; and SSA [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

## Synopsis of the Shooting Incident

On 12/10/94, SA [redacted] shot a Rottweiler dog in front of his former residence after the dog charged at him. SA [redacted] who is separated from his wife [redacted], was babysitting their two children. Upon arrival of his wife and her companion, the wife mentioned how they had been confronted by a Rottweiler, which was loose, and had been roaming the neighborhood. The dog had charged at the women as they exited from their vehicle and approached the residence.

When SA [redacted] departed the residence, he heard a dog snarling. The animal, which weighed approximately 75 pounds, was 40 to 50 feet away from [redacted]. The Rottweiler continued to bark and growl as it approached SA [redacted] At this point, SA [redacted] was approximately 40 feet away from the residence. It was too far to run back toward the residence and SA [redacted] could not enter his vehicle since it was locked and the keys were inside his pocket. Without warning, the dog charged at SA [redacted] Fearing that the dog would bite and was capable of inflicting serious injury or possibly death, SA [redacted] drew his Bureau issued Smith & Wesson 10MM, and from a distance of 20 to 30 feet fired one shot into the dog's chest.

b6
b7C

The local police department was contacted. Upon arriving at the scene, the officer requested SA [redacted] surrender his service revolver. The officer indicated SA [redacted] could possibly face criminal charges for discharging a weapon within the city limits, as well as being libel for the animal's veterinary bills.

A senior officer arrived at the scene and indicated SA [redacted] had a right to protect himself from the animal if it were in fact attacking him.

SA [redacted] overheard a neighbor comment that he hoped the animal had been shot and killed since it roamed freely throughout the neighborhood.

(CONTINUED - OVER)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
12/10/94
Dallas Division

FBI Dallas was advised that the 180 grain projectile struck the dog in the chest and exited the shoulder. The dog survived this incident.

b6
b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 12/22/94, revealed that proper procedures were followed by SA [redacted] during this shooting incident. Fearing that the Rottweiler would attack and inflict serious injury, SA [redacted] fired one shot into the animal's chest.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of the members of the SIRG that no administrative action be taken against SA [redacted] as a result of his involvement in the above-captioned shooting incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: RICHMOND
Date: April 6, 1993

Field Office File #: 62A RH-42577 Bureau File #:

Title: SHOOTING INCIDENT
RICHMOND DIVISION
MARCH 26, 1993

Character: ADMINISTRATIVE INQUIRY

Synopsis:

Administrative inquiry initiated based upon a shooting incident which occurred at approximately 12:15 p.m. on 3/26/93. SA [redacted] is a 32 year old Special Agent who entered on duty with the FBI 4/4/88. She reported to the Richmond Division on 8/23/92, and has been assigned to Squad 3 (Drugs, Organized Crime, and Violent Crimes), since her arrival. On Friday morning, 3/26/93, Richmond SAs [redacted] and [redacted] accompanied by VIRGINIA STATE POLICE (VSP) Trooper [redacted] (a member of the Richmond FBI Fugitive Task Force), travelled to the Fort Lee United States Army Military Reservation at Petersburg, Va. The above personnel met with Criminal Investigative Division (CID) Investigator (Inv.) [redacted] SA [redacted] had been working with Inv. [redacted] on a Crime on a Government Reservation (CGR) - Murder for Hire case (70A RH-4256). In the process of working this case, the principal subject was arrested and incarcerated on unrelated charges. The potential victim had been interviewed by SA [redacted] and Inv. [redacted] While in the process of completing the CGR investigation, SA [redacted] noticed some inconsistencies in the information provided by Inv. [redacted] source, an individual using the name [redacted] After making appropriate NCIC inquiries, SA [redacted] determined that an individual by the name of [redacted] was wanted by New Jersey

b6
b7C

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

authorities for multiple counts of drug violations. The purpose of meeting at CID Headquarters was to determine the true identity of [redacted] and if he in fact was wanted by New Jersey authorities, to effect his arrest. As a member of the Richmond Fugitive Task Force, Trooper [redacted] could execute a state warrant and have the subject held for New Jersey authorities. It is noted that no Unlawful Flight warrant had been issued relative to [redacted] Per previous agreement, Inv. [redacted] called his source into the CID office on the morning of 3/26/93. SA [redacted] explained to subject [redacted] that information had been received indicating that he could possibly be [redacted] wanted by New Jersey authorities for numerous violations of state drug laws. [redacted] assured the personnel in the CID Office that he was not [redacted] and that there was some mistake. SA [redacted] told [redacted] that after fingerprint comparisons, if it was determined that he was not the subject wanted from New Jersey, he would be allowed to go free. Trooper [redacted] after fingerprinting the subject, made a determination that his fingerprints, compared with the known prints of [redacted] indicated that the two were identical. At this point, Trooper [redacted] and another CID Inv. [redacted] commenced a pat down in preparation for a strip search of the subject, SAs [redacted] and [redacted] retreated from the area of the fingerprinting table to partially obscure themselves behind a partition. This was done to allow the subject privacy for the strip search. Inv. [redacted] left the room at this time. At this point, [redacted] became violent, abusive, and vigorously resisted arrest. A struggle ensued during which [redacted] climbed onto a desk, was pulled to the floor, rose again, climbed onto the desk, and attempted to climb over a portable partition to escape the arresting personnel and to get at SA [redacted] SAs [redacted] and [redacted] realizing that the subject was resisting arrest, and obviously had not been strip searched, moved around from behind the partition to assist in the securing of [redacted] During the scuffle, the partition was knocked to the floor, the camera was broken and numerous items of office equipment were strewn about the office. Trooper [redacted] was holding the subject's leg in an attempt to subdue him. SA [redacted] with handcuffs, attempted to secure the subject's one wrist. Both individuals were thrown clear by the subject and he proceeded toward SA [redacted] who at this point had drawn her service weapon, pointed it at the subject, and ordered him to stop. As the struggle ensued, [redacted] managed to escape the grasp of SAs [redacted] Trooper [redacted] and Inv. [redacted] proceeded toward SA [redacted] asking her repeatedly to shoot

b6
b7C

b6
b7C

him, because if he were returned to New Jersey authorities, he would be killed anyway. Realizing that the subject had escaped from all law enforcement personnel and was proceeding toward her, she became concerned for her personal safety and the safety of the others. SA [redacted] realized that this subject had an extensive criminal record and was becoming increasingly violent. She believed that if [redacted] were to grab her, he would wrestle her weapon from her and use it on either herself or the other law enforcement personnel. At this point, after repeated commands to stop, SA [redacted] discharged her nine millimeter Sig Sauer Model P226, Serial Number U367851. After firing her weapon, SA [redacted] observed that subject [redacted] immediately dropped to the floor, clutching his chest as though he had been shot. SA [redacted] later realized that [redacted] had not been hit and that the bullet struck a desk in the rear of the office. No one was injured or struck by this round. The Agents and another CID Inv., [redacted] who had just entered the room after the discharge of the weapon, subdued the subject, placing him in handcuffs and leg irons. The subject was immediately transported to the Petersburg, Virginia, CITY JAIL. [redacted] is a black male, date of birth [redacted] five feet seven inches, 140 pounds. He has FBI Number [redacted] has prior arrests for burglary, assault with a deadly weapon, disorderly conduct, sexual assault, and failure to appear. He had been convicted on the disorderly conduct charge, the remaining counts were dismissed. In regard to the charges resulting in the 3/26/93 arrest, [redacted] was wanted by the SUPERIOR COURT, Gloucester County, New Jersey, for multiple drug charges. He had been charged in a seven count indictment; three counts of possession, possession with intent to distribute, and distribution of cocaine, three identical counts regarding marijuana, and conspiracy. On 3/2/93, Assistant United States Attorney [redacted] Eastern District of Virginia, Richmond, Va., orally authorized the arrest of [redacted] for assaulting a Federal officer and resisting arrest. On 3/30/93, a complaint was filed in UNITED STATES DISTRICT COURT, Richmond, charging [redacted] with assaulting a Federal officer and crime on a Government reservation - assault on VSP Trooper [redacted]

b6
b7C

b6
b7C

DETAILS:

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted]
Date: March 22, 1993

Office: DETROIT

Field Office File #: 62A-DE-69434

Bureau File #:

b2
b6
b7C
b7D

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
DETROIT DIVISION
3/2/93

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 3/1/93, [redacted] advised SA [redacted] that [redacted] was an armed, "crack" addict who had committed four bank robberies in the Detroit area and was known to have stayed at the SUEZ MOTEL, Warren, Michigan. This source also described [redacted] car as a 1980 Dodge Diplomat, primer gray in color, bearing Michigan license [redacted]

On 3/2/39, SA [redacted] and SA [redacted] displayed a photo spread to victim tellers at the MICHIGAN NATIONAL BANK, 3461 S. Telegraph, Dearborn, Mi. one of whom positively identified [redacted] as the robber. SAs [redacted] and [redacted] then responded to a robbery at the FIRST OF AMERICA BANK, East Nine Mile Road and I-94, St. Clair Shores, Mi. where they met SAs [redacted] and [redacted] from the Mt. Clemens Resident Agency. Later that afternoon, SA [redacted] and SA [redacted] displayed a photo spead to a victim teller at the COLONIAL CENTRAL SAVINGS BANK, East Nine Mile Road, Warren, Mi. and she also positively identified [redacted] as the robber. SA [redacted] traveled to the SUEZ MOTEL, Warren, Mi. and determined from the motel manager that [redacted] was currently renting a room but had driven away a few minutes prior to SA [redacted] arrival. SA [redacted] radioed this information to SA [redacted] SAs [redacted] and [redacted] proceeded to the motel, met with SA [redacted] and

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

devised an arrest plan. SA [redacted] then telephoned SSA [redacted] who approved the arrest plan. When [redacted] returned to the motel, SA [redacted] and SA [redacted] attempted to arrest [redacted] as he exited his car. [redacted] however, put the car in gear and began driving for the motel exit. [redacted] appeared to have a "wild" look on his face to both SAs [redacted] and [redacted] When SAs [redacted] and [redacted] were unable to block the motel exit as previously planned due to traffic and radio problems, SA [redacted] positioned himself at the exit and ordered [redacted] to stop. In his panic to escape, [redacted] increased speed and headed straight at SA [redacted] At the last second, SA [redacted] jumped out of the way and simultaneously fired one shot toward the driver's side door. As he fired, SA [redacted] was afraid that either he would be killed, another Agent would be killed or an innocent pedestrian would be killed. Pursuing Agents discontinued the chase to prevent injury to innocent bystanders when [redacted] speed exceeded 100 miles per hour and he raced through several red lights.

b6
b7C

Four witnesses confirmed that SAs [redacted] and [redacted] identified themselves as they approached [redacted] car. It was the opinion of [redacted] and [redacted] that SA [redacted] was in jeopardy of being hit by [redacted] car. [redacted] saw the Agents approach [redacted] car but he did not witness the shooting incident because his view was obscurred. [redacted] claimed the Agents were never in front of [redacted] car, the car was never driven toward the Agents and in his opinion, the driver of the car was not trying to assault the Agents.

b6
b7C

[redacted] was arrested later that evening when he returned to the motel. In a signed statement given to SAs [redacted] and [redacted] following his arrest, [redacted] stated that during the FBI's attempt to arrest him earlier that day, he heard someone yell "FBI" but he did not see anyone around the entry way to the motel as he fled. When he was interviewed by SAs [redacted] and [redacted] was asked why he attempted to escape and run down arresting officers earlier in the day. [redacted] responded that his life was not worth living and he wanted someone to shoot and kill him. A search of [redacted] vehicle subsequent to his arrest failed to dislose a weapon which [redacted] allegedly carried or a bullet hole from SA [redacted] weapon.

b6
b7C

A criminal complaint and warrant to arrest [redacted] for violation of Title 18 USC Section 2113 (a) and 111 (a) (1) (b) was issued to SA [redacted] by United States Magistrate THOMAS A. CARLSON, Eastern District of Michigan on 3/3/93.

[redacted] is currently represented by counsel and is not available for additional interviews.

It is the opinion of Detroit's PFI that the shooting was justified and within Bureau policy.

On 4/19/93 AUSA [redacted] EDM, Detroit, Michigan advised that the original complaint charging [redacted] with Assault of a Federal Officer (AFO), Title 18, USC 111 was dismissed. [redacted] was subsequently charged in an information with three counts of Bank Robbery, Title 18, USC 2113 (a) and (d). b6 b7C

- P -

DETAILS:

This investigation was initiated subsequent to a shooting incident involving SA [redacted] on 3/2/93.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: SAN DIEGO
Date: April 23, 1993

Field Office File #: SD 66-19157 SUB 46 Bureau File #:

Title: SHOOTING INCIDENT
[redacted]
APRIL 16, 1993

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 4/16/93, at approximately 12:45 A.M., SA [redacted] who was returning to his residence from conducting an investigation in support of San Diego Case (166E-SD-51058), was stopped by a group of individuals who appeared to need assistance.

SA [redacted] visually observed these individuals damage a vehicle directly in front of his, and then attempt to "carjack" his vehicle. One subject struck SA [redacted] vehicle with a pool cue stick in an attempt to break the window. SA [redacted] accelerated through the area but continued to observe this group assaulting the next vehicle. This vehicle was also damaged with a blunt object.

SA [redacted] contacted the Police Emergency Operator "911" and attempted to report this violence but the connection was "cut-off". SA [redacted] stopped his vehicle, and attempted to thwart this violence by stating in a loud, clear voice, "police-stop-put your hands up". Three subjects ran towards SA [redacted] who was standing near his vehicle and had his Bureau issued weapon drawn. The first subject continued to approach and had his right hand in his waist band. SA [redacted] thought that these men were armed with semi-automatic pistols and that they were going to begin shooting at him.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

When the first subject was approximately 25 yards away, SA [redacted] fired a shot at the subject, but the shot missed. The magazine in the weapon of SA [redacted] was not properly seated and SA [redacted] attempted to fire again, but was unsuccessful. While the subjects continued to approach, SA [redacted] instinctively tapped the magazine and recharged the weapon. While releasing the slide, two rounds were immediately discharged from the weapon. Again, no injuries resulted. At this point the subjects retreated.

b6
b7C

SA [redacted] successfully contacted the police and provided descriptive information, which was corroborated by other witnesses, and arrests were made within the hour. SA [redacted] immediately reported the incident to his supervisor and cooperated fully with the Gang Unit of the San Diego Police Department.

-C-

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: NEWARK, NEW JERSEY
Date: July 23, 1993

Field Office File #: 66-4609 SUB 1 Bureau File #: 66-HQ-19157 SUB 31

Title: SHOOTING INCIDENT
MAY 20, 1993
NEWARK DIVISION

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: On May 20, 1993, Newark Special Agent (SA) [redacted] fired one round from a Sig Sauer 9mm caliber pistol at fugitive [redacted] No one was injured and [redacted] fled in a stolen vehicle. This event was precipitated by the following:

[redacted] had six (6) outstanding warrants from the ESSEX COUNTY SHERIFF'S OFFICE and NEWARK POLICE DEPARTMENT, for charges of Assault and Possession of Stolen Property. As a result, a Preliminary Inquiry (PI) Unlawful Flight to Avoid Prosecution (UFAP) investigation was opened on [redacted] on May 16, 1993.

On May 20, 1993, SA [redacted] ascertained that [redacted] was driving a black Ford Mustang, with tinted windows, New Jersey License [redacted] which was a stolen vehicle. While conducting investigations to locate [redacted] SA [redacted] spotted a vehicle answering this description. SA [redacted] in his Bureau car, followed the vehicle and confirmed it was the stolen automobile [redacted] was allegedly driving. SA [redacted] radioed for assistance and continued to follow the vehicle. The subject vehicle came to a slow stop for a traffic light located at Fulton Street and Broad Street. SA [redacted] drove up directly behind the vehicle and radioed his position.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] decided to contact and arrest [redacted] SA [redacted] was completely familiar with [redacted] having previously successfully obtained [redacted] cooperation in apprehending his brother. SA [redacted] decided to attempt the arrest because he was aware that [redacted] had previously been involved in chases with the police and did not want to cause a high speed pursuit in the downtown Newark area.

SA [redacted] exited his vehicle with his weapon drawn and concealed by his leg from the occupant of subject vehicle. The subject vehicle began traveling in reverse at an angle towards SA [redacted] SA [redacted] jumped out of the vehicle's way and yelled "Stop"! SA [redacted] brought his pistol to arm level and fired one shot into the driver's side window. After he fired, the vehicle abruptly stopped coming at him and accelerated forward, turning left on Fulton Street. [redacted] was successful in his escape attempt.

b6
b7C

On May 21, 1993, a criminal complaint was filed and an arrest warrant issued for [redacted] for Assault on a Federal Officer.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC BRIAN P. CARROLL
Date: June 14, 1993

Office: KANSAS CITY

Field Office File #: 88A-TP-21667

Bureau File #:

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT INVOLVING
SA [redacted]
KANSAS CITY DIVISION
MAY 21, 1993

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 5/21/93, Special Agents of the FBI and state and county law enforcement officers attempted to arrest WILLIAM DALE JONES in Jefferson City, Missouri. JONES was the subject of an Unlawful Flight to Avoid Prosecution warrant issued in Orlando, Florida, on 1/4/91. During this attempted arrest, JONES utilized his pickup truck in an attempt to avoid arrest and in so doing he drove directly at SA [redacted], who was standing outside his Bureau vehicle. The Cole County Sheriff and his first deputy, both in uniform, had unsuccessfully ordered JONES to stop his attempt to drive from a parking lot and fired several shots at JONES' vehicle in order to disable it. SA [redacted] saw the sheriff and deputy firing their weapons but withheld fire from his own weapon until after JONES rammed his Bureau car in the attempt to hit SA [redacted] After being hit by the driver's side door of his car, SA [redacted] fearing that JONES would attempt to hit him again, opened fire with his Smith and Wesson 10mm, Model 1076, approximately five times. JONES' vehicle came to a stop a short distance away and JONES was observed to have received a wound to his head. JONES expired from this wound on 5/22/93. An autopsy performed on 5/24/93, determined that JONES had been hit with one round to the head. Ballistics examination of this round determined it to be a 10mm with no further identification able to be made.

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] was the only shooter utilizing a 10mm. After being alerted on 5/20/93, to the fact that JONES was believed to be in Jefferson City, Missouri area, agents assigned to the three-man RA located in Jefferson City alerted local authorities. As additional information was received from the FBI in Tampa, Florida, on the 21st, plans were formulated to facilitate subject's arrest with the assistance of the Kansas City SWAT Team under the supervision of ASAC WILLIAM H. GENTRY and SSRA [redacted] Physical surveillance and SWAT deployment at a possible location for the subject during the evening of 5/20 and early morning of 5/21/93, failed to locate subject. ASAC GENTRY, SSRA [redacted] and SWAT personnel left Jefferson City, which is three and a half hours from Kansas City after this all night surveillance. Jefferson City personnel, including SA [redacted] conducted spot checks during the day of possible locations for JONES. These spot checks resulted in locating a pickup truck believed to be operated by JONES at his mother's residence around 3:30 p.m. on 5/21/93. Unable to conduct a full-scale surveillance of this vehicle, it was in and out of observation until such time as it was located at the JUNGLE BAR, 1009 Missouri Boulevard, Jefferson City, Missouri. SAs [redacted] and [redacted] were on the scene and assisted by Cole County Sheriff [redacted] Chief Deputy Sheriff [redacted] and Lt. [redacted] Missouri Highway Patrol. SA [redacted] remained in the Jefferson City Resident Agency to facilitate communications with the on-scene participants. Concern that JONES had a police scanner negated use of the county radio system and local officers did not have FBI communications; therefore, SA [redacted] was in telephonic contact with Sheriff [redacted], who had visual observation of subject's vehicle from a garage across the street from the JUNGLE BAR. When JONES left the bar and entered his pickup truck, [redacted] telephonically relayed this observation, made by SA [redacted] to the sheriff, who in turn proceeded to enter his vehicle and drive into the lot. Events surrounding the shooting then followed. On 6/2/93, Cole County Prosecutor ruled that in this instance the use of deadly force falls within the parameters established and allowed under both federal and state law.

b6
b7C

b6
b7C

P

DETAILS:

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC RICHARD C. STAVER Office: Cleveland
Date: June 17, 1993

Field Office File #: 62A-CV-49382 Bureau File #:

Title: SHOOTING INCIDENT
CLEVELAND/CUYAHOGA FUGITIVE TASK FORCE
JUNE 3, 1993

Character: ADMINISTRATIVE INQUIRY

Synopsis: On June 3, 1993 Special Agent (SA) [redacted] of the Federal Bureau of Investigation (FBI) and Deputy [redacted] of the Cuyahoga County Sheriff's Department, both members of the Cleveland/Cuyahoga Fugitive Task Force, shot [redacted] while in the process of effecting an arrest on him.

[redacted] was wanted on a state warrant obtained June 1, 1993 by the Akron, Ohio Police Department for aggravated robbery. [redacted] is also a subject of a bank robbery case in the Cleveland Division entitled "UNSUB (1), [redacted] FIRST NATIONAL BANK OF OHIO, 727 NORTH MAIN STREET, AKRON, OHIO; 5/24/93; OO: CV", Cleveland file number 91A-CV-49347.

b6
b7C

On June 3, 1993 Fugitive Task Force members, in an effort to apprehend [redacted] instituted a plan. The plan was to apprehend [redacted] near a car dealership in Cleveland, Ohio. However, Mr. [redacted] took a different route than anticipated and also observed arresting agents and officers. A high speed vehicle chase occurred, which resulted in Mr. [redacted] crossing a center line and striking another vehicle. SA [redacted] vehicle then collided with Mr. [redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] exited his vehicle and was fired upon by [redacted] who was armed with a 9mm handgun. SA [redacted] returned fire, as did Deputy [redacted] at [redacted] received eight non-fatal gunshot wounds. [redacted] admitted that he had fired shots at law enforcement officers and that the weapon utilized was his.

b6
b7C

- RUC -

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: DETROIT
Date: June 16, 1993

Field Office File #: 62A-DE-70096 Bureau File #:

Title: SHOOTING INCIDENT
DETROIT DIVISION
5/25/93

Character: ADMINISTRATIVE INQUIRY

Synopsis:

On 5/25/93, SA [redacted] received source information as to the location of JULIUS BIGGS, a fugitive in a UFAP - Escape matter. The source advised that BIGGS had no weapon. Personnel of the Alliance Fugitive Task Force and the DPD were notified and BIGGS was located, with two other males, on the front porch of the residence at 9331 Pryor, Detroit, Michigan. Pursuant to the arrest plan, at approximately 6:00 p.m., FBI Agents, DPD Officers and a Wayne County Deputy Sheriff proceeded to the residence to arrest BIGGS. As SAs [redacted] and Deputy Sheriff [redacted] were exiting their vehicles, BIGGS walked through the front door into the house. [redacted] asked [redacted] one of the individuals on the porch, if JULIUS had a weapon and [redacted] said, "No." The door was locked and the Agents and officers knocked and identified themselves. [redacted] kicked in the door as they were in hot pursuit. Entry was made. [redacted] discovered stairs leading to a second level, saw a door at the top of the stairs move slightly and an

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

individual behind the door. [redacted] said, "Is that you, JULIUS?" He told him to come out and the individual replied, "Fuck you, I'm not coming out." [redacted] started up the stairs to arrest BIGGS and [redacted] saw a gun pointed down the steps from the door. [redacted] saw a muzzle flash, heard a noise and fell backwards down the steps. [redacted] thought [redacted] had been shot and fired one round with his personally owned, Bureau approved, S&W 4516-1, serial number TEH3307, up the steps. [redacted] advised another shot came from the top of the stairs and, after seeing the subject peek back and forth around the corner, he returned two more rounds toward the top of the steps. The three shots fired by SA [redacted] did not hit the subject. They then backed off and began to assist two females out of the residence. A single shot was heard from the upstairs area. BIGGS was found lying on the floor in an upstairs room, near a bed. A pool of blood was near his head and a blue steel .357 magnum was on the floor. [redacted] believes [redacted] actions prevented BIGGS from firing additional shots at him. DPD report set out. The report of the Wayne County Medical Examiner stated that BIGGS' death was caused by a contact gunshot (.357) wound of the head and the manner of death was a suicide. No other gunshot wounds were identified in the Wayne County Medical Examiner Report.

b6
b7C

- P -

b6
b7C

DETAILS:

The investigation was initiated subsequent to a shooting incident involving SA [redacted] on 5/25/93, at 9331 Pryor, Detroit, Michigan.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: SSA [redacted] Office: NEW YORK
Date: June 22, 1994

Field Office File #: Bureau File #:

Title: SHOOTING INQUIRY
6/12/94
NEW YORK

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: Investigation at New York was initiated when SA [redacted] telephonically contacted his supervisor to advise her of a shooting incident in which he had been involved. He reported that he had discharged one round at a pit bull which had been released at him while he sat in his personally owned vehicle. No one had been injured as the result of the shooting, but SA [redacted] suffered slight injuries as the result of a physical attack by two individuals, just prior to the dog being released upon him.

Investigation reveals no wrongdoing on the part of SA [redacted]

In conducting this inquiry, SA [redacted] was interviewed, a copy of the New Brunswick Police Report was reviewed, SA [redacted] car and clothing w ere examined and the scene of the altercation was visited. SA [redacted] provided a sworn signed statement to FBI investigators and an audio taped interview to the local police. He cooperated with local police in identifying one of his attackers from a mug shot. This individual was arrested by local police for aggravated assault on Wednesday 6/15/94. A second subject has not yet been identified, but local police are trying to learn his identity through his nick name.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Details:

1. Signed Sworn Statement of SA [redacted]

On Sunday, June 12, 1994 at approximately 8:45 am SA [redacted] went to a public park near his home to play basketball. He played approximately six games of basketball before he decided to take a break.

During one of the games he encountered a dispute over a penalty which seemed to enrage two members of another team, and one of them said, "We can settle this another way." b6 b7C

When SA [redacted] took a break, he sat on the side of the basketball court for a short time. As he got up to leave, one of the two players from the earlier game approached him and threw a basketball at him. The second player from the earlier game came over and threw two or three punches at SA [redacted] face. Other players from the game came to SA [redacted] assistance and while they held the two at bay, SA [redacted] retreated to his car. As he was doing so, he heard the man who had punched him yell, "Get the dog. "

Soon after SA [redacted] arrived at his car, and was seated in the driver's seat, he heard a load noise at the driver's door window and the window broke onto his head and upper body. The man who had punched him reached into the car, opened the door and let the dog into the car. The other man was standing on the passenger's side of the car. SA [redacted] reached for his gun which was on the passenger's side floor in his gym bag. SA [redacted] exited the vehicle with his gun as the dog grabbed at his left foot. SA [redacted] pointed his weapon at the dog, and discharged one round at the dog. The dog and the assailants ran off.

SA [redacted] sought witnesses to the events and then telephoned the New Brunswick, NJ, police department using a public telephone at the parking lot. Police responded and took a report. SA [redacted] went to the Police Headquarters and was interviewed by a detective to whom he gave a audio recorded statement. He further identified one subject from a mug shot. This was the subject who punched him and who was in control of the dog. b6 b7C

2. Fd - 302 of SSA [redacted] and SSA [redacted]

SSA [redacted] and SSA [redacted] observed the damage to SA [redacted] personal vehicle within seven hours of the event. They additionally viewed a bloodied T-shirt and a damaged basketball shoe consistent with the altercation which SA [redacted] had described. They additionally visited the scene with SA [redacted] and verified the existence of the site and a layout consistent with SA [redacted] statement.

3. Police Report

The initial police report of P.O. [redacted] #[redacted] is consistent with the statement provided by SA [redacted] The police report notes that only one cartridge was recovered at the scene, and the weapon had twelve rounds in the magazine and one in the chamber. P.O. [redacted] had problems identifying witnesses at the scene. Some people there said they saw the victim [redacted] and someone else arguing, but could not say what happened.

b6
b7C

There is a supplemental report prepared by Det. [redacted] This statement is also constant with SA [redacted] sworn signed statement. Det. [redacted] assembled the photo spread which identified the subject, [redacted]

Mr. [redacted] 11/8/93

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/17/93
BALTIMORE DIVISION

Reference attached report of ASAC Arturo Rivera, dated 8/5/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident. b6 b7C

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted], Quantico

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Shooting Incident
Administrative Inquiry
7/17/93
Baltimore Division

DETAILS: On 9/30/93, the SIRG, consisting of Acting Chairman Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; and Unit Chief [redacted] Firearms Training Unit, Training Division, met to discuss the above-captioned shooting.

b6
b7C

Synopsis of the Shooting Incident

On 7/17/93, Agents of the Southern Maryland Metropolitan Resident Agency, Baltimore Division, were involved in executing a plan to arrest [redacted] who was wanted for drug-related homicides in Prince George's County, Maryland. Information was developed which indicated that [redacted] was located at an apartment in Silver Springs. Surveillance of the apartment confirmed this information. Another male and a female were known to be in the apartment with [redacted] The other male was identified as [redacted] who was also wanted on murder charges in Prince George's County.

At approximately 12:30 p.m., the surveillance team saw someone close the drapes in the apartment, and believed that [redacted] and the others were preparing to leave. They planned to arrest [redacted] as he and the others attempted to get into their vehicle. The three subjects and a pit bull terrier exited the apartment, and [redacted] the female (later identified as [redacted] and the dog got into a White Chevy Geo. [redacted] was standing at the hatchback. SA [redacted] and SA [redacted] exited the surveillance vehicle. SA [redacted] identified himself as an FBI Agent and ordered [redacted] to stop. [redacted] fled the area on foot, followed by SA [redacted] SA [redacted] approached the driver's window and saw [redacted] and [redacted] inside the car. As he ordered them not to move, and the pit bull exited the rear window of the vehicle and approached him in a menacing manner. SA [redacted] jumped onto the roof of the vehicle, and the dog followed. At that point, SA [redacted] fired one shot at the dog, striking the dog in the hindquarters. The dog fled the area. SA [redacted] then got off the

b6
b7C

(Continued - Over)

car and told [redacted] and [redacted] to come out of the car. Both were arrested without incident. [redacted] was arrested by SA [redacted] and SSA [redacted] a short distance away.

b6
b7C

SA [redacted] apparently fired his weapon at the dog, believing that the dog was about to attack him.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident, as documented by the administrative inquiry furnished to the SIRG, dated 8/5/93, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon as he believed the pit bull terrier was about to attack him.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

b6
b7C

Copy to: ADMINISTRATIVE SERVICES DIVISION

Report of: ASAC RICHARD [redacted] Office: MIPO
Date: August 22, 1995

FBI (Office) File #: [redacted] Bureau File #:

Title: [redacted]
[redacted]

Character: ADMINISTRATIVE INQUIRY

Synopsis: [redacted]

[redacted]

b6
b7C

[redacted]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

b6
b7C

FD-204 (Rev. 3-3-59)

**UNITED STATES DEPARTMENT OF JUSTICE**
**Federal Bureau of Investigation**

Copy to:

Report of: SSA [redacted] Office: DENVER
Date: August 24, 1993

Field Office File #: 62A-DN-46616 Bureau File #:

Title: SA [redacted]
SHOOTING INCIDENT
DENVER DIVISION
8/12/93

b6
b7C

Character: ADMINISTRATIVE INQUIRY

Synopsis: At approximately 11:00 a.m., 8/12/93, SA [redacted] Denver Division, accompanied by District Attorney's Investigator [redacted] went to the residence of [redacted] Wellington, Colorado. The purpose of going to the residence was to serve a summons on [redacted] demanding his presence in U. S. District Court, Amarillo, Texas, at 9:30 a.m., 8/13/93. The residence is in a rural area with the nearest other home approximately one-half mile away. As SA [redacted] and Investigator [redacted] drove up to the front of the residence, [redacted] wife, [redacted] was in the front yard watering plants. Before either individual could exit the vehicle, [redacted] dropped the hose and ran into the residence. SA [redacted] exited the vehicle and posted a copy of the summons on the split rail fence directly in front of the front door of the residence inasmuch as personal service of the summons did not seem possible based on [redacted] actions. SA [redacted] then took three Polaroid photographs of the front of the residence and the posted summons and went to the front door and rang the bell and knocked on the door. No one responded and as SA [redacted] started walking back to the vehicle operated by Investigator [redacted] three dogs ran from the back of the house and began barking and growling in an aggressive and threatening manner towards

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SA [redacted] When the dogs did not respond to verbal commands to stop, SA [redacted] fired four rounds from his .357 revolver at the lead dog. He believes he hit the dog one or two times and the dog stopped and ran back behind the residence accompanied by the other two dogs. [redacted] nd [redacted] then left the scene. The dogs were seen in the back yard of the house with the most aggressive dog limping. Sheriff Deputies responded to the scene and decided not to request a Dog Warden to go to the residence because of possible altercations with Mr. and/or Mrs. [redacted]. The circumstances of the shooting of the dog as relayed by Investigator [redacted] were the same as the version of SA [redacted]

b6
b7C

-P-

DETAILS:

TABLE OF CONTENTS


| | Page No. |
|---|---|
| Signed, sworn statement of SA [redacted] Denver Division, dated August 13, 1993, and executed August 20, 1993 | 3 |
| Unsigned statement of Investigator [redacted] 8th Judicial District, State of Colorado | 11 |
| Insert of Principal Legal Advisor [redacted] Denver Division | 13 |


b6
b7C

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs
Telephone Rm.
Director's Office

To : Mr. [redacted]

Date 2/28/94

From : Mr. [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
9/10/93
NEWARK DIVISION

Reference attached report of SSA [redacted] dated 9/20/93.

b6
b7C

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

1 - Mr. [redacted]
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr.
1 - Mr.
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
9/10/93
Newark Division

b6
b7C

DETAILS: On 2/3/94, the SIRG, consisting of Chairman E. Michael Kahoe, Criminal Investigative Division; Unit Chief [redacted] Office of Professional Responsibility, Inspection Division; Section Chief Stephen W. Dillard, Global Section Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

## Synopsis of the Shooting Incident

On the evening of 9/10/93, SA [redacted] assigned to the Newark Division, arrived in Washington, D.C., to visit with his young daughter at the residence of her grandmother (Mrs. [redacted]. As SA [redacted] was carrying packages from his vehicle to Mrs. [redacted] residence, he heard the sound of young girls screaming. He first believed the children were playing, but when the screams got louder he thought that someone was being hurt or attacked. He ran in the direction of the screams and saw a young girl, face down on the sidewalk, with a large dog on top of her. SA [redacted] yelled at the dog, and tried to distract its attention away from the child. He eventually distracted the dog long enough to pull the child away from the dog. The dog then lunged at SA [redacted] He attempted to fire his Smith and Wesson 9mm at the dog, but the safety was on. He took the safety off and, as the dog lunged again, fired one shot at the dog. The shot missed the dog and embedded in the ground. The dog then turned and ran away.

b6
b7C

SA [redacted] then returned his weapon to its holster, and carried the little girl to her home. He then called the Washington, D.C. Police and an ambulance. The next morning, he notified the Newark Division of the discharge.

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
9/10/93
Newark Division

b6
b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 9/20/93, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon fearing for his own life and to protect the life of a child which was being attacked by a dog.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of: ASAC MYRON FULLER
Date: January 4, 1994

Office: SALT LAKE CITY

Field Office File #: 62A-SU-41044

Bureau File #:

Title: ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT;
SALT LAKE CITY DIVISION;
12/22/93

Character: ADMINISTRATIVE INQUIRY

Synopsis: On 12/22/93, at approximately noon, near Montezuma Creek, Utah, on the NAVAJO INDIAN RESERVATION, SA [redacted] date of birth [redacted] EOD 6/15/82, while making a felony FBI arrest, was attacked by two dogs. SA [redacted] fired one round from his Bureau issued SIG SAUER P226 at subject dog described as a thirty pound black and gray multi-breed female. Subject dog had attacked him and was in the process of repeating the attack. The distance between SA [redacted] and the dog was less than three feet. Neither SA [redacted] nor the dog were injured in the melee.

b6
b7C

SA [redacted] was backed up on aforementioned arrest (of [redacted] by two Navajo Criminal Investigators [redacted] and [redacted] and SAN JUAN COUNTY DEPUTY SHERIFF [redacted] Referenced law enforcement personnel met at the Montezuma Creek Resident Agency at approximately 11:00 a.m. on date of incident to plan the arrest. The officers departed the RA and arrived at the scene of the arrest (shooting incident) at approximately 12:00 noon. The two Navajo Police Officers were stationed in a back-up response mode approximately 100 yards from the scene of the shooting and were not in a position to observe the shooting. Deputy Sheriff [redacted] was standing about 15 feet from SA [redacted] He observed the two dogs run towards SA [redacted] and [redacted] fire one round at the black and gray dog.

b6
b7C

-C-

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

62[illegible]-SU-[illegible]

DETAILS:

This case is predicated upon information that SA [redacted] assigned to the Salt Lake City Office of the FBI had been involved in a shooting incident at approximately 12:00 Noon, on 12/22/93, during the apprehension of [redacted] who is under investigation for Crime on an Indian Reservation - Assault with a Deadly Weapon. b6 b7C

Mr. [redacted] 6/4/93

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/4/93
CHICAGO DIVISION

b6
b7C

Reference attached report of SSA [redacted] dated 3/17/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted]
1 - Mr. [redacted]

EMK\TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: [redacted]
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
3/4/93
Chicago Division

DETAILS: On 5/6/93, the SIRG, consisting of Chairman E. Michael Kahoe, Criminal Investigative Division; Supervisory Special Agent [redacted] Inspection Division (Alternate); Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 3/4/93, as SA [redacted] was driving his Bureau car from his residence to the Chicago office, he noticed a male motioning for him to stop and help him. When SA [redacted] exited his vehicle, the man [redacted] indicated that he needed help in trying to rescue a young girl who was being attacked by two Rotweiller dogs. [redacted] tried to get the dogs to release the girl by swinging jumper cables at them, and SA [redacted] tried to frighten the dogs away. After repeated attempts to get the dogs to release the girl, the dogs turned away from her and began circling SA [redacted] When the dog on SA [redacted] left side made an aggressive move toward him, he fired one shot from his Sig Sauer P228 which struck the dog in the upper left part of its body. Both dogs immediately fled the area. The dog which SA [redacted] shot was later found dead a few blocks from the site of the shooting. Local police officers, who were called to the scene, located the second dog. A police officer shot and killed the second dog after that animal made a menacing move toward him. The young girl was taken to a hospital where she received treatment for her injuries and was reported to be in good condition. b6 b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident, as documented by the administrative inquiry furnished to the SIRG, dated 3/17/93, determined that proper procedures were followed during this shooting incident. SA [redacted] fired his weapon in

(Continued - Over)

b6
b7C

an attempt to protect both himself and others nearby from further attack by two animals which had already attacked one individual.

After a thorough review of all the facts concerning this incident, it was the unanimous opinion of all members of the SIRG that no administrative action be taken against any FBI employee as a result of this shooting incident.

U.S. Department of Justice

Federal Bureau of Investigation

*Washington, D.C. 20535*

January 25, 2011

MR. CHARLES SAVAGE
THE NEW YORK TIMES
1627 I STREET NORTHWEST
WASHINGTON, DC 20006

Subject: SHOOTING INCIDENT REVIEW TEAM REPORTS COMPLETED JANUARY 1, 1993 TO THE PRESENT.

FOIPA No. 1139615- 001

Dear Mr. Savage:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

| **Section 552** | | **Section 552a** |
|---|---|---|
| ☐(b)(1) | ☐(b)(7)(A) | ☐(d)(5) |
| ☐(b)(2) | ☐(b)(7)(B) | ☐(j)(2) |
| ☐(b)(3)_____ | ☒(b)(7)(C) | ☐(k)(1) |
| _____ | ☐(b)(7)(D) | ☐(k)(2) |
| _____ | ☐(b)(7)(E) | ☐(k)(3) |
| _____ | ☐(b)(7)(F) | ☐(k)(4) |
| ☐(b)(4) | ☐(b)(8) | ☐(k)(5) |
| ☐(b)(5) | ☐(b)(9) | ☐(k)(6) |
| ☒(b)(6) | | ☐(k)(7) |

**3 pages** were reviewed and **3 pages** are being released.

☐ Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:

- ☐ referred to the OGA for review and direct response to you.
- ☐ referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

☒ You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice,1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Number assigned to your request so that it may be easily identified.

☐ The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown,

when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

☒ See additional information which follows.

Sincerely yours,

David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

This is an interim release consisting of a 1993 Shooting Incident Review Team Report that was not included in your original FOIPA#1139615 release. Please be advised that additional documents are currently being processed and will be released to you upon completion of our review process. Your patience is appreciated.

## EXPLANATION OF EXEMPTIONS

### SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

(b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;

(b)(2) related solely to the internal personnel rules and practices of an agency;

(b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could be reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could be reasonably expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;

(b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(b)(9) geological and geophysical information and data, including maps, concerning wells.

### SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

(d)(5) information compiled in reasonable anticipation of a civil action proceeding;

(j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;

(k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;

(k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;

(k)(4) required by statute to be maintained and used solely as statistical records;

(k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;

(k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Mr. [redacted] 6/4/93

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
2/24/93
BIRMINGHAM DIVISION

Reference attached report of ASAC James F. Carlile, dated 3/10/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident. It is recommended, however, that SA [redacted] be provided remedial firearms training.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. [redacted]
(1 - Mr.
1 - Mr. [redacted]

EMK\TJG:tjg (15)

1 - Mr. [redacted]
1 - Mr. [redacted]
(Attn: Mr. [redacted]
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
2/24/93
Birmingham Division

b6
b7C

DETAILS: On 5/6/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Supervisory Special Agent [redacted] Inspection Division (Alternate); Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted], Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

Synopsis of the Shooting Incident

On 2/24/93, Agents of the Birmingham Division along with local police and representatives of the U.S. Customs Service were involved in resolving a hostage situation in Homewood, Alabama. The hostage [redacted] had come to Alabama from Michigan for the purpose of buying automobiles from subjects [redacted] and [redacted] and [redacted] were apparently involved in the fraudulent sale of automobiles, as some of the titles appeared to have been altered. Upon picking [redacted] up at the local airport, he was transported to [redacted] apartment where he was tied up. [redacted] was allowed to talk to his superiors in Michigan, and was instructed to tell them that the sale of the automobiles was fine, and they should send the money for the cars down to Alabama.

b6
b7C

By the use of a pretext call, it was determined that [redacted] was in [redacted] apartment. In following through with their plan, Birmingham Agents, local police and the U.S. Customs Agents were waiting in the parking lot of the apartment. Immediately following the pretext call, Agents entered [redacted] apartment. At that moment, [redacted] and [redacted] both jumped from the second-story balcony to the parking lot below. SSA [redacted] who was assigned to remain in the parking lot watching the apartment, saw the subjects jump and ordered them to halt. [redacted] who apparently injured his foot as a result of jumping, stopped and was apprehended. [redacted] continued to flee, and when SSA [redacted] identified himself as an FBI Agent and ordered him to stop, [redacted] made a motion as if he were retrieving a weapon from the waistband of his pants. SSA [redacted] fired at [redacted] but missed. [redacted] continued running. SSA [redacted] did not fire

(Continued - Over)



Savage-1321

additional shots, as [redacted] had run through the doorway of another apartment building. SSA [redacted] feared that firing again might place other residents in danger. [redacted] was apprehended several days later in New Orleans. Both subjects were subsequently indicted on Hobbs Act-Extortion charges. b6 b7C

It appears that SSA [redacted] fired his weapon because he believed he was about to be fired upon by the subject [redacted] However, it is noted that two individuals who were interviewed as a part of this inquiry indicated they believed SSA [redacted] intentionally fired high and did not intend to hit [redacted] It is further noted that SSA [redacted] shot lodged in the roof of the apartment building, approximately 26 feet off the ground.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident, as documented by the administrative inquiry furnished to the SIRG, dated 3/10/93, determined that SSA [redacted] was justified in the firing of his weapon in that it appeared the subject was in the process of drawing a weapon. The SIRG is somewhat concerned, however, about SSA [redacted] shot going so far over the head of the subject.

After a thorough review of all the facts concerning this incident, it was the unanimous opinion of all members of the SIRG that SSA [redacted] be afforded remedial firearms training.

# 1993

Mr. [redacted] 6/4/93

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/2/93
DETROIT DIVISION

Reference attached report of SSA [redacted] dated 4/19/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

EMK/TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
3/2/93
Detroit Division

DETAILS: On 5/6/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Supervisory Special Agent [redacted] Inspection Division (Alternate); Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 3/1/93, a Detroit source provided information that [redacted] was responsible for several recent bank robberies in the Metropolitan Detroit area. The source also indicated that [redacted] was a "crack" addict, was most likely armed, and often stayed at the Suez Motel in Warren, Michigan. SA [redacted] and SA [redacted] displayed a photo of [redacted] to some of the employees of the victim banks, who identified [redacted] as the robber. Although at the time there was no Federal arrest warrant for [redacted] SAs [redacted] and [redacted] had probable cause to arrest him as a result of the identification by the bank employees. SAs [redacted] and [redacted] along with other Agents from the Detroit office, devised a plan to arrest [redacted] at the Suez Motel. On 3/3/93, a Federal arrest warrant for [redacted] was issued by the U.S. District Court, Eastern District of Michigan.

On 3/2/93, the Agents went to the Suez Motel to await [redacted] arrival. As [redacted] pulled into the parking lot and exited his car, SAs [redacted] and [redacted] attempted to arrest him. [redacted] got back into his car and tried to flee. Other Agents tried to pull their cars into a position which would block [redacted] escape, but they were unable to do so because of traffic. SA [redacted] identified himself as an FBI Agent and ordered [redacted] to stop. [redacted] however, continued in his vehicle, which was headed toward SA [redacted] At the last minute, SA [redacted] jumped out of the way of [redacted]'s vehicle and fired a shot from his Smith and Wesson 9 mm at the driver's door. SA [redacted] believed that his life, as well as the lives of the other Agents and bystanders, were in danger. A chase ensued; however, [redacted] escaped. b6 b7C

(Continued - Over)

Later that evening, [redacted] returned to the Suez Motel where he was arrested without incident. [redacted] was charged with Bank Robbery and Assault on a Federal Officer (AFO); however, the AFO charges were later dropped.

b6
b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 4/19/93, determined that proper procedures were followed during this shooting incident. SA [redacted] fired his weapon in an attempt to protect his own life and the lives of other Agents and bystanders.

After a thorough review of all the facts concerning this incident, it was the unanimous opinion of all members of the SIRG that no administrative action be taken against any FBI employee as a result of this shooting incident.

Mr. [redacted] 6/4/93

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
3/26/93
RICHMOND DIVISION

b6
b7C

Reference attached report of SSA [redacted] dated 4/8/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident.

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

EMK/TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted] Quantico

b6
b7C

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
3/26/93
Richmond Division

DETAILS: On 5/6/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Supervisory Special Agent [redacted] Inspection Division (Alternate); Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

During the period prior to 3/26/93, SA [redacted] has been involved in an investigation of a Crime on a Government Reservation - Murder for Hire matter along with the Army CID at Fort Lee, Virginia, and the Virginia State Police. A CID source, named [redacted] had provided information which led to the arrest of the subject of the Murder for Hire matter. However, during the course of the investigation, SA [redacted] believed that some inconsistencies existed regarding statements made by [redacted] SA [redacted] ran an NCIC check on [redacted] and found that one [redacted] was wanted in New Jersey for failure to appear regarding several drug charges. SA [redacted] believed that [redacted] and [redacted] were the same individual.

SA [redacted] along with SA [redacted] of the Richmond Division, went to Fort Lee, along with a Virginia State Trooper. At Fort Lee, the CID investigators called [redacted] in, indicating that they needed to ask him some questions. [redacted] appeared, where he met SA [redacted] and the others. SA [redacted] asked [redacted] if he were indeed [redacted] who was wanted by New Jersey authorities. [redacted] denied that he was this individual. SA [redacted] advised that they could clear the matter up easily by taking his fingerprints. [redacted] agreed to have his prints taken. A comparison of the fingerprints indicated that [redacted] was, in fact, [redacted] b6 b7C

(Continued - Over)



Savage-1328

After admitting his true identity, [redacted] asked them not to send him back to New Jersey, as he feared for his life. SAs [redacted] and [redacted] moved behind a partition so that the male officers could strip search [redacted] before taking him into custody. A scuffle ensued and [redacted] tried to escape. SAs [redacted] and [redacted] came from around the partition and assisted in attempting to subdue [redacted] SA [redacted] drew her Sig Sauer 9mm weapon and pointed it at [redacted] lunged at her, at which time SA [redacted] fired one shot. The shot missed [redacted] however, he fell to the floor at the sound of the gunshot and was then overpowered and handcuffed.

b6
b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident, as documented by the administrative inquiry furnished to the SIRG, dated 4/8/93, determined that proper procedures were followed during this shooting incident. SA [redacted] fired her weapon believing that her life, as well as the lives of her fellow law enforcement officers, were in danger.

After a thorough review of all the facts concerning this incident, it was the unanimous opinion of all members of the SIRG that no administrative action be taken against any FBI employee as a result of this shooting incident.

Mr. [redacted] 8/11/93

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
6/15/93
SPRINGFIELD DIVISION

[redacted] Reference attached report of Special Agent [redacted] dated 6/28/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

EMK/TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
(1) - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
6/15/93
Springfield Division

DETAILS: On 7/21/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Special Agent [redacted], Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 6/15/93, members of the Springfield VCDTF were involved in the planned arrest of two drug dealers, [redacted] and [redacted] in Cairo, Illinois. The VCDTF is composed of officers of the Illinois State Police, SAs of the Federal Public Housing Drug Task Force (under the supervision of the Cairo, Illinois, Police Department), and SAs of the Springfield Division. The SSRA of the Carbondale Resident Agency is the coordinator of the VCDTF.

[redacted] The arrest plan called for the arrest of [redacted] and [redacted] as they returned to Cairo from Chicago where they had picked up crack cocaine. The two were to be arrested as they exited the Interstate Highway passing through Cairo. The exit was in an open area with no buildings, which would prevent the subjects from endangering the public if they fled. The vehicle stop did not occur at the exit, and the car was stopped by Housing Task Force SAs [redacted] and [redacted] outside [redacted] residence. As the subjects got out of the car, [redacted] fled on foot. SA [redacted] fired three warning shots into the air in an effort to get [redacted] to stop. [redacted] was later arrested by VCDTF members approximately 200 yards away. b6 b7C

SA [redacted] fired the warning shots before any FBI personnel had arrived at the scene. He was advised by the FBI SSRA that FBI policy prohibited the use of warning shots, which he said he understood. He was also advised that the Cairo Police Department policy prohibited the use of warning shots, unless

(Continued - Over)

b6
b7C

deadly force was appropriate. The Cairo Police Department disciplined SA [redacted] by suspending him without pay for five working days.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 6/28/93, revealed that a non-FBI member of a joint task force under the oversight of the FBI inappropriately discharged his weapon by firing a warning shot. The task force member was advised that this is against FBI policy, as well as against the policy of the local police department. He was subsequently disciplined by his own department.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

Mr. [redacted] 8/11/93

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
4/16/93
SAN DIEGO DIVISION

b6
b7C

Reference attached report of Supervisory Special Agent [redacted], dated 4/23/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

EMK/TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
4/16/93
San Diego Division

DETAILS: On 7/21/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Special Agent [redacted], Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

Synopsis of the Shooting Incident

On 4/16/93, at approximately 12:45 a.m., SA [redacted] was returning to his residence after conducting investigation in connection with a case he was assigned targeting street gangs in the San Diego area. As he drove toward his residence, he noticed a group of individuals in the road ahead who were attempting to flag down the car in front of him. As this car slowed, the individuals approached the car and began to hit the car with their hands and other objects. The driver of this car sped away. As SA [redacted] approached the individuals, he tried to drive around them. However, one individual struck at SA [redacted] vehicle with a pool cue. SA [redacted] drove on ahead and watched the car behind him pass through where the individuals were standing. They also assaulted the third car. SA [redacted] called the police from his car phone and turned his car around, shining the headlights at the individuals. As they approached him, SA [redacted] got out of his car and drew his 9mm, Sig Sauer P-226, and identified himself as a law enforcement officer. The individuals continued toward him, and one put his hand to his belt as if he were drawing a weapon. At that time, SA [redacted] fired one shot. As he tried to fire a second and third shot, the weapon jammed. He hit the bottom of the magazine and pulled the slide to the rear, at which time the weapon immediately discharged two more rounds. The subjects ran down a nearby embankment and SA [redacted] called the police a second time. He then returned to his residence to await the arrival of the police.

b6
b7C

(Continued - Over)

After the police arrived and took his statement, SA [redacted] was asked to attempt to identify the subjects from a number of individuals the San Diego Police had apprehended near the scene. SA [redacted] positively identified four individuals. b6 b7C

SA [redacted] indicated that he fired his weapon because he fully believed that at least one subject was armed and about to draw a weapon.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 4/23/93, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon after he had fully identified himself as an FBI Agent, and when he believed that at least one subject was about to pull a weapon from his waistband. b6 b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

Mr. [redacted]

8/11/93

b6
b7C

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/21/93
KANSAS CITY DIVISION

Reference attached report of ASAC Brian P. Carroll, dated 6/14/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

EMK/TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico

b6
b7C

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/21/93
Kansas City Division

DETAILS: On 7/21/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Special Agent [redacted], Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 5/20/93, Agents of the Jefferson City, Missouri, Resident Agency learned that William Dale Jones, a fugitive from Florida, was possibly in Jefferson City. Agents conducted surveillance at a trailer occupied by Jones' brother and at Jones' mother's residence. A white pickup truck, believed to belong to Jones, was spotted outside the trailer. Because of Jones' reputation for carrying weapons and his escape from arrest in the past, the assistance of the Kansas City SWAT Team was requested. By the time the SWAT Team arrived late that night, however, the pickup truck was no longer at the trailer. The SWAT Team was sent back to Kansas City early on the morning of 5/21/93, after conducting surveillance of the trailer during the night.

Later that afternoon, the pickup truck was spotted at the residence of Jones' mother. Surveillance was established on the mother's residence. At approximately 3:50 p.m., Jones came out of the residence and departed in the truck. SA [redacted] followed Jones, but later lost him. The truck was then located in the parking lot of a local bar and assistance was requested from local law enforcement. SA [redacted] punctured the tire of Jones' truck in case Jones should try to flee the area before additional officers arrived. By this time, the local sheriff and a deputy had arrived and were at a location across the street; SA [redacted] was approximately a block away. Jones exited the bar and got into his truck. The sheriff and deputy approached the truck and told Jones to come out. Jones began b6 b7C

(Continued - Over)

backing his truck toward SA [redacted] vehicle, striking the vehicle and SA [redacted] The sheriff and deputy fired at the truck. After being struck, SA [redacted] fired his 10 mm, Smith and Wesson Model 1076, at Jones five times. Jones was struck and slumped over the steering wheel. He was removed from the truck and afforded medical attention at the scene. Jones was transported to the hospital where he died. b6 b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 6/14/93, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon after Jones assaulted him with his vehicle. b6 b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

Mr. [redacted] 8/11/93

b6
b7C

Chairman, SIRG

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
6/3/93
CLEVELAND DIVISION

Reference attached report of ASAC Richard C. Staver, dated 6/17/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

EMK/TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted] WMFO
1 - Mr. [redacted] Quantico

b6
b7C

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
6/3/93
Cleveland Division

DETAILS: On 7/21/93, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Deputy Assistant Director Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Special Agent [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted] Washington Metropolitan Field Office, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 6/3/93, members of the Cleveland Fugitive Task Force received information indicating that [redacted] a fugitive wanted for bank robbery in Akron, Ohio, was possibly located in Cleveland. Task Force members effected a plan to arrest [redacted] near a car dealership in Cleveland where, according to source information, he was going to pick up a car. [redacted] picked up an Audi at the dealership and, while leaving, he observed Task Force members following him. A high-speed chase ensued, ending when [redacted] ran into another vehicle. At that time, SA [redacted] and Deputy [redacted] Cuyahoga County Sheriff's Office, approached [redacted] vehicle. They saw [redacted] hands, in which he held a black weapon, exit the driver's window. Both SA [redacted] and Deputy [redacted] fired at [redacted] striking him several times. [redacted] was transported to the hospital where he recovered from his wounds.

[redacted] is charged with bank robbery, assault on a Federal officer, and use of a firearm during a crime of violence. b6 b7C

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 6/17/93, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
6/3/93
Cleveland Division

b6
b7C

after he saw [redacted] exit his vehicle holding a weapon. SA [redacted] had reason to believe that his own life was in danger.

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.

Mr. [redacted]

[redacted]

11/8/93

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
8/12/93
DENVER DIVISION

b6
b7C

Reference attached report of SSA [redacted] dated 8/24/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

Enclosure

b6
b7C

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted] Quantico
1 - Mr. WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
8/12/93
Denver Division

DETAILS: On 9/30/93, the SIRG, consisting of Acting Chairman Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; and Unit Chief [redacted] Firearms Training Unit, Training Division, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 8/12/93, SA [redacted] and [redacted] an investigator from the District Attorney's Office, drove to the residence of [redacted] in order to serve a summons on [redacted] was one of several subjects in a Fraud By Wire/Mail Fraud investigation. [redacted] residence is located in a rural area outside Wellington, Colorado. As SA [redacted] and [redacted] approached the [redacted] residence, they saw Mrs. [redacted] outside watering some plants. When she saw SA [redacted] and [redacted] she dropped her garden hose and ran into the residence. SA [redacted] affixed the summons to a split rail fence in front of the residence, then went to the front door and rang the doorbell. No one answered the door and SA [redacted] could hear no noise inside the house. As he turned to go back to the vehicle, he noticed three dogs approaching him from the rear of the house. The lead dog was growling and acting in an aggressive manner. SA [redacted] tried to get the dogs away from him, but they kept approaching him. He then fired four rounds from his .357 revolver at the dogs, injuring the lead dog. The dogs then ran back toward the house, after which SA [redacted] and [redacted] departed. b6 b7C

SA [redacted] fired his weapon believing that his life was in danger because of the attacking dogs.

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
8/12/93
Denver Division

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident, as documented by the administrative inquiry furnished to the SIRG, dated 8/24/93, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon after he believed that he was about to be attacked by dogs. b6 b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1344

Mr. [redacted]

11/8/93

[redacted]

ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
5/20/93
NEWARK DIVISION

Reference attached report of SSA [redacted] dated 7/23/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That SA [redacted] be counselled by SAC Newark regarding the potential danger he posed to himself and others by attempting to arrest the subject before backup Agents arrived on the scene.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr.
1 - Mr.
1 - Mr.
3 - Mr.
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]

TJG:tjg (15)

1 - Mr. Johnson
1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Walsh
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico WMFO
1 - Mr. [redacted] Quantico

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/20/93
Newark Division

DETAILS: On 9/30/93, the SIRG, consisting of Acting Chairman Joseph C. Johnson, Office of Professional Responsibility, Inspection Division; Section Chief Edward R. Leary, Personnel Management Section, Administrative Services Division; Section Chief Nicholas J. Walsh, Global Section, Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; and Unit Chief [redacted] Firearms Training Unit, Training Division, met to discuss the above-captioned shooting. b6 b7C

Synopsis of the Shooting Incident

On 5/20/93, SA [redacted] received information from a source regarding [redacted] who was wanted on six charges of Assault and Possession of Stolen Property. The Newark Division had also initiated an Unlawful Flight to Avoid Prosecution investigation regarding [redacted]. The [redacted] provided SA [redacted] with [redacted] stolen automobile which [redacted] was driving, and advised of an area of Newark where [redacted] was frequently located. SA [redacted] checked the license number of the automobile and confirmed that the vehicle was stolen. While driving his Bureau car in the area the source mentioned, SA [redacted] located [redacted] driving the car. He radioed for assistance and pulled his vehicle up behind [redacted] vehicle at a stop light. SA [redacted] was aware that [redacted] had previously fled to avoid arrest and, not wanting to cause a high-speed chase through Newark, SA [redacted] decided to arrest [redacted] while stopped at the light. SA [redacted] exited his vehicle and approached the driver's window of [redacted] vehicle. As he did this, [redacted] backed his vehicle in the direction of SA [redacted]. Believing that [redacted] was trying to run him over, SA [redacted] fired one shot from his 9mm Sig Sauer into the driver's window. [redacted] then put the car in gear and sped forward. SA [redacted] returned to his vehicle and pursued [redacted] but he was lost on the freeway. Investigation later resulted in the recovery of the car [redacted] was driving, but [redacted] was not located. b6 b7C b7D

SA [redacted] fired his weapon believing that his life was in danger, as [redacted] attempted to run him over with a vehicle.

(Continued - Over)

Memorandum from [redacted] to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
5/20/93
Newark Division

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 7/23/93, revealed that proper procedures were followed by SA [redacted] regarding his decision to utilize deadly force. The SIRG, however, questioned SA [redacted] judgment in deciding to attempt an arrest of [redacted] before assisting Agents could arrive on the scene. SA [redacted] decision to go ahead with the arrest alone put his life, as well as the lives of others, in potential danger.

b6
b7C

After a thorough review of all the facts regarding this incident, it was the opinion of the SIRG that SA [redacted] be counselled by SAC Newark regarding the appreciation of protecting his own life and the lives of bystanders.



Savage-1347

# Memorandum

Dep. Dir.
ADD Adm.
ADD Inv.
Asst. Dir.:
Adm.Servs.
Crim.Inv.
Ident.
Info.Mgmt.
Insp.
Intell.
Lab.
Legal Coun.
Tech. Servs.
Training
Cong. Affs. Off.
Off. of EEO
Off. Liaison & Int. Affs.
Off. of Public Affs.
Telephone Rm.
Director's Office

To : Mr. [redacted]

Date 2/28/94

From : Mr [redacted]

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
7/28/93
WASHINGTON METROPOLITAN FIELD OFFICE

Reference attached reports of ASAC Richard M. Rogers, dated 8/23/93 and 9/15/93.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this shooting incident. The SIRG recommends, however, that the Administrative Summary Unit, Personnel Division, review the factors leading up to this shooting incident and SA [redacted] possible lack of candor during the questions by local police following the shooting incident. b6 b7C

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Dillard
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WMFO
1 - Mr [redacted] Quantico b6 b7C
(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
7/28/93
Washington Metropolitan Field Office

DETAILS: On 2/3/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Unit Chief [redacted], Office of Professional Responsibility, Inspection Division; Section Chief Stephen W. Dillard, Global Section Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

## Synopsis of the Shooting Incident

From 8:00 - 11:00 p.m., on the evening of 7/27/93, SA [redacted] attended a private dinner party at the Bar J Restaurant in Woodbridge, Virginia. While there, he met several work associates and friends who were also invited to the dinner, and struck up a conversation with [redacted] whom he had not previously known. At approximately 11:00 p.m., SA [redacted] asked [redacted] if she would like to accompany him to the Down Under Bar in Occoquan. She agreed, and they both left the Bar J Restaurant in their own vehicles. They spent approximately the next two hours talking and playing checkers at the Down Under Bar. SA [redacted] indicated that he had approximately two beers while at the Down Under and that he had two beers and a glass of wine at the Bar J Restaurant.

While [redacted] and [redacted] were at the Down Under, [redacted] approached them and engaged in conversation with them. [redacted] was not known to either [redacted] or [redacted] prior to this night. At approximately 1:30 a.m., on 7/28/93, [redacted] and [redacted] left the Down Under. [redacted] got into her vehicle, and SA [redacted] stood by the driver's window talking with her for a few minutes. While he stood there, he was approached from the rear by [redacted] A confrontation ensued, and [redacted] knocked SA [redacted] to the ground and began to hit him. SA [redacted] identified himself as an FBI Agent, and [redacted] then began groping SA [redacted] in an effort to locate him weapon. SA [redacted] grabbed his weapon and fired two shots, one of which struck [redacted] in the hip. [redacted] indicated that he feared for his life, believing that [redacted] would have shot him if he had managed to take control of the

b6
b7C

(Continued - Over)

weapon. The local police were called and responded to the scene. The Prince William County Commonwealth Attorney advised that he would decline prosecution against both [redacted] and SA [redacted] regarding this incident; however, both indicated that they believed SA [redacted] was being less than candid with them during their interviews of him. b6 b7C

SA [redacted] indicated that he identified himself as an FBI Agent prior to firing his weapon; however, [redacted] indicated that [redacted] did not identify himself as an Agent.

Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG revealed that proper procedures were followed by SA [redacted] regarding the deadly force policy. SA [redacted] fired his weapon believing that his own life was in danger. The SIRG is concerned, however, over the events which led to this shooting incident. The SIRG recommends that the Administrative Summary Unit review SA [redacted] conduct prior to the shooting incident, as well as the allegation of his possible lack of candor during the investigation conducted by local law enforcement. b6 b7C

# Memorandum

Dep. Dir. _____
ADD Adm. _____
ADD Inv. _____
Asst. Dir.:
Adm.Servs. _____
Crim.Inv. _____
Ident. _____
Info.Mgmt. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Tech. Servs. _____
Training _____
Cong. Affs. Off. _____
Off. of EEO _____
Off. Liaison & Int. Affs. _____
Off. of Public Affs. _____
Telephone Rm. _____
Director's Office _____

To : Mr. [redacted]

Date 2/28/94

From : Mr. [redacted]

b6
b7C

Subject : ADMINISTRATIVE INQUIRY
SHOOTING INCIDENT
12/22/93
SALT LAKE CITY DIVISION

Reference attached report of ASAC Myron R. Fuller dated 1/7/94.

PURPOSE: This memorandum is prepared to furnish the analysis, comments, and recommendations of the Shooting Incident Review Group (SIRG) with reference to the captioned shooting.

RECOMMENDATION: That no administrative action be taken against any FBI employee as a result of this incident.

b6
b7C

Enclosure

1 - Mr. [redacted]
1 - Mr. [redacted]
3 - Mr. [redacted]
(1 - Mr. Leary)
(1 - Mr. [redacted])
1 - Mr. [redacted]
1 - Mr. Johnson
TJG:tjg (14)

1 - Mr. [redacted]
(Attn: Mr. [redacted])
1 - Mr. Dillard
1 - Mr. [redacted]
1 - Mr. [redacted] Quantico
1 - Mr. [redacted], WMFO
1 - Mr. [redacted] Quantico
(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
12/22/93
Salt Lake City Division

DETAILS: On 2/3/94, the SIRG, consisting of Chairman [redacted] Criminal Investigative Division; Unit Chief [redacted], Office of Professional Responsibility, Inspection Division; Section Chief Stephen W. Dillard, Global Section Intelligence Division; Unit Chief [redacted] Investigative Law Unit, Legal Counsel Division; Unit Chief [redacted] Firearms Training Unit, Training Division; and Supervisory Special Agent [redacted], Washington Metropolitan Field Office, met to discuss the above-captioned shooting.

b6
b7C

## Synopsis of the Shooting Incident

On 12/22/93, SA [redacted] was involved in the planning and execution of the arrest of subject [redacted] was wanted on charges of assault with a deadly weapon, in that he had attacked his brother with a knife on the Navajo Indian Reservation. [redacted] met with a local Deputy Sheriff and two criminal investigators from the Navajo Reservation to plan the arrest of [redacted] When the four got to the reservation, the two Navajo criminal investigators remained approximately 100 feet away from [redacted] residence, in order to observe [redacted] if he should attempt to flee. SA [redacted] and the deputy approached the residence and began speaking with a woman who was standing outside. While they spoke, a yellow and white dog bit at SA [redacted] leg. Because of the boots he was wearing, the bite did not penetrate his skin. He brushed the dog away, and as he did, a black and gray dog lunged at SA [redacted] and attempted to bite his arm. The dog only bit SA [redacted] sleeve. The dog then lunged at SA [redacted] a second time. At this point, SA [redacted] drew his Sig Sauer P226 and fired one round at the dog. The dog was not hit, and both dogs ran away. Following this, [redacted] came out of a nearby residence and surrendered.

b6
b7C

## Observations and Recommendations of the SIRG

The review of the above-captioned shooting incident as documented by the administrative inquiry furnished to the SIRG, dated 1/7/94, revealed that proper procedures were followed by SA [redacted] during this incident. SA [redacted] fired his weapon to protect himself from the dog which was attempting to attack him.

(Continued - Over)

Memorandum from Chairman, SIRG, to Mr. [redacted]
Re: Administrative Inquiry
Shooting Incident
12/22/93
Salt Lake City Division

b6
b7C

After a thorough review of all the facts regarding this incident, it was the unanimous opinion of all members of the SIRG that no administrative action should be taken against any FBI employee as a result of their involvement in the above-captioned shooting incident.



Savage-1353

U.S. Department of Justice

Federal Bureau of Investigation

*Washington, D.C. 20535*

December 20, 2010

MR. CHARLES SAVAGE
THE NEW YORK TIMES
1627 I STREET NORTHWEST
WASHINGTON, DC 20006

Subject: SHOOTING INCIDENT REVIEW TEAM REPORTS COMPLETED JANUARY 1, 1993 TO THE PRESENT.

FOIPA No. 1139615- 000

Dear Mr. Savage:

The enclosed document was received under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a, and is being released to you in its entirety. This is in response to your FOIPA request noted above.

Please note that the search cut-off date for your original request was November 12, 2009, prior to the completion of this report. Subsequently, you made an amended request via e-mail on July 8, 2010, and at that time, the report was still in draft form. The report was not finalized until September 2010. Nevertheless, consistent with the President's Executive Memorandum "Transparency and Open Government," 74 Fed. Reg. 4685, 2009 WL 166656, and the Attorney General's Memorandum for Heads of Executive Departments and Agencies regarding FOIA (March 19, 2009), we are making a discretionary disclosure and releasing this report to you in full.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice,1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Number assigned to your request so that it may be easily identified.

Sincerely yours,

David M. Hardy
Section Chief
Record/Information Dissemination Section
Records Management Division

Enclosure(s)

## EXPLANATION OF EXEMPTIONS

### SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

(b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;

(b)(2) related solely to the internal personnel rules and practices of an agency;

(b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could be reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could be reasonably expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;

(b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(b)(9) geological and geophysical information and data, including maps, concerning wells.

### SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

(d)(5) information compiled in reasonable anticipation of a civil action proceeding;

(j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;

(k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;

(k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;

(k)(4) required by statute to be maintained and used solely as statistical records;

(k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;

(k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

# Shooting Database Review

*An Overview of FBI-Involved Shooting Incidents From 1993-2009*

Federal Bureau of Investigation

Inspection Division
September 2010

# Table of Contents


I. Introduction 2

II. Methodology 4

III. FBI Deadly Force Policy 6

IV. General Statistics 10

V. Intentional Shooting Incidents 24

VI. Animal Shooting Incidents 44

VII. Unintentional Discharges 58

VIII. Factoids 76

# I. Introduction

The intent of this report is to inform and educate the reader concerning a 17-year history of shooting incidents impacting the Federal Bureau of Investigation (FBI). In accordance with Department of Justice (DOJ) policy, all discharges of a firearm by a DOJ employee outside of training, or the discharge of a firearm by anyone during the course of DOJ-related official business must be reported. Since 1993, the Inspection Division (INSD) has been the entity within the FBI responsible for the overall management of FBI related shooting incidents. When a shooting incident was reported, executive management of INSD, working with the executive management of the division or field office where the incident occurred, determined whether a Shooting Incident Review Team (SIRT) was deployed. Typically, the decision to deploy a SIRT was based on the impact of the results of the incident. When a SIRT did not deploy, the responsibility for conducting and documenting the shooting inquiry was delegated to the field.

The role of the SIRT was to ensure an objective, thorough, and factual inquiry was conducted and documented. In addition, the SIRT, when appropriate, made recommendations.

Once a shooting incident report was complete, and declinations of local and federal prosecution against FBI Special Agents had been issued, the facts of the shooting incident were presented to the Shooting Incident Review Group (SIRG). The SIRG was composed of representatives from INSD, the National Security Branch, the Criminal Investigative Division, the Training Division, the Critical Incident Response Group, the Office of General Counsel, the Department of Justice, and other knowledgeable persons as needed. The SIRG typically met three to four times per year to review multiple shooting incidents, assess whether the actions of the shooters complied with the FBI Deadly Force Policy, and to identify and address other areas of concern (most commonly those related to command, control and communications, planning, training, and/or equipment).

A significant amount of information from shooting incident reports was captured, but the analysis that follows was limited by the reporting. Consequently, if certain data was not originally captured, it was not included in this report.

The shooting incident database will continue to be utilized to facilitate the analysis of shooting information involving FBI personnel and operations and to assist in identifying and publishing lessons learned.

# II. Methodology

The end result of each shooting inquiry, whether the inquiry was conducted by a SIRT or delegated to the division, was a shooting incident report. This report contained interviews of the people involved, results of forensic examinations, details of the use of weapons and equipment, and, often times, observations and findings of the investigative team. Shooting incident reports captured a significant amount of information regarding FBI-involved shootings. These reports were the source of all shooting incident information found in this analysis.

In 2009, INSD developed a database which was populated with historical data contained in shooting incident reports and where additional information from future shooting incidents could be captured. The shooting incident database was designed to capture data from all types of shooting incidents. All shooting incident reports from January 1993 through December 2009 were reviewed and pertinent information from each incident was entered into the database. During the review period, there were 493 separate shooting incidents for which a separate record was created in the database. The shooting incidents were reported by field offices, various FBIHQ divisions, and Legats. These incidents were categorized into three incident *types*: **Intentional Shootings**, **Animal Shootings**, or **Unintentional Discharges (UD)**.

A single shooting incident can involve more than one incident type. For instance, a shooting incident could involve a Special Agent discharging a firearm at a subject who poses an imminent threat, and at the subject's aggressive dog. In this shooting incident, both the intentional discharge at the subject and shots at the animal would be counted as separate shooting incident types. Four shooting incidents involved two different shooting incident types. These four shooting incidents are briefly described below:

- An Agent was attacked by an aggressive dog and then attacked by the

owner, a subject in a series of bank robberies. The Agent discharged his firearm at both threats (animal and intentional incident types).

- During a violent confrontation with a subject involving Agents and law enforcement officers (LEOs), Agents fired at the subject and at an attacking dog (animal and intentional incident types).
- Agents fired upon a violent subject. As the Agents moved forward to secure the fallen subject, an Agent had an unintentional discharge (intentional and unintentional incident types).
- As Agents and LEOs on a Fugitive Task Force attempted to take a subject into custody, an Agent and a LEO each had an unintentional discharge. Another Agent fired upon the subject he believed posed a threat (unintentional and intentional incident types).

The analysis of the data must be reviewed in light of several caveats:

- The data was not always complete. The historical shooting incident reports did not always include all information to complete all relevant fields in the database.
- Some shooting incidents involving FBI personnel were not the subject of INSD review procedures, including:
    - Employee suicides by firearm
    - Incidents where Agents engaged in clearly illegal conduct that was the subject of criminal investigation by other law enforcement agencies

The analysis presented is as accurate as the data available. For this reason, although INSD is confident the information that follows presents a reasonably accurate representation of 17 years of shooting incidents, readers should be cautious in attempting to draw conclusions based solely on the analysis of data provided.

# Part I

## Analysis Of Shooting Incidents

Part I provides the reader with an overview of the universe of FBI shooting incidents during the 17-year review period. The reader is reminded the data presented in this section was based on the data *available* within the shooting incident reports.

# IV. General Statistics

**Shooting Incident Types 1993-2009**

*Two terms are used to refer to shootings in this report: shooting incidents and incident types. A shooting incident is any single occurrence in which firearms were discharged. Incident types are categories applied to actions within a shooting incident. Incident types are described below.*

From 1993 to 2009, 493 shooting incidents occurred during which FBI Special Agents (SAs), FBI Employees, FBI Task Force Officers (TFOs), and Other Law Enforcement Officers (LEOs) working with the FBI discharged their weapons for non-training purposes. For the purpose of analysis, shooting incident types were categorized as an Intentional Shooting, an Animal Shooting, or an Unintentional Discharge. The definitions for each incident type follows:

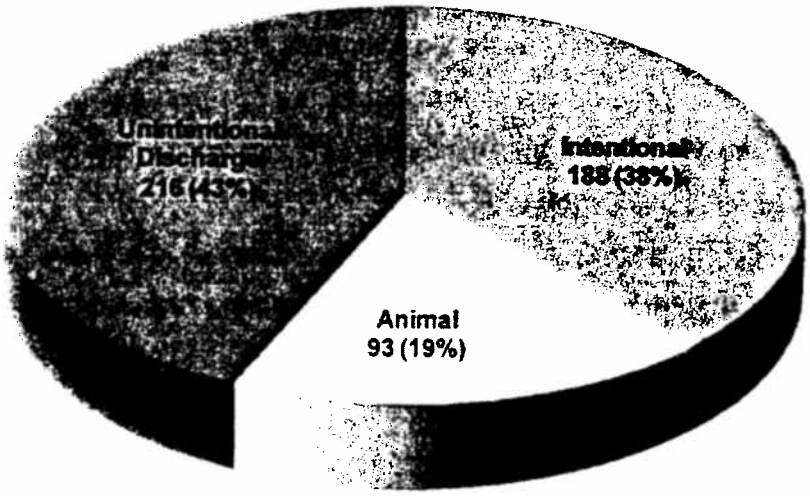
- Intentional Shootings entailed instances where a shooter deliberately and intentionally discharged a weapon; typically these occurred during a hostile encounter or an operation involving adversarial action.
- Animal Shootings were those instances where weapons were discharged to: stop dangerous or aggressive animals; euthanize seriously injured animals that posed a continuing threat or serious hazard; or humanely end an animal's suffering, typically when law enforcement action inflicted grievous injury to that animal.
- Unintentional Discharges were inadvertent or accidental discharges of one or more rounds without the intent of the shooter.

An incident type was assigned based on the type of shooting that occurred during a shooting incident. A single shooting incident could include multiple incident types. For instance, a shooting incident which involved multiple Agents firing upon a

violent subject posing an imminent threat would have been counted as one intentional shooting incident. However, if one of the Agents *also* fired at an attacking dog, the single shooting incident counted as both one intentional shooting incident type and one animal shooting incident type. During the review period, four shooting incidents occurred in which more than one shooting incident type occurred. Each shooting incident type was counted, resulting in 497 shooting incident types analyzed.

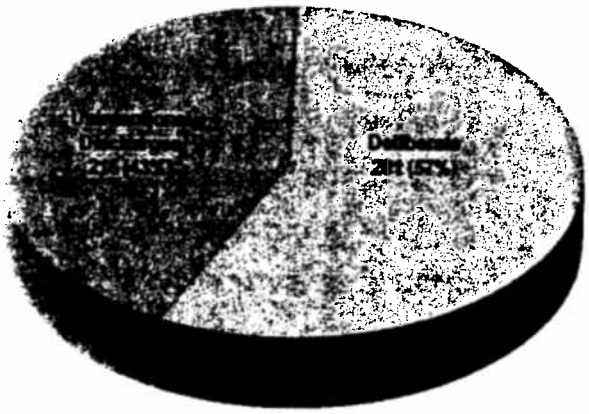
Of the 497 shooting incident types, there were 188 (38%) Intentional Shootings, 93 (19%) Animal Shootings, and 216 (43%) Unintentional Discharges. The following chart, Figure 4.1, reflects the breakdown of the incidents by type.

Figure 4.1 Breakdown of Incident Types




Unintentional Discharges accounted for the greatest proportion of the three incident types (43%). However, when Animal and Intentional incident types are combined (representing all incidents in which a weapon was *purposely* discharged), the largest proportion of shootings involved the *deliberate* discharge of a firearm (57%), Figure 4.1a.

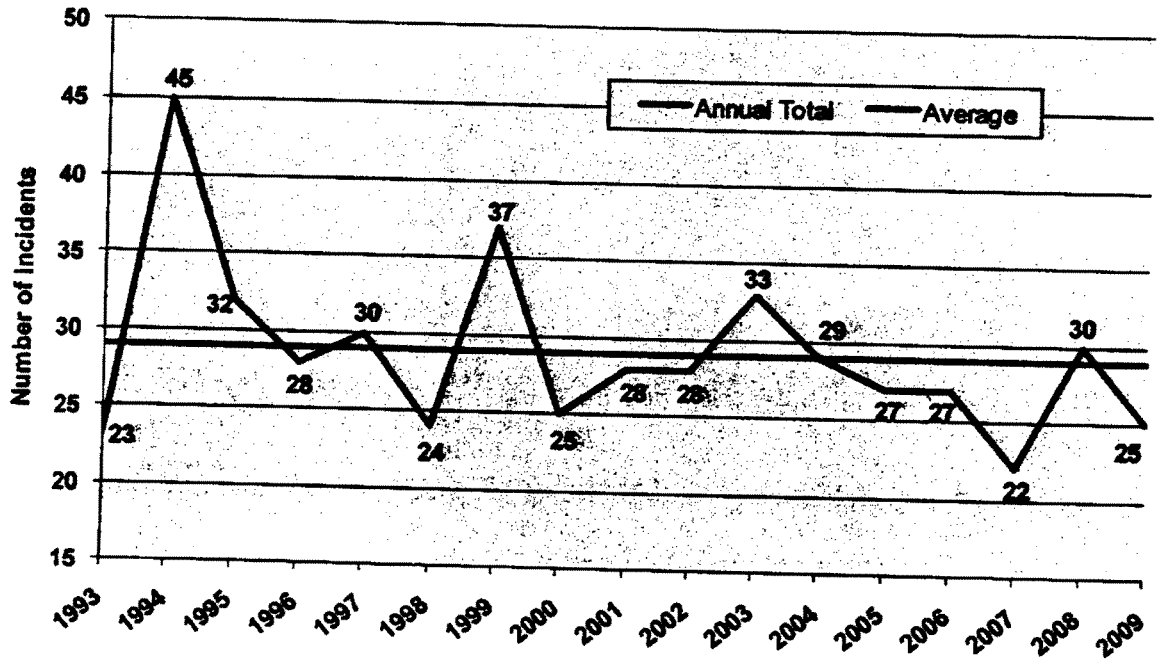
Figure 4.1a Deliberate Shootings



**Shooting Incidents by Calendar Year Compared to the 17-Year Average**

Figure 4.2 illustrates the total number of shooting incidents per calendar year compared to the average number of shooting incidents, 493, over the 17-year period. The average number of all shooting incidents per year was 29.0, depicted by the red line.

Figure 4.2 Shooting Incidents by Calendar Year



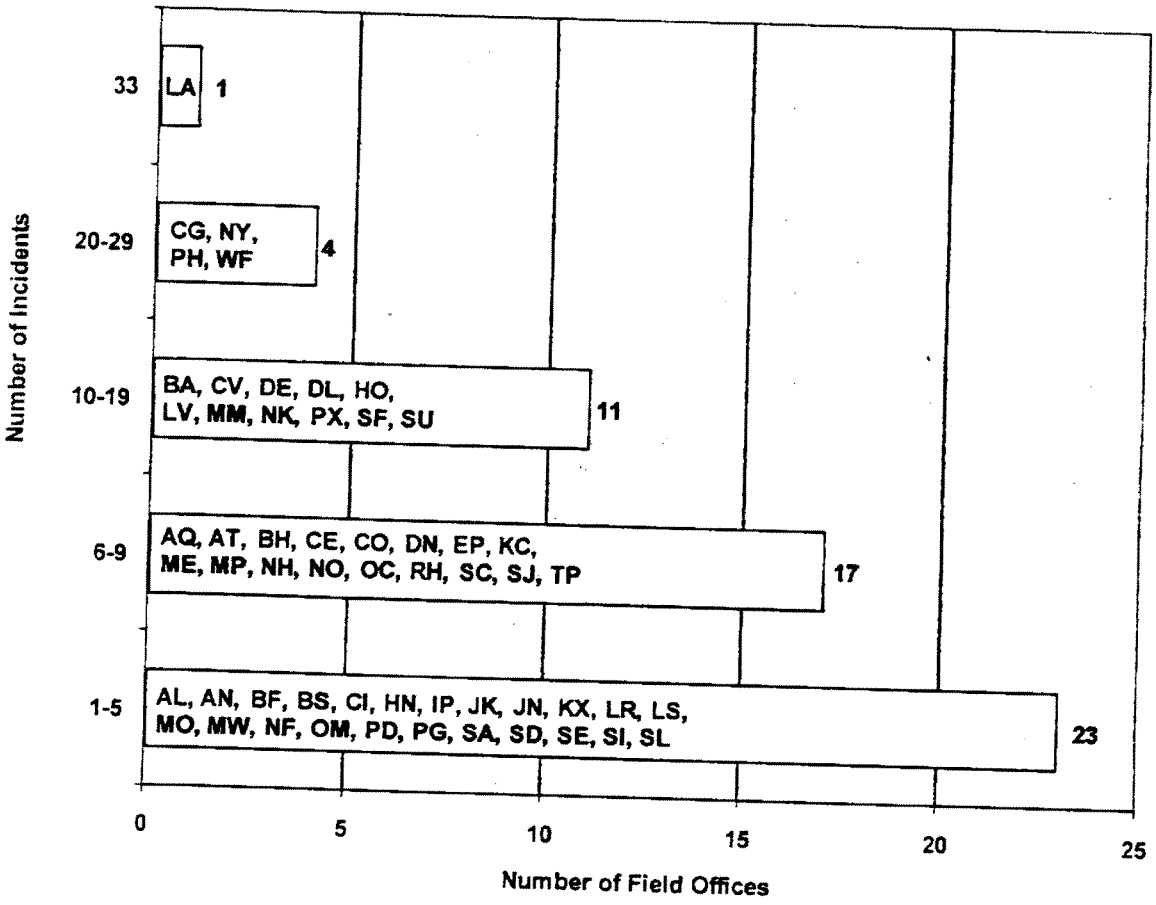

Shooting incidents with more than one incident type occurred in the following years:

1994 - intentional and unintentional incident types
1995 - intentional and animal incident types
- intentional and animal incident types
2000 - intentional and unintentional incident types

## Shooting Incidents by Field Office

There were 493 shooting incidents during the 17-year review period. Field offices reported 451 (91.5%) shooting incidents. FBI Headquarter divisions and Legats accounted for 42 (8.5%) shooting incidents. Figure 4.3 reflects the range of shooting incidents occurring in the 56 field offices, represented by the two letter identifier of the affected field office.

Figure 4.3 Shooting Incidents by Field Office




Every field office reported at least one shooting incident between 1993-2009. Twenty-three of the 56 (41%) field offices reported five or fewer events over the 17-year review period.

Table 4.1 displays the actual number of shooting incidents for each field office during the 17-year review period.

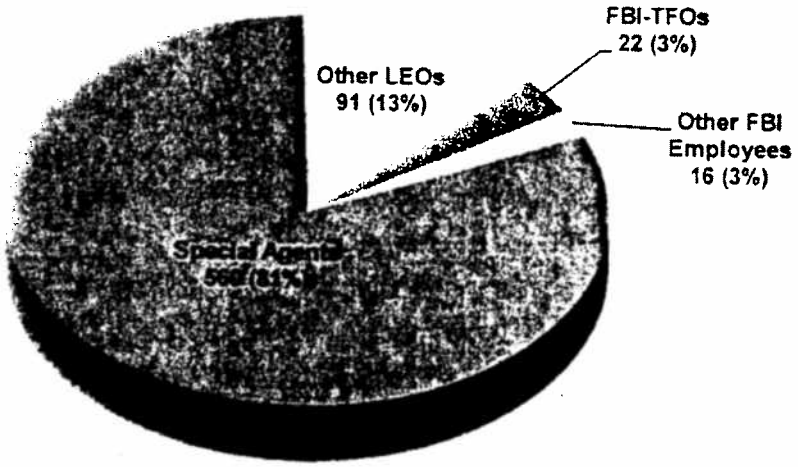
Table 4.1 Shooting Incidents by Field Office

| [illegible] | [illegible] | [illegible] | [illegible] |
|---|---|---|---|
| Los Angeles | 33 | Charlotte | 6 |
| Washington Field | 24 | Memphis | 6 |
| Chicago | 22 | Minneapolis | 6 |
| New York | 21 | Richmond | 6 |
| Philadelphia | 21 | Tampa | 6 |
| Cleveland | 15 | Buffalo | 5 |
| Phoenix | 15 | Indianapolis | 5 |
| Newark | 14 | Omaha | 5 |
| Baltimore | 13 | Boston | 4 |
| Detroit | 13 | Jackson | 4 |
| Dallas | 13 | Little Rock | 4 |
| Houston | 12 | Milwaukee | 4 |
| Salt Lake City | 12 | Pittsburgh | 4 |
| Miami | 11 | San Diego | 4 |
| Las Vegas | 10 | Seattle | 4 |
| San Francisco | 10 | Springfield | 4 |
| Denver | 9 | St. Louis | 4 |
| San Juan | 9 | Cincinnati | 3 |
| Birmingham | 8 | Louisville | 3 |
| Kansas City | 8 | San Antonio | 3 |
| Oklahoma City | 8 | Anchorage | 2 |
| Atlanta | 7 | Honolulu | 2 |
| Columbia | 7 | Knoxville | 2 |
| El Paso | 7 | Portland | 2 |
| New Haven | 7 | Albany | 1 |
| New Orleans | 7 | Jacksonville | 1 |
| Sacramento | 7 | Mobile | 1 |
| Albuquerque | 6 | Norfolk | 1 |

## FBI/LEO Shooters Involved in All Shooting Incidents

Figure 4.4 illustrates the number of FBI Employees and LEO shooters for all Intentional Shootings, Animal Shootings, and Unintentional Discharges. There were 689 shooters in four separate categories.

Figure 4.4 FBI/LEO Shooters Involved in All Shooting Incidents

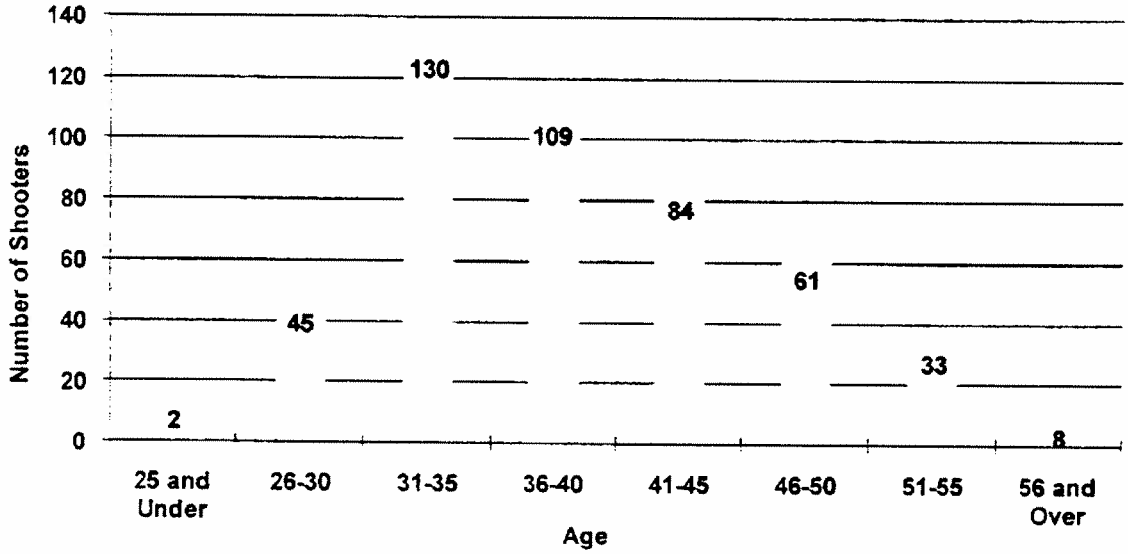



- Special Agents: FBI Special Agents, including supervisory or managerial personnel.
- Other LEOs: all other LEOs (local, county, state, and federal) not identified as TFOs.
- FBI-TFOs: all LEOs designated in the shooting incident report as an FBI TFO.
- Other FBI Employees: all non-Agent employees of the FBI (e.g., Laboratory Technicians, New Agent Trainees, and Law Enforcement Specialists/FBI Police Officers).

## Age and Time in Service of Shooters in Shooting Incidents

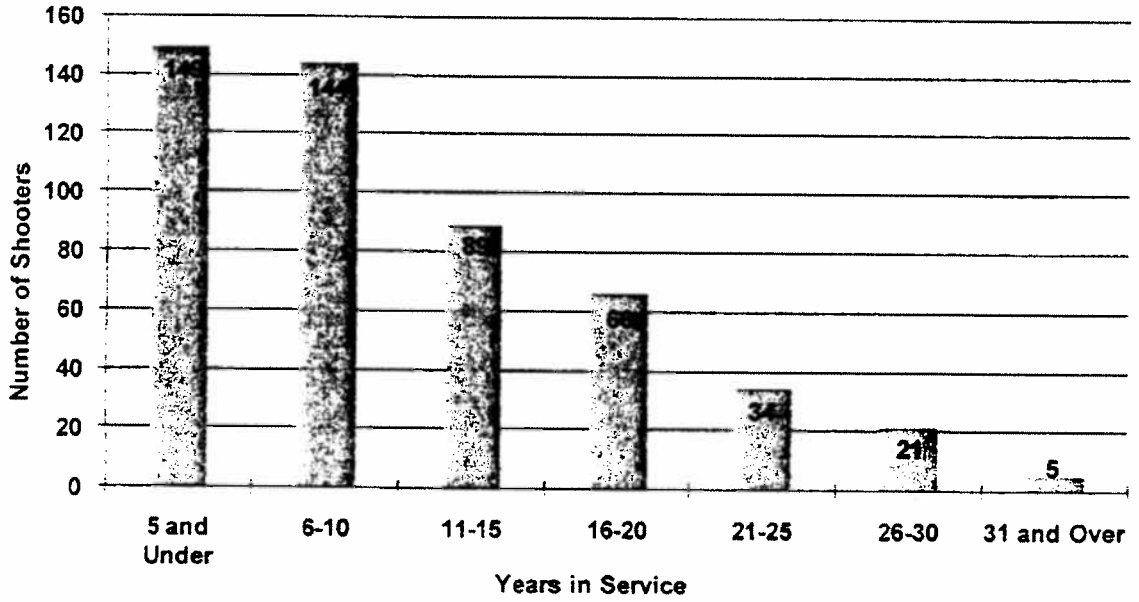
Age was available for 472 of the 689 (68.5%) FBI and LEO shooters. Figure 4.5 reflects the number of FBI/LEO shooters by age group at the time of the shooting.

Figure 4.5 Age of FBI/LEO Shooters




Time in Service was available for 508 of 689 (73.7%) FBI and LEO shooters. Figure 4.6 reflects the Time in Service of the shooters. Shooters with ten or fewer years in service accounted for 57.7% of the 508 shooters.

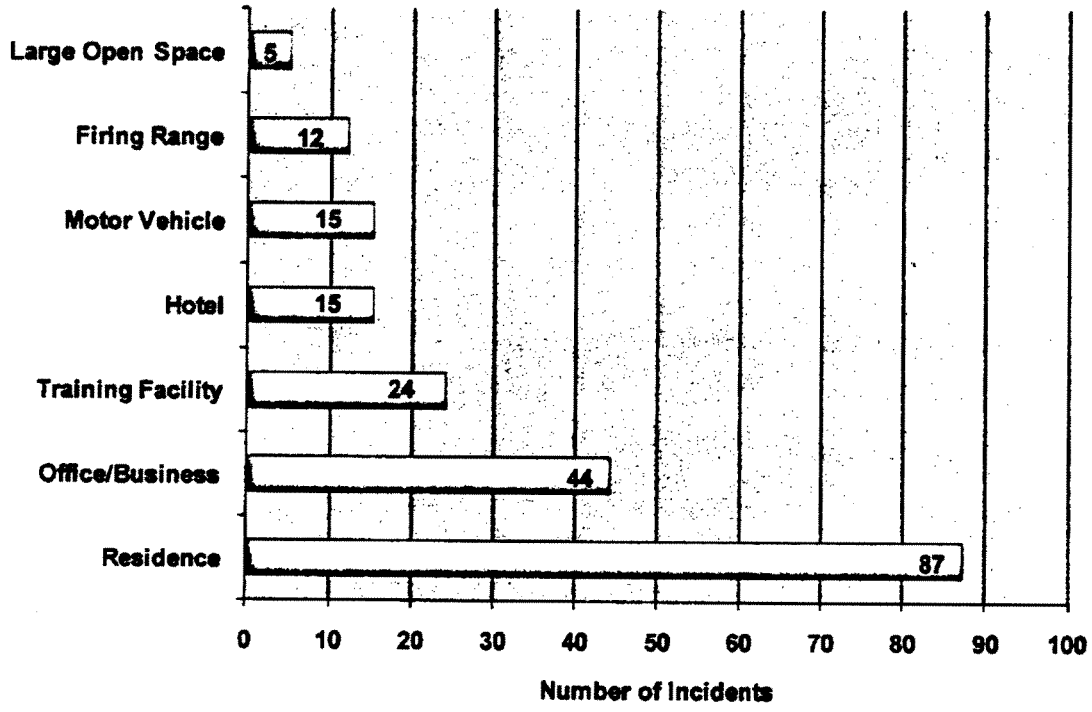
Figure 4.6 Time in Service of FBI/LEO Shooters



## Environment and Location of Shooting Incidents

Shooting incidents were categorized by the type of environment in which the shooter discharged his/her weapon (i.e., inside or outside) and then by the location. Of the 493 shooting incidents, there were 5 in which shooters discharged their weapons in two different environments, resulting in 498 environments. Of those in which location data was available, 202 incidents (40.6%) occurred inside and 288 incidents (57.8%) occurred outside (data was not available for eight shooting incidents). Figure 4.7 reflects the number of shooting incidents by location occurring in an inside environment.

Figure 4.7 Inside Environment—Shooting Incidents by Location

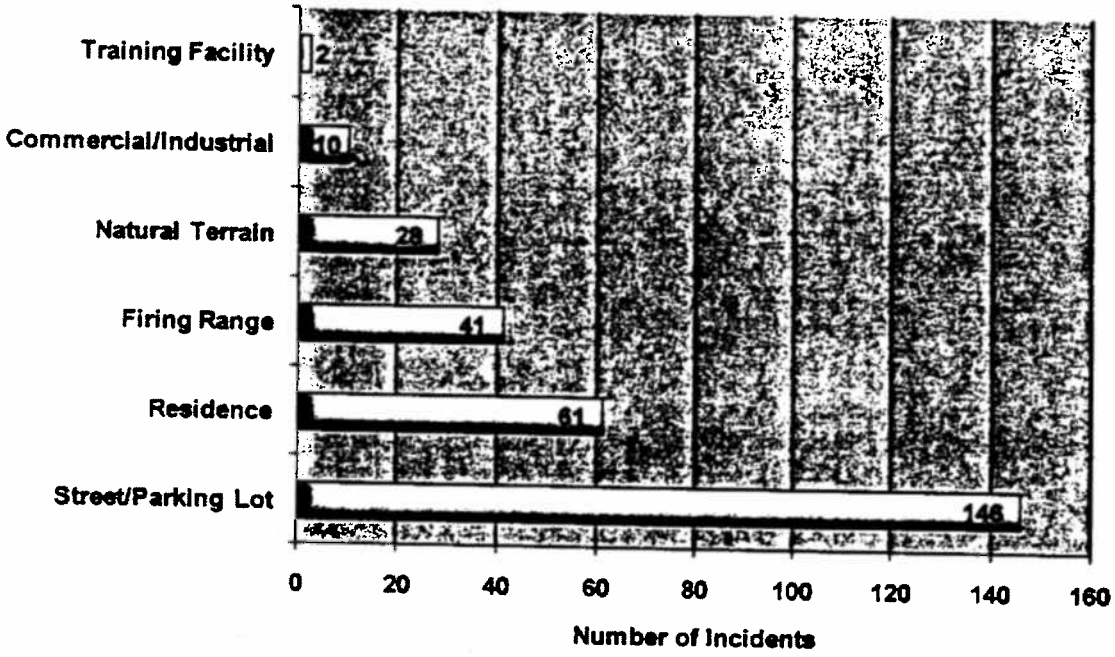



- Large Open Space: indoor parking garages, warehouses, indoor shopping malls, aircraft hangers, etc.
- Firing Range: includes law enforcement, military, and commercial ranges.
- Motor Vehicle: shooters inside a vehicle discharging a weapon either inside the vehicle or at a target outside the vehicle.
- Hotel: an establishment providing temporary lodging for a fee.
- Training Facility: any indoor law enforcement, military or commercial training facility, except indoor firing ranges.

- Office/Business: includes all commercial and government facilities where employees work or customers visit.
- Residence: single and multi-family homes, apartments, condominiums, and trailer homes.

Figure 4.8, reflects the number of incidents by location occurring in an outside environment.

Figure 4.8 Outside Environment—Shooting Incidents by Location

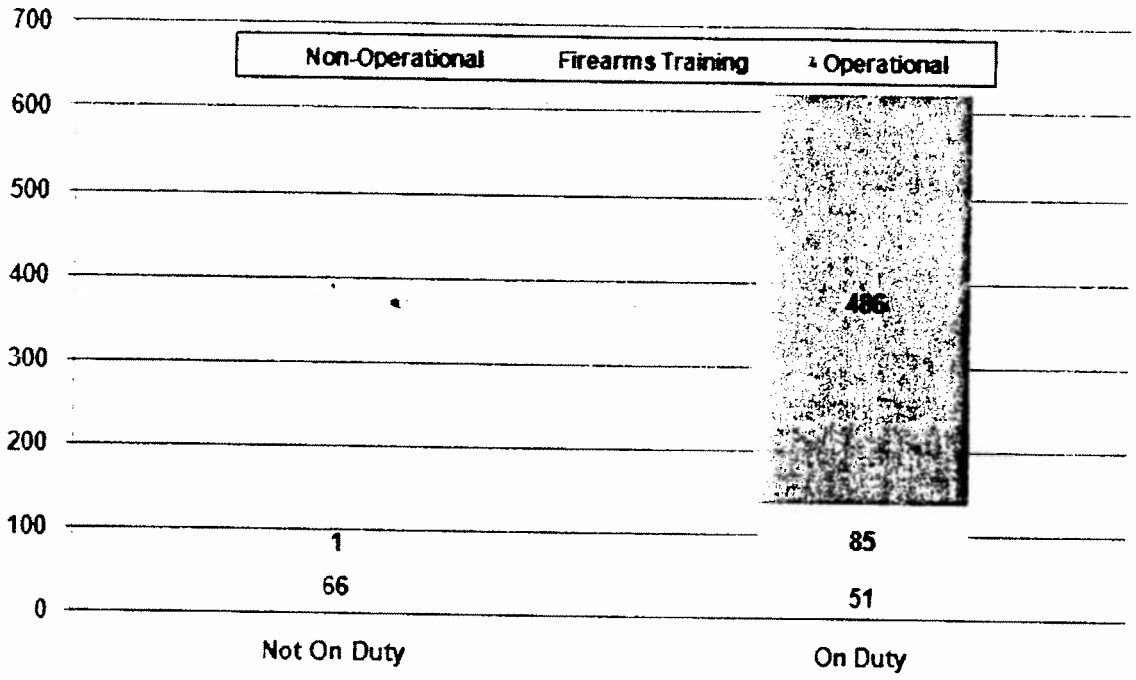



- Training Facility: any outdoor law enforcement, military or commercial training facility, but not outdoor firing ranges.
- Commercial/Industrial: most large, outdoor commercial facilities and areas such as rail yards, power stations, lumber yards.
- Natural Terrain: wooded areas, rural and farm land, and mountainous areas.
- Firing Range: includes law enforcement, military, and commercial ranges.
- Residence: the perimeter or yard immediately outside or in the vicinity of a residence.
- Street/Parking Lot: includes public space where vehicles routinely are driven or parked.

**Operational Status of Shooters in Shooting Incidents**

Figure 4.9 depicts the number of shooters by their operational status at the time of a shooting. Of 689 FBI and LEO shooters, 67 (9.7%) were not officially on duty when the incident occurred.

Figure 4.9 Operational Status of FBI/LEO Shooters



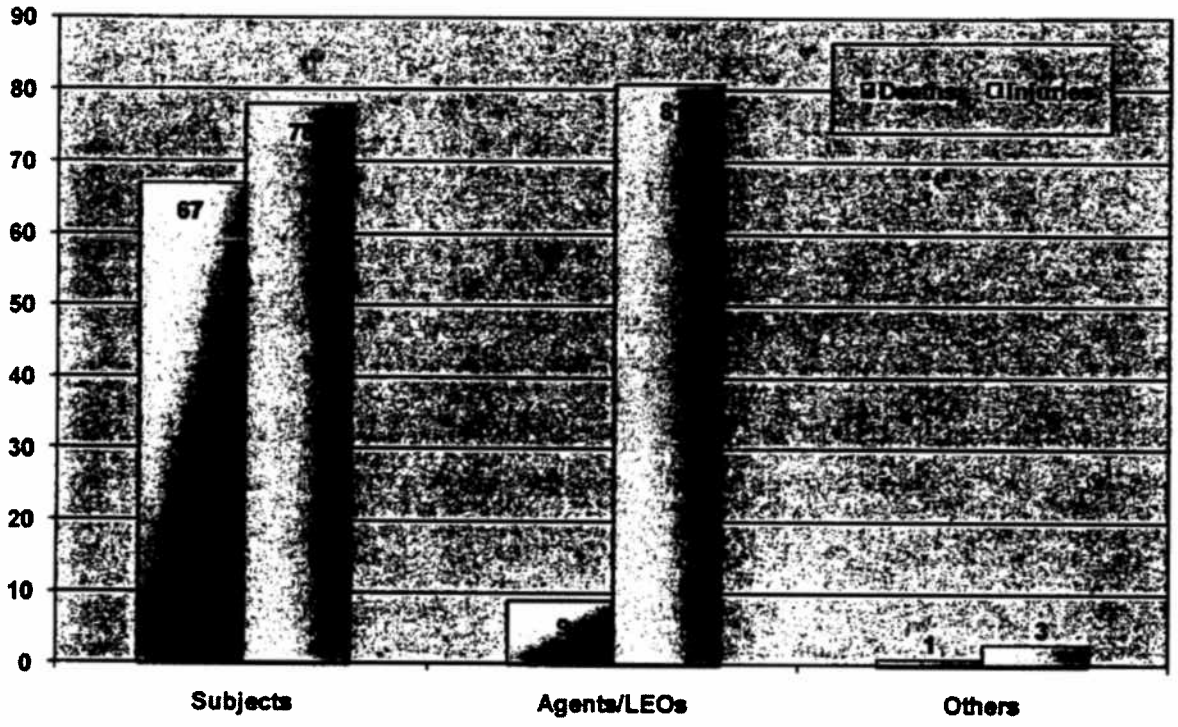

- Not On duty: time outside of planned or recorded work hours.
- On duty: planned or recorded work hours.
- Operational: any planned activity in which the shooter was acting in support of an investigation while on duty.
- Firearms Training: any qualification shoots or firearms training conducted at either an official FBI facility or any other firearms training site.
- Non-Operational: any unplanned situation in which the shooter was not acting in support of an investigation, either while on or off duty.

It should be noted law enforcement officers and TFOs are not required to report unintentional discharges when not in FBI space or on an FBI operation.

## Deaths and Injuries Resulting from Shooting Incidents

Figure 4.10 depicts the number of deaths and injuries from all shooting incidents (Further information regarding the "Others" category is provided in the Intentional Incident Shootings section). Although all deaths were caused by a firearm, injuries were caused by a mix of firearms and non-gunshot related actions (e.g., animals, blunt objects, or vehicles).

Figure 4.10 Deaths and Injuries Resulting from Shooting Incidents



# Part II

## Analysis by Incident Types

Part II is meant to provide the reader a more precise analysis of shootings by incident type during the 17-year review period. In Part II, each section addresses only that information pertinent to the respective incident type: Intentional, Animal, or Unintentional Discharge. The emphasis throughout Part II is on FBI Special Agents. It has been noted when this is not the case. The reader is reminded the analysis presented in these sections was based on the data *available* within the shooting incident reports.

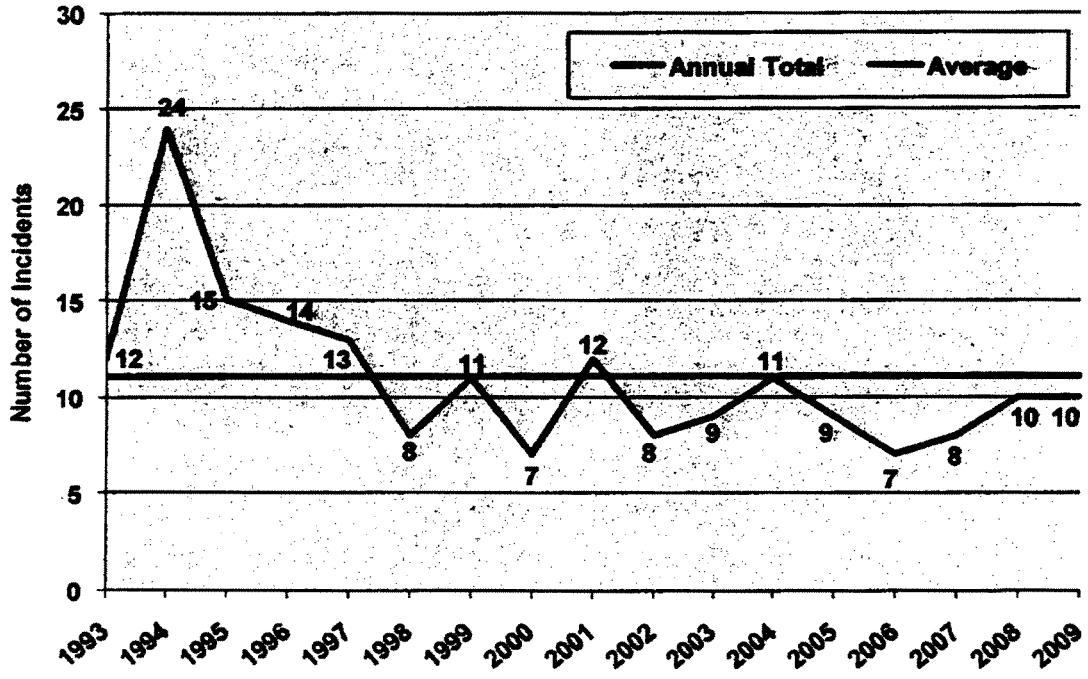
# V. Intentional Shooting Incidents

**Intentional Shooting Incidents by Calendar Year Compared to the 17 Year Average**

Intentional Shooting Incidents were defined as instances where a shooter deliberately and "intentionally" discharged a weapon; typically these occurred during a hostile encounter or an operation involving adversarial action.

Figure 5.1 illustrates the number of Intentional Shooting Incidents per calendar year, compared to the average number of Intentional Shooting Incidents over the 17-year period. The average number of Intentional Shooting Incidents per year was 11.1, depicted by the red line in Figure 5.1.

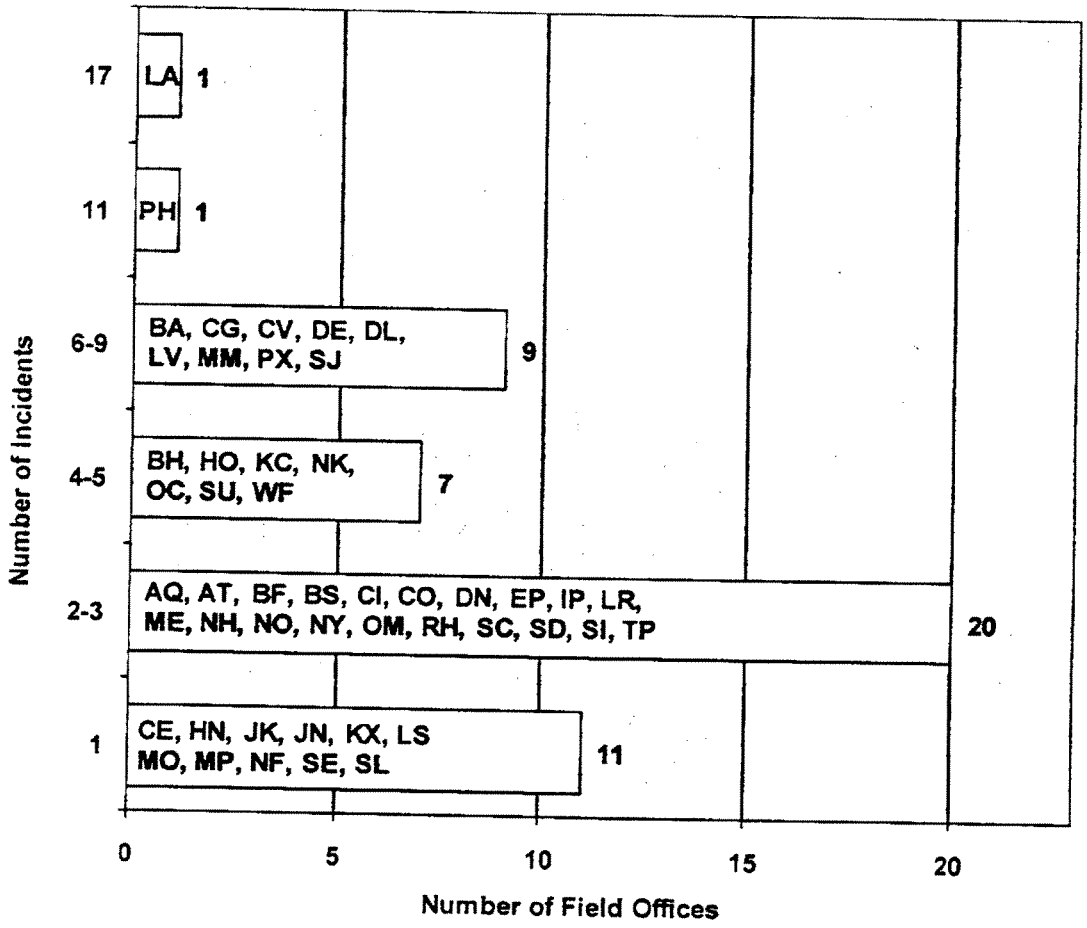
Figure 5.1 Intentional Shooting Incidents by Calendar Year



## Intentional Shooting Incidents by Field Office

There were 188 Intentional Shooting Incidents during the 17-year review period. Forty-nine field offices reported 184 (97.9%) Intentional Shooting Incidents. FBI Headquarters divisions and Legats accounted for 4 of the 188 (2.1%) shooting incidents. Figure 5.2 reflects the range of Intentional Shooting Incidents by field office, represented by the two letter identifier.

Figure 5.2 Intentional Shooting Incidents by Field Office




Thirty-eight of the 56 (67.8%) field offices had five or less Intentional Shooting Incidents reported over the 17-year review period.

Table 5.1 displays the actual number of Intentional Shooting Incidents for each field office during the 17-year review period.

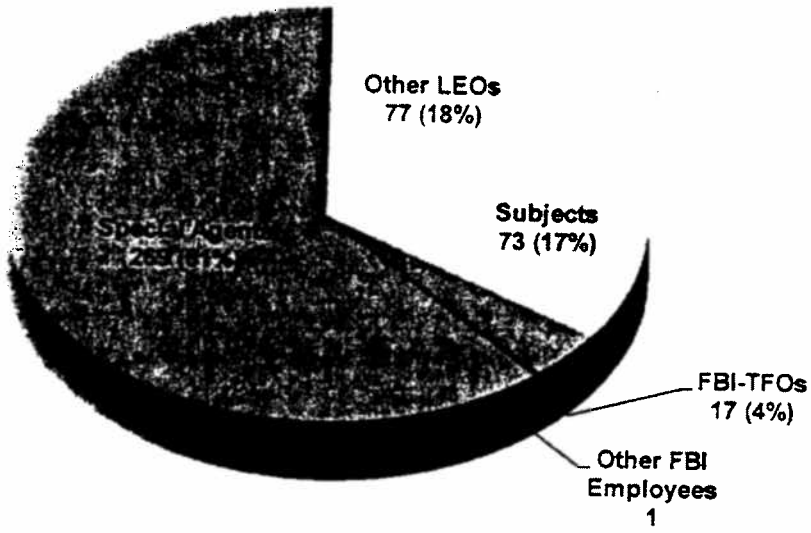
Table 5.1 Intentional Shooting Incidents by Field Office

| [illegible] | [illegible] | [illegible] | [illegible] |
|---|---|---|---|
| Los Angeles | 17 | Richmond | 3 |
| Philadelphia | 11 | Sacramento | 3 |
| Detroit | 9 | Albuquerque | 2 |
| Baltimore | 8 | Buffalo | 2 |
| Chicago | 8 | Cincinnati | 2 |
| Cleveland | 8 | El Paso | 2 |
| Miami | 8 | Little Rock | 2 |
| Dallas | 6 | New Haven | 2 |
| Las Vegas | 6 | New Orleans | 2 |
| Phoenix | 6 | Omaha | 2 |
| San Juan | 6 | San Diego | 2 |
| Kansas City | 5 | Springfield | 2 |
| Newark | 5 | Tampa | 2 |
| Washington Field | 5 | Charlotte | 1 |
| Birmingham | 4 | Honolulu | 1 |
| Houston | 4 | Jacksonville | 1 |
| Oklahoma City | 4 | Jackson | 1 |
| Salt Lake City | 4 | Knoxville | 1 |
| Atlanta | 3 | Louisville | 1 |
| Boston | 3 | Mobile | 1 |
| Columbia | 3 | Minneapolis | 1 |
| Denver | 3 | Norfolk | 1 |
| Indianapolis | 3 | Seattle | 1 |
| Memphis | 3 | St. Louis | 1 |
| New York | 3 | | |

## Shooters Involved in Intentional Shooting Incidents

Figure 5.3 depicts the titles of all shooters for all Intentional Shooting Incidents. During the 188 Intentional shootings, 269 Special Agents, 77 LEOs, 73 subjects, 17 TFOs, and 1 Other FBI Employee[1] fired a weapon.

Figure 5.3 Shooters Involved in Intentional Shooting Incidents



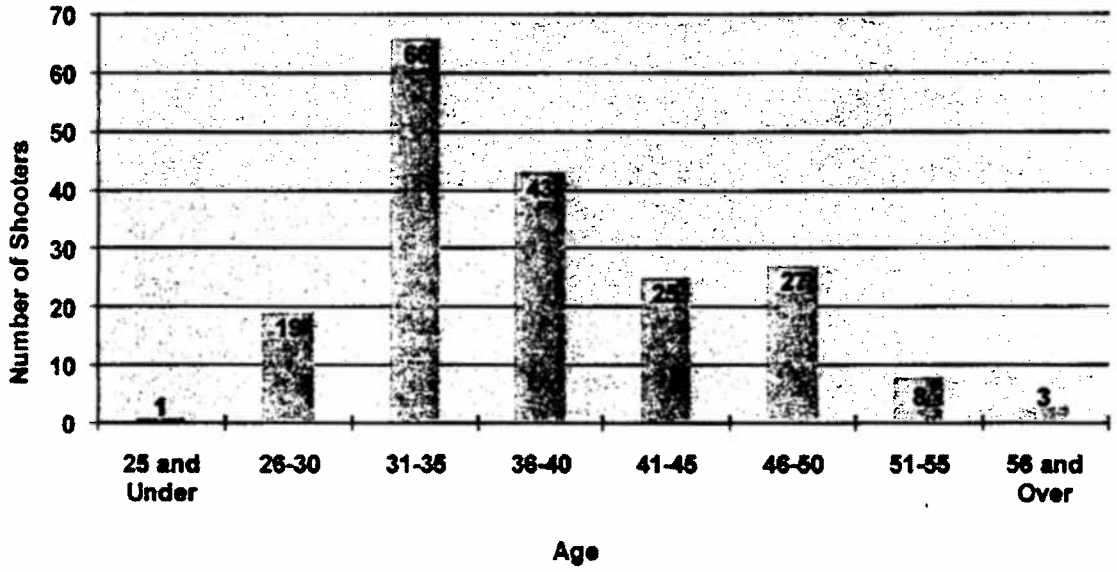

- Special Agents: FBI Special Agents, including supervisory or managerial personnel.
- Other LEOs: all other LEOs (local, county, state, and federal) not identified as TFOs.
- Subjects: subject of the investigation or subject of the intentional use of force.
- FBI-TFOs: all LEOs designated in the shooting incident report as an FBI TFO.
- Other FBI Employees: all non-Agent employees of the FBI (e.g., Laboratory Technicians, New Agent Trainees, and Law Enforcement Specialists/FBI Police Officers).

[1]One FBI employee, a small arms technician, was involved in an Intentional Shooting Incident. This individual fired a handgun at a metal locker out of curiosity as to what damage would result.

## Age and Time in Service of Agents Involved in Intentional Shooting Incidents

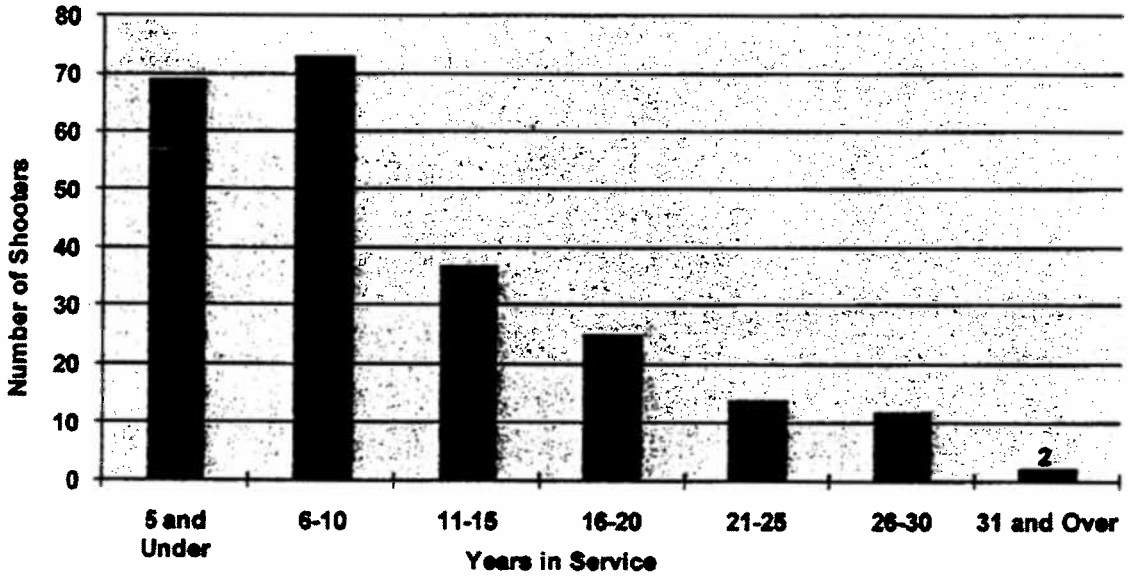
Age was available for 193 of the 269 (71.7%) Agent shooters. Figure 5.4 depicts the number of Agents by age group at the time of the shooting.

Figure 5.4 Age of FBI Agents Involved in Intentional Shooting Incidents




Time in Service was available for 233 of 269 (86.6%) Agent shooters. Figure 5.5 depicts the Agents' Time in Service at the time of the shooting.

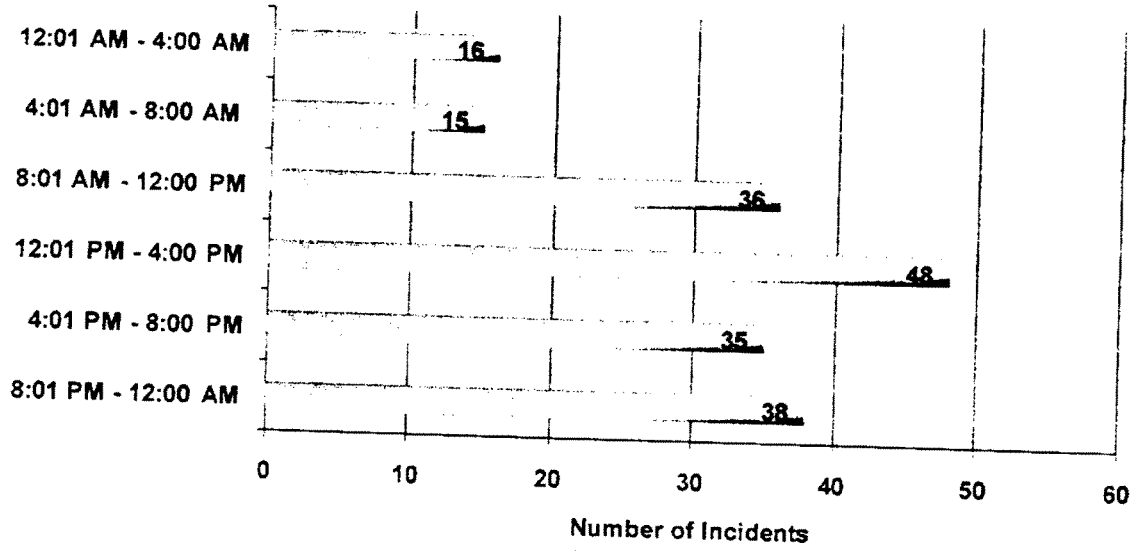
Figure 5.5 Time in Service of FBI Agents Involved in Intentional Shooting Incidents



## Intentional Shooting Incidents by Time of Day

Time of day was available for all Intentional Shooting Incidents. Figure 5.6 depicts the frequency of occurrence of Intentional shootings by time of day.

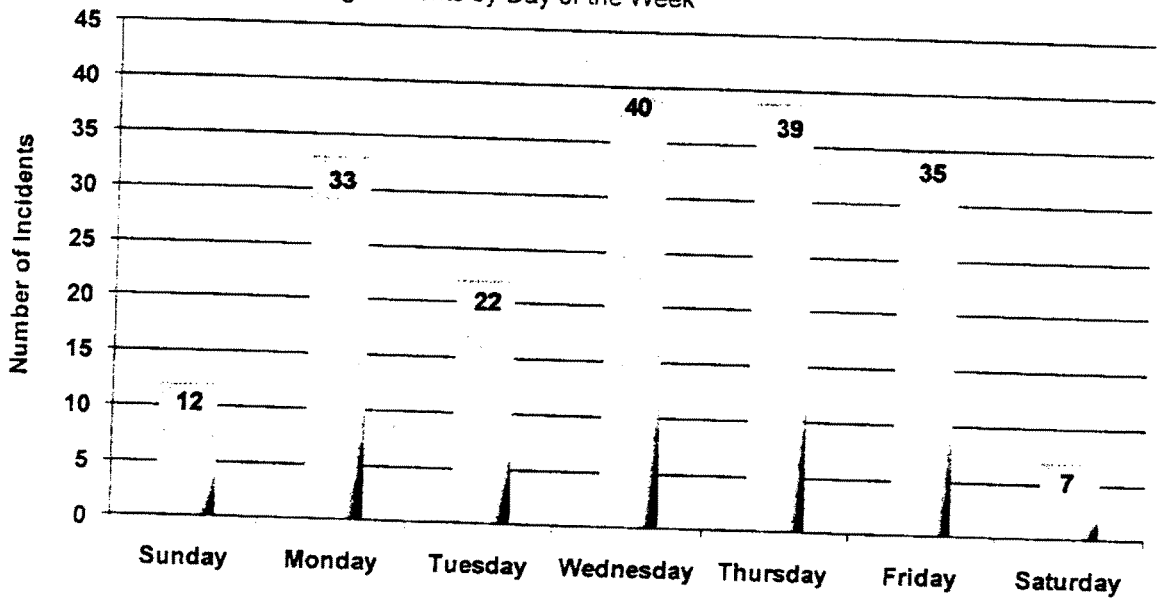
Figure 5.6 Intentional Shooting Incidents by Time of Day




## Intentional Shooting Incidents by Day of the Week

Day of the week was available for all Intentional Shooting Incidents. Figure 5.7 depicts the frequency of occurrence of Intentional shootings by day of the week.

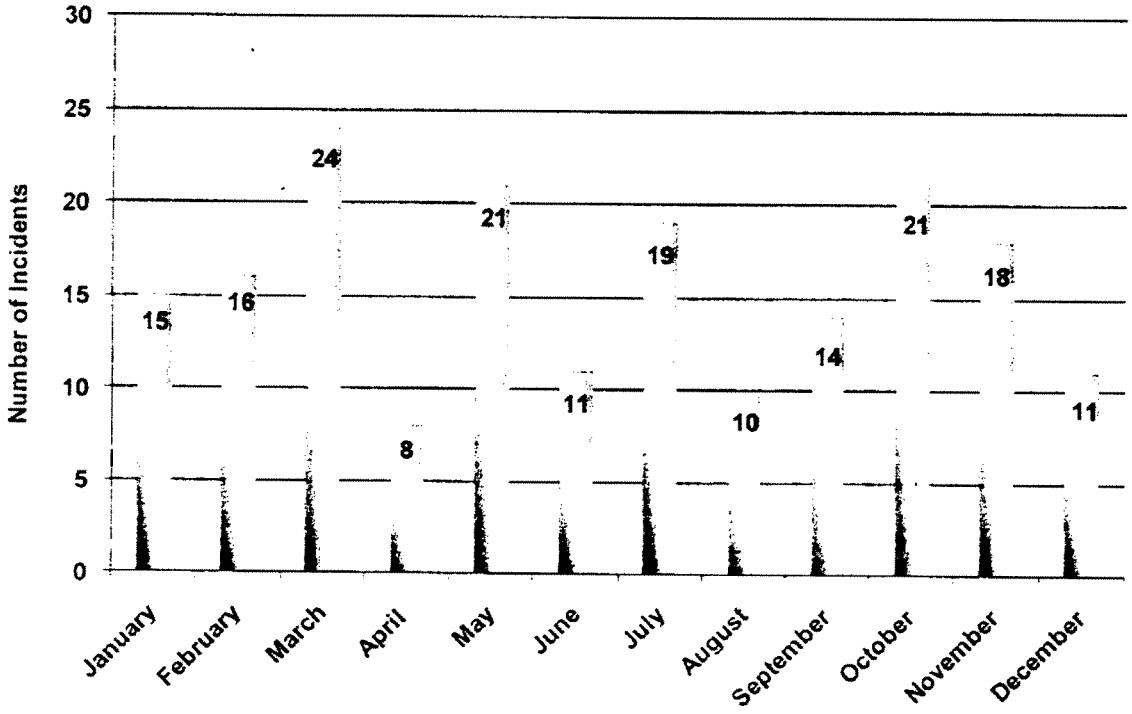
Figure 5.7 Intentional Shooting Incidents by Day of the Week



## Intentional Shooting Incidents by Month of the Year

Month of the year was available for all Intentional Shooting Incidents. Figure 5.8 depicts the frequency of occurrence of Intentional Shootings by month of the year.

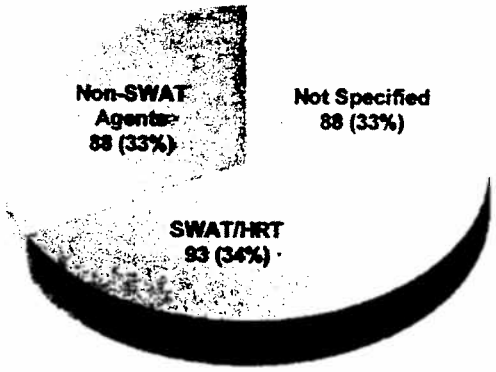
Figure 5.8 Intentional Shooting Incidents by Month of the Year



### SWAT vs. Non-SWAT Agents Involved in Intentional Shooting Incidents

In Figure 5.9 Agent shooters involved in Intentional Shooting Incidents were categorized based on whether they were SWAT/HRT Operators, Non-SWAT Agents, or Not Specified at the time of the incident.

Figure 5.9 SWAT vs. Non-SWAT Agents Involved in Intentional Shooting Incidents




- SWAT/HRT: any Agent who was an active member of an FBI SWAT team or HRT, but not necessarily involved in a SWAT or HRT operation at the time of the Intentional Shooting.
- Non-SWAT Agents: any Agent not assigned to SWAT or HRT at the time of the Intentional Shooting.
- Not Specified: Agents about whom there was insufficient information in the shooting incident report to make a determination.

### Number of SWAT Operations

Based on the data available in the shooting incident reports, there were at least 31 of 188 (16.5%) Intentional Shooting Incidents which occurred during SWAT operations.[2]

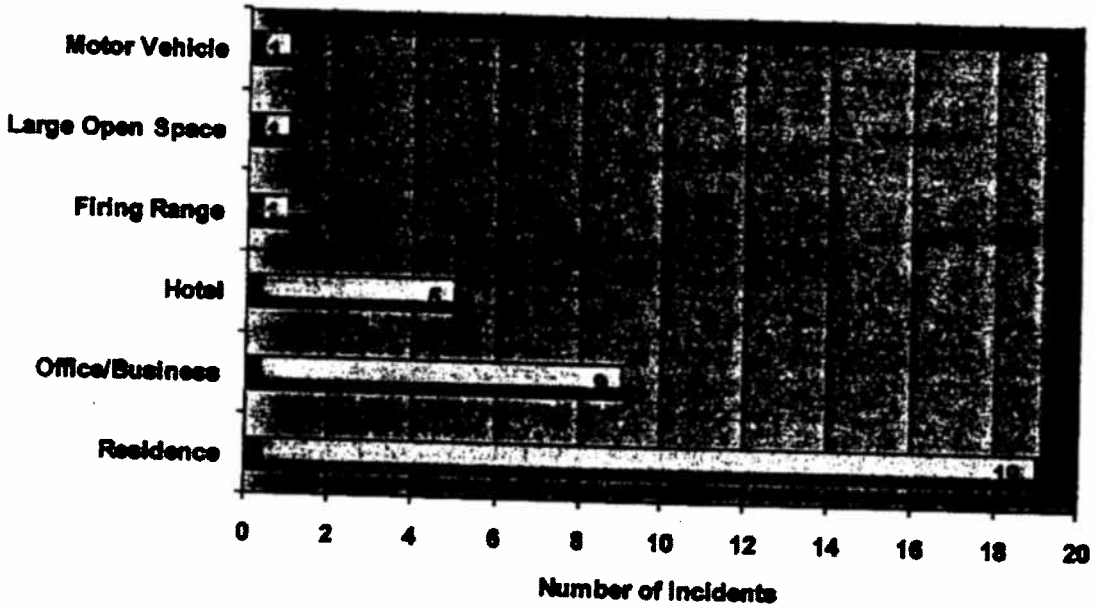
[2]This number should be understood to be a minimum number since it was not explicit in every shooting incident report whether the incident involved a SWAT team.

## Environment and Location for Intentional Shooting Incidents

Data for six of 188 Intentional Shooting Incidents were not available. In five shooting incidents, Agents and LEOs discharged their weapons in two different environments. There were 187 known locations and environments. Three Intentional Shooting Incidents occurred on a firing range and resulted in unintentional injuries.

Figure 5.10 depicts the number of Intentional Shooting Incidents by location occurring in an inside environment.

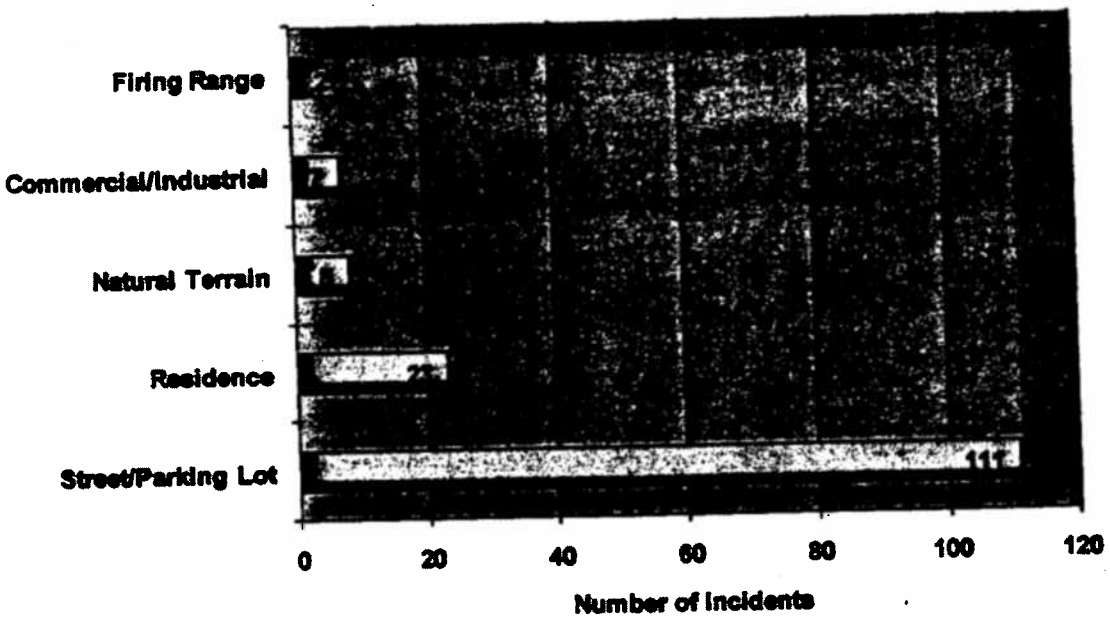
Figure 5.10 Inside Environment—Intentional Shooting Incidents by Location




- Motor Vehicle: shooters inside a vehicle discharging a weapon either inside the vehicle or at a target outside the vehicle.
- Large Open Space: indoor parking garages, warehouses, indoor shopping malls, aircraft hangers, etc.
- Firing Range: Includes law enforcement, military, and commercial ranges.
- Hotel: an establishment providing temporary lodging for a fee.
- Office/Business: includes all commercial and government facilities where employees work or customers visit.
- Residence: single and multi-family homes, apartments, condominiums, and trailer homes.

Figure 5.11 depicts the number of incidents by location occurring in an outside environment.

Figure 5.11 Outside Environment—Intentional Shooting Incidents by Location

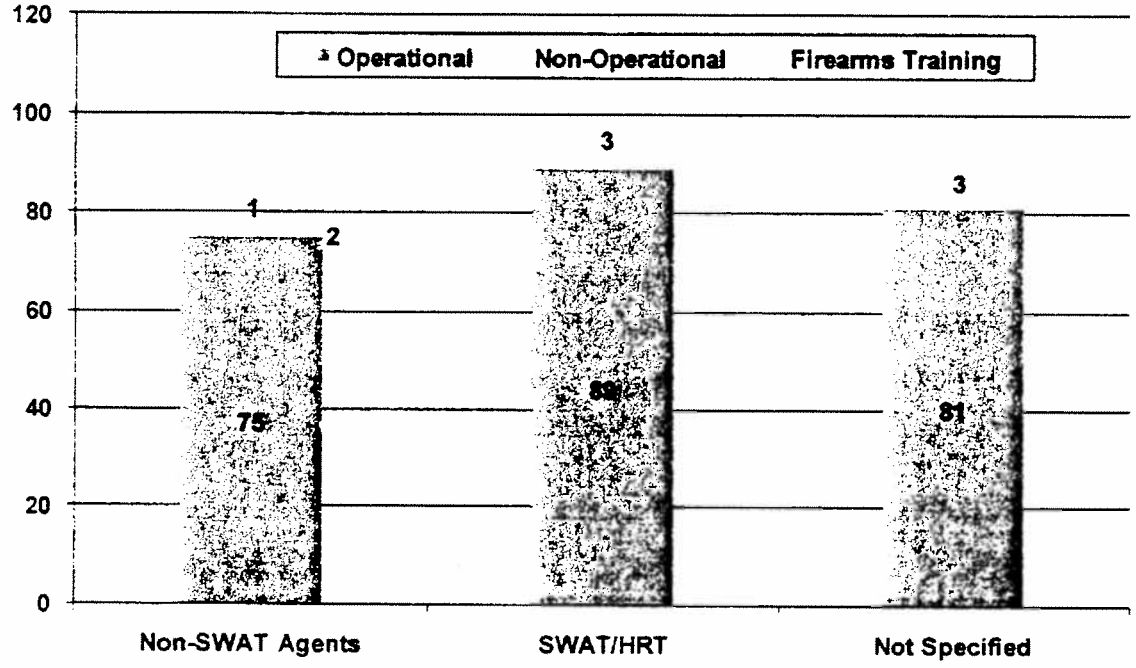



- Firing Range: includes law enforcement, military, and commercial ranges.
- Commercial/Industrial: most large, outdoor commercial facilities and areas such as rail yards, power stations, lumber yards.
- Natural Terrain: wooded areas, rural and farm land, and mountainous areas.
- Residence: the perimeter or yard immediately outside or in the vicinity of a residence.
- Street/Parking Lot: includes public space where vehicles routinely are driven or parked.

## Operational Status of Agents Involved in Intentional Shooting Incidents

Of the 269 Agents involved in an Intentional Shooting Incident, 15 (5.6%) were not on duty at the time of the incident. Figure 5.12 depicts the on duty type of activity of the remaining 254 (94.4%) Agents at the time of the shooting incident.

Figure 5.12 Operational Status of On Duty Agents Involved in Intentional Shooting Incidents




- Operational: any planned activity in which the shooter was acting in support of an investigation while on duty.
- Non-Operational: any unplanned situation in which the shooter was not acting in support of an investigation, either while on or off duty.
- Firearms Training: any qualification shoots or firearms training conducted at either an official FBI facility or any other firearms training site.

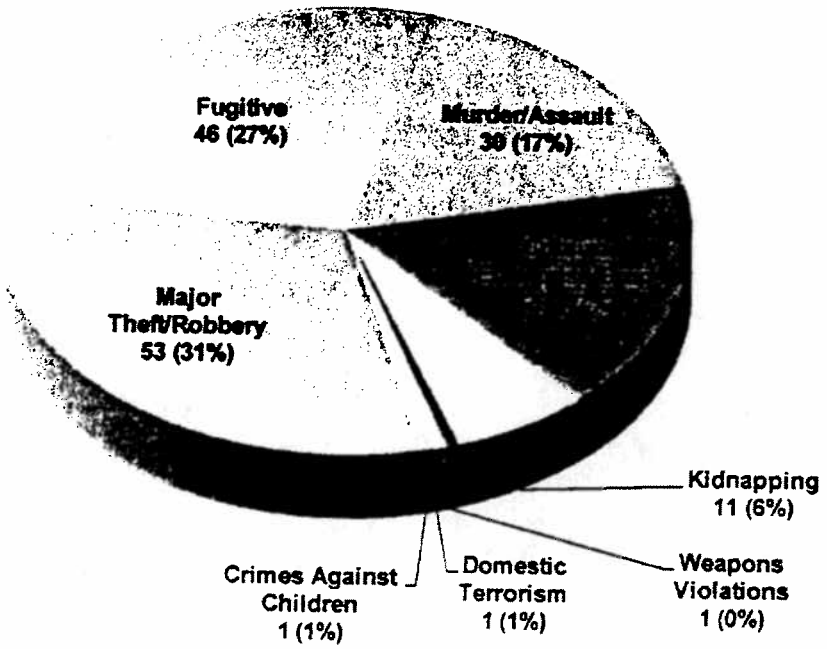
## Type of Violation in Which Intentional Shooting incidents Occurred

Sufficient data was available in 172 Intentional Shooting Incidents to identify the underlying nature of the crime or FBI classification under investigation when the shooting occurred. In some instances, the subjects in the database were subjects of FBI investigations. In these situations, the FBI classification was captured. In other situations, for instance, when an Agent was assaulted or robbed, the nature of the crime (i.e., assault or robbery) was captured.

For those incidents in which there were multiple crimes or violations, only the primary crime or violation was counted. For instance, regardless of the reason why a subject had become a fugitive (drugs, bank robbery, etc.) the primary reason Agents were searching for the subject was because the subject was a fugitive from justice.

Figure 5.13 depicts the types of violations resulting in Intentional Shooting Incidents. Each incident in which an Agent or LEO discharged their weapon counted as one incident even if more than one officer fired their weapons.

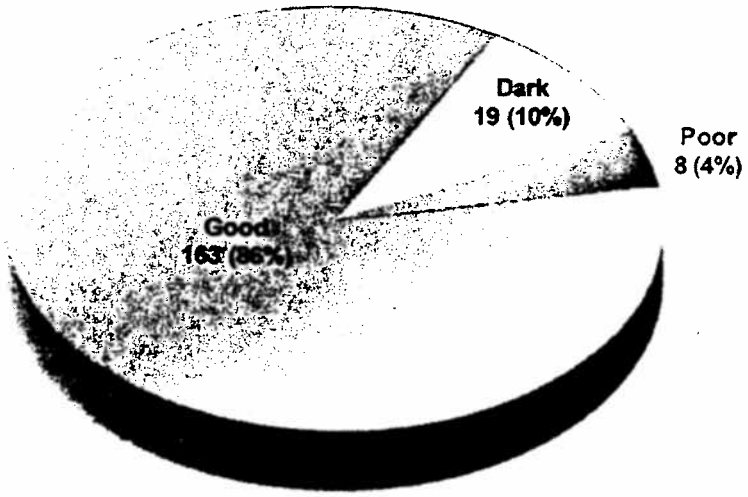
Figure 5.13 Type of Violations in Intentional Shooting Incidents



## Lighting Conditions During Intentional Shooting Incidents

Lighting conditions were captured based on the recollection of 190 of 269 (70.6%) Agent shooters involved in Intentional Shooting Incidents. Figure 5.14 reflects the lighting conditions per shooter at the time Agents discharged their weapons. No Agents discharged their weapons in more than one type of lighting condition.

Figure 5.14 Lighting Conditions During Intentional Shooting Incidents



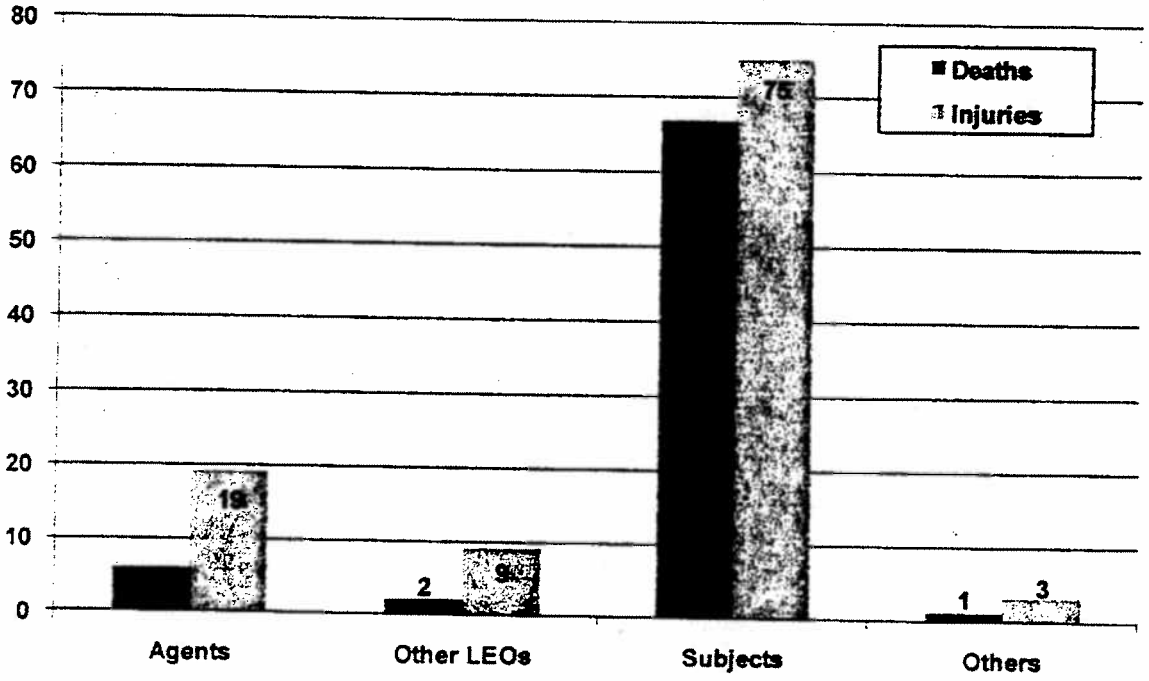

- Good: daylight. good artificial light, interior natural light, and flashlights.
- Dark: lighting at night or in a darkened room in which little or no additional light sources were available.
- Poor: backlight or silhouette, dawn/dusk, and limited or poor artificial light.

Of the 163 shooters reporting good lighting conditions, 12 (7.4%) shooters reported using a handheld flashlight or light mounted on their weapon.

## Deaths and Injuries Resulting from Intentional Shooting Incidents

Figure 5.15 illustrates the deaths and injuries resulting from Intentional Shooting Incidents.

Figure 5.15 Deaths and Injuries Resulting from Intentional Shooting Incidents

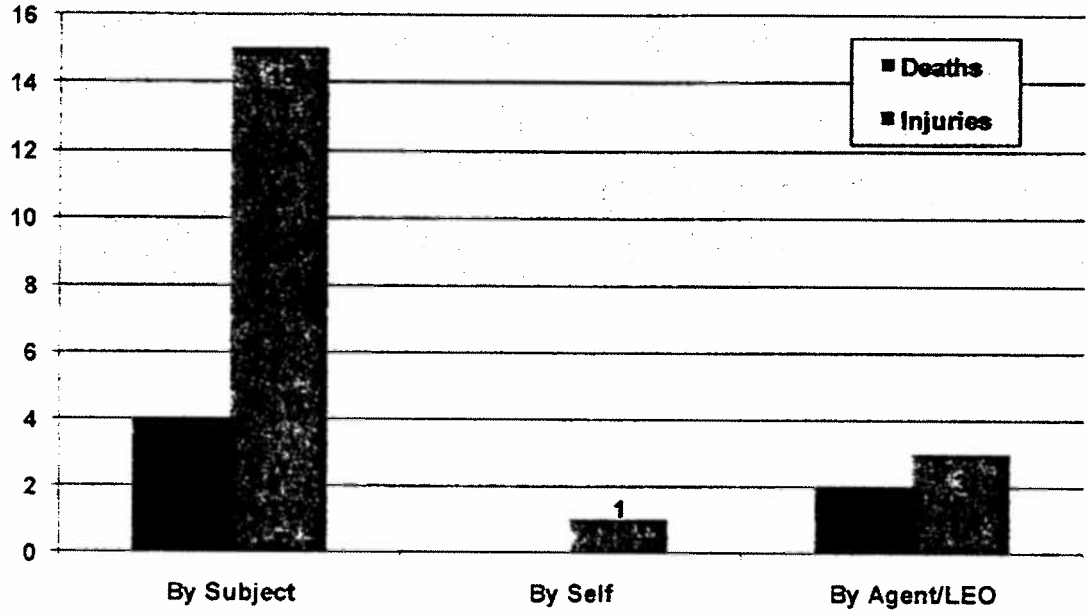



The four incidents in the "Others" category are described as follows:

- During a kidnapping investigation, an Agent fired his/her weapon into a vehicle as it was driven towards the Agent. The kidnap victim was in the vehicle and was struck and killed by the Agent's gunfire.
- A cooperator was shot and injured by a subject who attempted to rob the cooperator during a controlled drug purchase in support of an FBI investigation.
- During the surveillance of a violent subject, another individual was mistakenly identified as the subject. When Agents moved in to arrest the individual believed to be the subject, one Agent observed the individual make a furtive movement and, believing the individual was reaching for a weapon, fired, injuring the individual.
- When a violent subject attempted to use a vehicle as a weapon to evade arrest by Agents, an Agent fired at the subject, injuring another passenger in the vehicle.

Figure 5.16 reflects the *cause* of death or injury to Agents resulting from Intentional Shooting Incidents.

Figure 5.16 Causes of Agent Deaths and Injuries Resulting from Intentional Shooting Incidents




The Intentional Shooting Incidents in which 25 Agents were killed or injured are described below:

- Six Agents were killed: Two as a result of blue-on-blue incidents and four as a result of subject action.
- Ten Agents were injured by gunfire: Three as a result of blue-on-blue incidents and seven as a result of subject action.
- Eight Agents were injured by vehicles and/or blunt objects.
- One Agent accidently caused a self-inflicted injury when the Agent failed to hold an MP5 correctly when firing the weapon during training.

**Intentional Shooting Incidents Not in Accordance with FBI Deadly Force Policy**

Over the 17-year period of this review, there were 269 Special Agent shooters involved in Intentional Shooting Incidents. Of the 269 Agents, five (1.9%) were found by the SIRG to have discharged their weapons not in accordance with the FBI Deadly Force Policy. The five shooting incidents are described below:

- A subject who had already fired his weapon at Agents and other law enforcement personnel was walking erratically around his front yard as Agents and law enforcement officers established a perimeter. The subject repeatedly made movements towards the weapon which was lying on the ground close to the subject. One Agent, using a shotgun, fired one slug at the weapon to increase the distance between the weapon and the subject.

- An Agent was surrounded by a mob which had become aggressive in their actions. Fearing for his safety, the Agent fired one round into the air as a warning shot. There were no injuries.

- An Agent was chasing a fleeing fugitive when he lost sight of the subject. Believing the subject was lying in wait to ambush the Agent as he approached some bushes, the Agent fired his shotgun into the bushes. The fugitive was apprehended unharmed.

- Several Agents and law enforcement officers attempted to stop a vehicle carrying two fugitives. As the vehicle came to a stop, a passenger identified as one of the fugitives exited the vehicle and ran towards a nearby wooded area. An Agent fired at the fugitive. There were no injuries.

- While intoxicated, an Agent fired his weapon at an object. No other persons were involved.

**Summaries of Intentional Shooting Incidents Involving Special Agents**

The following summaries involving Special Agents were taken from the 17-year period. Summaries of incidents were chosen to provide examples of the varied situations under which Intentional Shootings have occurred.

Felony Car Stop

- A Violent Crimes Task Force (VCTF) obtained a local arrest warrant for a bank robber who had brandished a pistol and threatened to shoot a teller during a robbery. A written operations plan was prepared and approved, which did not include a contingency plan for a felony car stop. The subject had a criminal history which included violence and an attempt to use a vehicle as a weapon against firemen and a police officer while fleeing a traffic stop. The plan was for two Agents and four TFOs to arrest the subject outside of one of two residences the subject was known to frequent. Surveillance teams were established on both locations. The subject was observed exiting one of the residences and entering a vehicle. The arrest team began to formulate a plan via radio to conduct a felony car stop. The subject's driving pattern indicated to the surveillance team they had been identified. When the subject pulled the car to the side of the road, the order was given for the arrest team to execute a car stop. The arrest team exited their vehicles and ordered the subject to raise his hands. Initially the subject complied but, as a TFO approached the driver's side door, the subject lowered his hands and began to drive onto the curb. Another TFO had to quickly move to avoid being hit. As the vehicle continued to drive onto the sidewalk, members of the arrest team observed the subject lower his hands to his waist area. Believing he was reaching for a gun, one Agent fired six rounds from a Glock Model 22 towards the subject, striking him several times. The vehicle hit a fence and stopped. The subject was transported to a hospital for gunshot wounds and survived. No other persons were injured.

At Home

- An FBI Agent was preparing to depart for a SWAT operation from his home in the early pre-dawn hours. The Agent carried two gear bags from the residence, one of which contained FBI credentials and a bureau-issued Springfield pistol, and placed them next to the bureau vehicle which was parked in the garage. Leaving the roll-up garage door partially open, the Agent went to retrieve a drug detection dog from the backyard. As the Agent neared the backyard he observed a pickup truck, with at least two individuals in it, make a U-turn in the cul-de-sac adjacent to the home and drive back past the home. The Agent watched the truck closely as the home of

a neighbor had been recently burglarized. As the Agent returned to the garage moments later, he encountered three males inside the garage. The Agent drew his bureau-approved, personally-owned Sig Sauer P229 pistol and confronted the subjects. Two of the subjects ran toward the truck which was waiting on the street, while the third male became involved in a brief physical altercation with the Agent. The third male then ran towards the waiting truck with the Agent in pursuit. Giving commands to the subjects to exit the truck, the Agent reached into the cab on the driver's side in an attempt to remove the keys from the ignition. The driver put the truck into gear and steered toward the Agent while accelerating. Fearing he would be killed or seriously injured, the Agent fired six rounds in rapid succession, striking the rear window once, the tailgate three times, and both driver side tires, as the truck fled the area. No one was injured by the shots. The Agent sustained minor injures during the struggle. The subjects were apprehended several days later.

Search Warrant

- Agents and law enforcement personnel executed a federal search warrant on the residence of a subject who had been trading child pornography with an undercover law enforcement officer. No written operational plan was prepared, but a verbal brief was held at a local police station shortly before execution. The search team was advised that the subject had a criminal history and had served federal prison time for the illegal sale of stolen military weapons. As they approached the residence, the team was motioned towards the side door by an adult male believed to be the subject. Upon entering the residence, they met with the subject's wife and two children, but the subject could not be found. Upon climbing the stairs, the search team made contact with the subject, who was standing down a hallway in the master bedroom, with a pistol pointed under his chin. One of the officers removed the wife and two children from the residence as two Agents covered the subject with their weapons and began to negotiate with him to drop his weapon. During the negotiation, which lasted approximately 15-20 minutes, Agents maintained concealment as much as possible while trying to convince the subject to drop his weapon. The subject kept moving the position of the gun between his mouth and chin. He repeatedly commented that he would not go back to prison and the Agents didn't want him to commit "suicide by cop." After explaining their purpose was to execute only a search warrant for the computers, the subject's demeanor changed. He became quiet and moved closer to a window. The Agents suspected the subject was trying to position himself closer to an egress point. The subject's grip on his weapon changed and his body moved to what the Agents per-

ceived as a combat stance. The subject then moved the weapon away from his head towards the Agents. The Agents, fearing for their lives, fired on the subject. The subject quickly moved his weapon to his mouth and fired a round. The Agents, hearing this shot, believed the subject was shooting at them and fired again. The two Agents fired a total of seven rounds. The subject died as a result of the wounds he inflicted on himself and by the Agents.

Robbed at Gunpoint

- An Agent parked his/her Bucar a block away from his/her residence after work. The Agent secured the vehicle and began walking towards his/her residence carrying an MP5 in a case. Two unknown males were walking slowly towards the Agent. These males appeared to be displaying gang paraphernalia, which the Agent recognized from working gang violations in the area. The males slowed their pace as the Agent approached and physically stopped him as they passed. One of the males pointed a semi-automatic pistol at the Agent and demanded money. The Agent placed the bags on the ground and held his/her hands in front to show compliance. The Agent slowly reached for his/her wallet and handed it to the male holding the gun. The wallet did not contain any items identifying the Agent as a law enforcement officer. One male picked up the case with the MP5 while the other started checking the Agent's pockets while keeping the gun pointed at the Agent. The Agent was carrying a Glock Model 23 in a hip holster concealed under a jacket. Fearing the males would soon discover he/she was an FBI Agent and shoot him/her, the Agent drew the pistol and fired approximately six rounds at the male holding the gun, who fell backwards. The Agent turned towards the second male and fired three shots. The second male fell to the ground. The Agent then turned back towards the first male, who had the gun. The male was running down the street. The Agent moved into the street and commanded the subject to stop. The subject abruptly stopped and turned towards the Agent. The Agent, believing the subject was still armed and was turning to fire at the Agent, fired two rounds at a distance of approximately 25 yards. The subject fell to the ground. The Agent looked around for the second subject, but could not see him. The Agent sought the protection of cover by running to the opposite side of the street and crouching behind a vehicle. From behind the vehicle, the Agent continued to scan the street, but could not see either subject. The Agent reloaded his/her weapon and contacted the field office. A short time later, police officers responded and secured the scene. Both subjects were taken to the hospital for gunshot wounds.

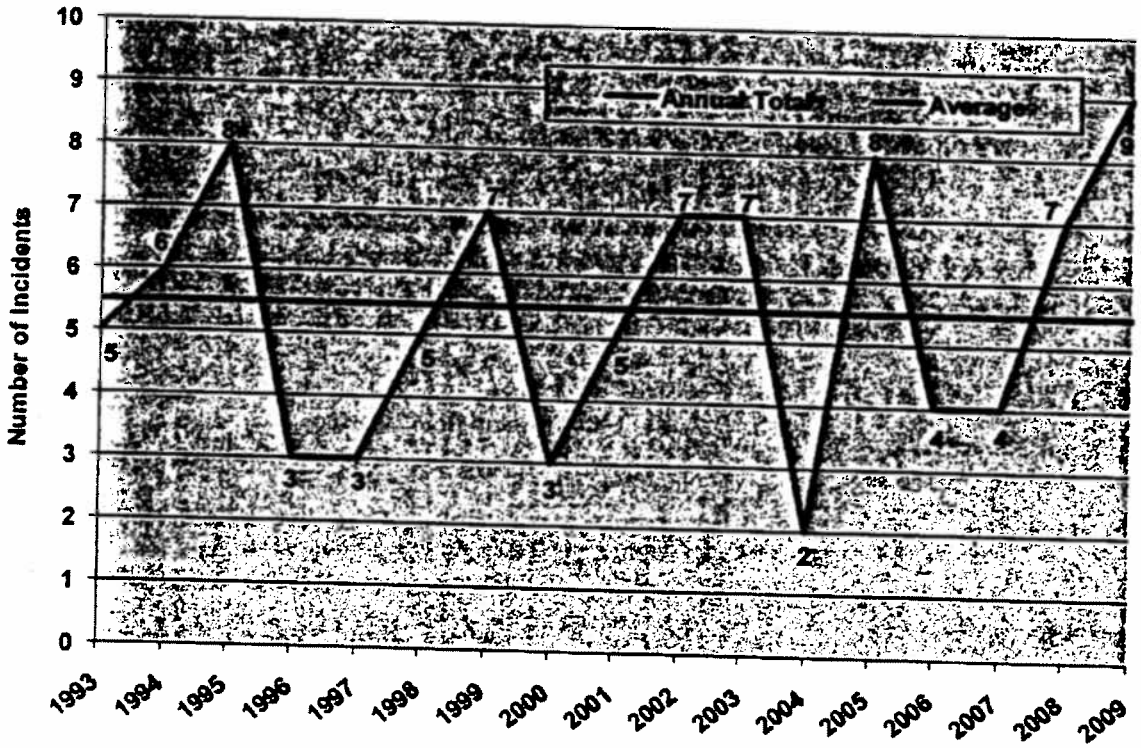
# VI. Animal Shooting Incidents

**Animal Shooting Incidents by Calendar Year Compared to the 17-Year Average**

Animal Shooting Incidents were defined as those instances where weapons were discharged to: stop dangerous or aggressive animals; euthanize seriously injured animals that posed a continuing threat or serious hazard; or humanely end an animal's suffering, typically when law enforcement action inflicted grievous injury to that animal.

Figure 6.1 illustrates the number of Animal Shooting Incidents per calendar year compared to the average number of Animal Shooting Incidents over the 17-year period. The average number of Animal Shooting Incidents per year was 5.5, depicted by the red line.

Figure 6.1 Animal Shooting Incidents by Calendar Year



## Animal Shooting Incidents by Field Office

There were 93 Animal Shooting Incidents during the 17-year review period. Thirty-five field offices reported 90 (96.8%) Animal Shooting Incidents. FBI Headquarter divisions accounted for 3 of 93 (3.2%) shooting incidents. Figure 6.2 depicts the range of Animal Shooting Incidents by field office, represented by the two letter identifier of the field office.

Figure 6.2 Animal Shooting Incidents by Field Office

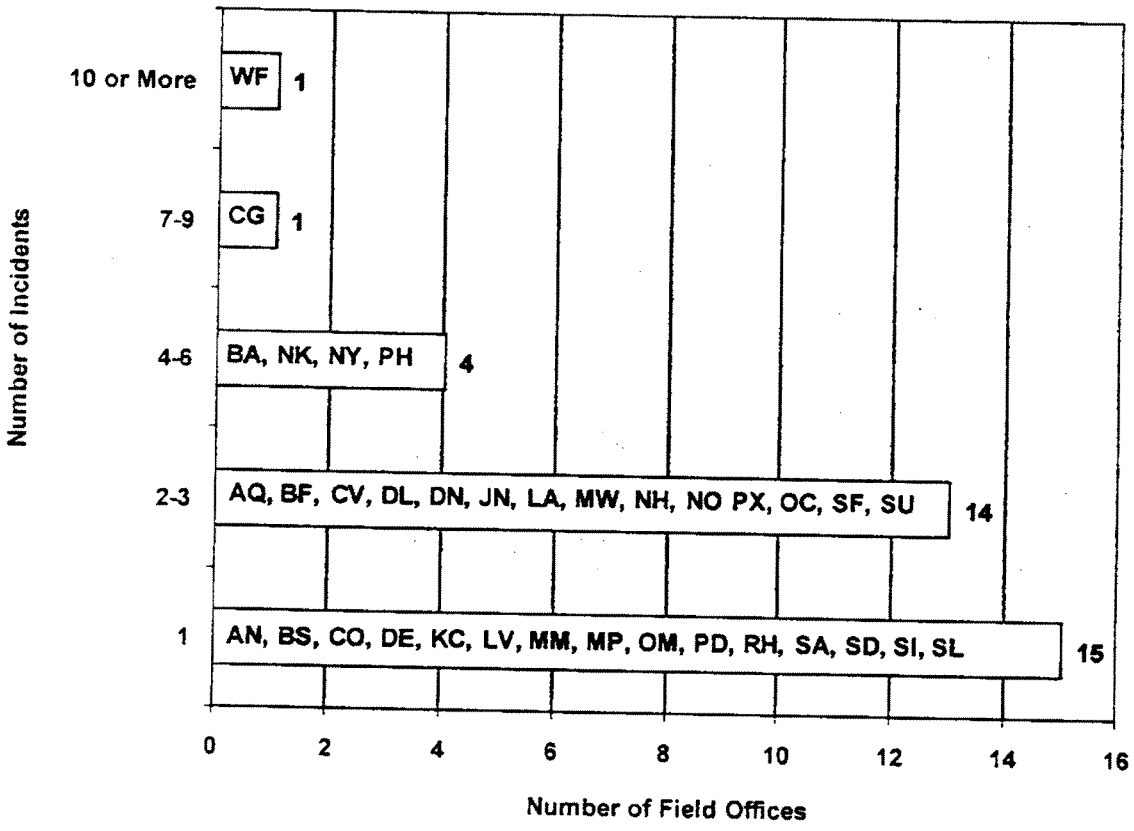


Table 6.1 displays the actual number of Animal Shooting Incidents for each field office during the 17-year review period.

Table 6.1 Animal Shooting Incidents by Field Office

| [illegible] | [illegible] | [illegible] | [illegible] |
|---|---|---|---|
| Washington Field | 12 | Phoenix | 2 |
| Chicago | 7 | Salt Lake City | 2 |
| Baltimore | 6 | Anchorage | 1 |
| Newark | 6 | Boston | 1 |
| New York | 5 | Columbia | 1 |
| Philadelphia | 4 | Detroit | 1 |
| Buffalo | 3 | Kansas City | 1 |
| Cleveland | 3 | Las Vegas | 1 |
| Dallas | 3 | Miami | 1 |
| Denver | 3 | Minneapolis | 1 |
| Milwaukee | 3 | Omaha | 1 |
| Oklahoma City | 3 | Portland | 1 |
| San Francisco | 3 | Richmond | 1 |
| Albuquerque | 2 | San Antonio | 1 |
| Jackson | 2 | San Diego | 1 |
| Los Angeles | 2 | Springfield | 1 |
| New Haven | 2 | St. Louis | 1 |
| New Orleans | 2 | | |

**All Animal Types**

Table 6.2 depicts the types of animals encountered in Animal Shooting Incidents. The column on the left lists the types of animal fired upon by Agents and LEOs. The column on the right depicts the total number of the type of animal. The animals were not necessarily injured or killed.

Table 6.2 Animal Types

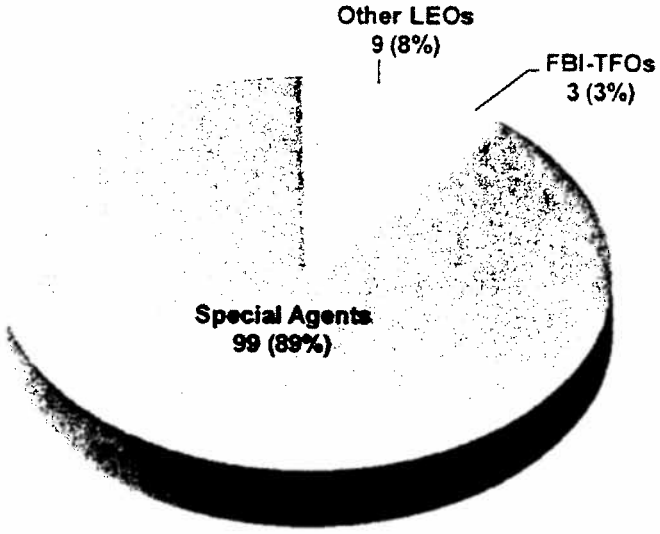
| Animal | Total |
|---|---|
| Dog | 85 |
| Deer | 9 |
| Fox | 1 |
| Horse | 1 |
| Moose | 1 |
| Raccoon | 1 |
| Skunk | 1 |
| Snake | 1 |
| Tiger | 1 |
| *Total* | *101* |

Aggressive dogs have been encountered in packs (two or more) in seven separate shooting incidents.

**Shooters Involved in Animal Shooting Incidents**

Figure 6.3 depicts the status of all shooters for all Animal Shooting Incidents. During the 93 Animal shootings, 99 Special Agents, 9 LEOs, and 3 TFOs fired a weapon.

Figure 6.3 Shooters Involved in Animal Shooting Incidents

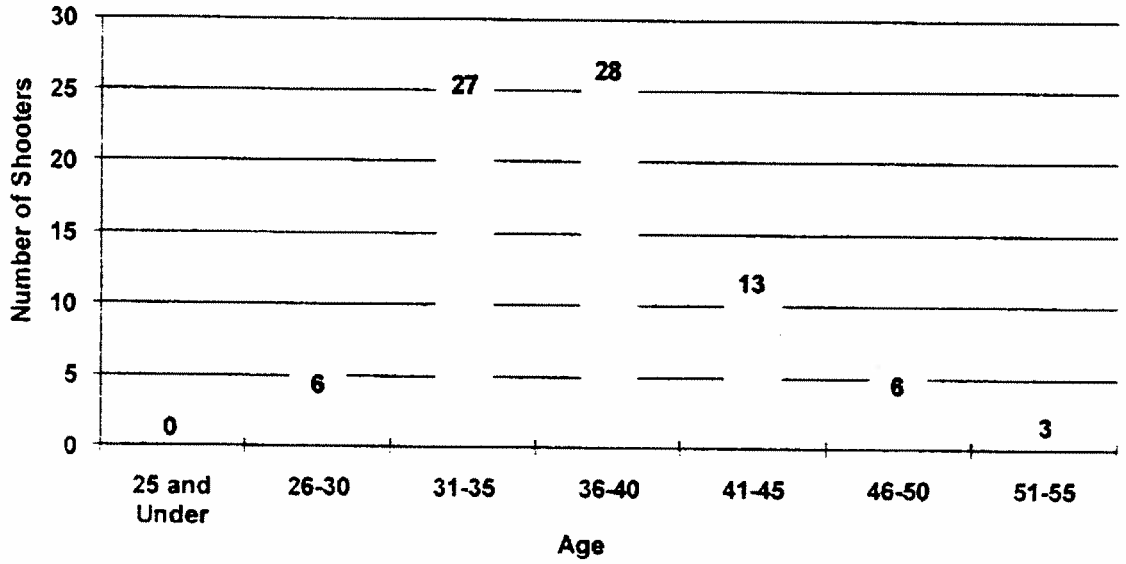



- Special Agents: FBI Special Agents, including supervisory or managerial personnel.
- Other LEOs: all other LEOs (local, county, state, and federal) not identified as TFOs.
- FBI-TFOs: all LEOs designated in the shooting incident report as an FBI TFO.

## Age and Time in Service of FBI Agents Involved in Animal Shooting Incidents

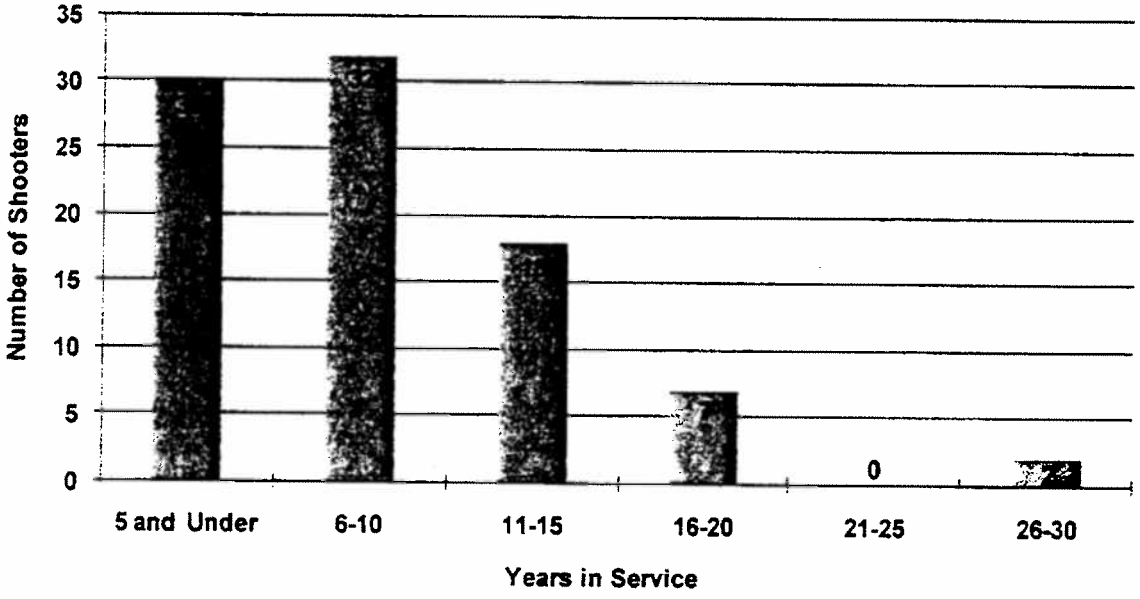
Age was available for 83 of the 99 (83.8%) Agent shooters. Figure 6.4 depicts the number of Agents by age group at the time of the shooting.

Figure 6.4 Age of FBI Agents Involved in Animal Shooting Incidents




Time in Service was available for 89 of the 99 (89.9%) Agent shooters. Figure 6.5 depicts the Agents' Time in Service at the time of the shooting.

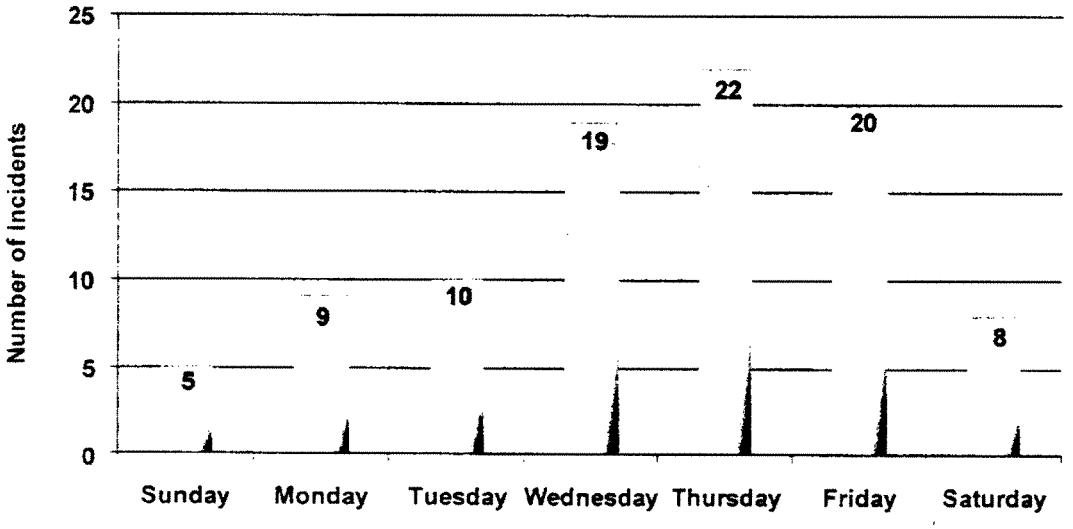
Figure 6.5 Time in Service of FBI Agents Involved in Animal Shooting Incidents



## Animal Shooting Incidents by Day of the Week

Day of the week was available for all Animal Shooting Incidents. Figure 6.6 depicts the frequency of occurrence of all Animal shootings by day of the week.

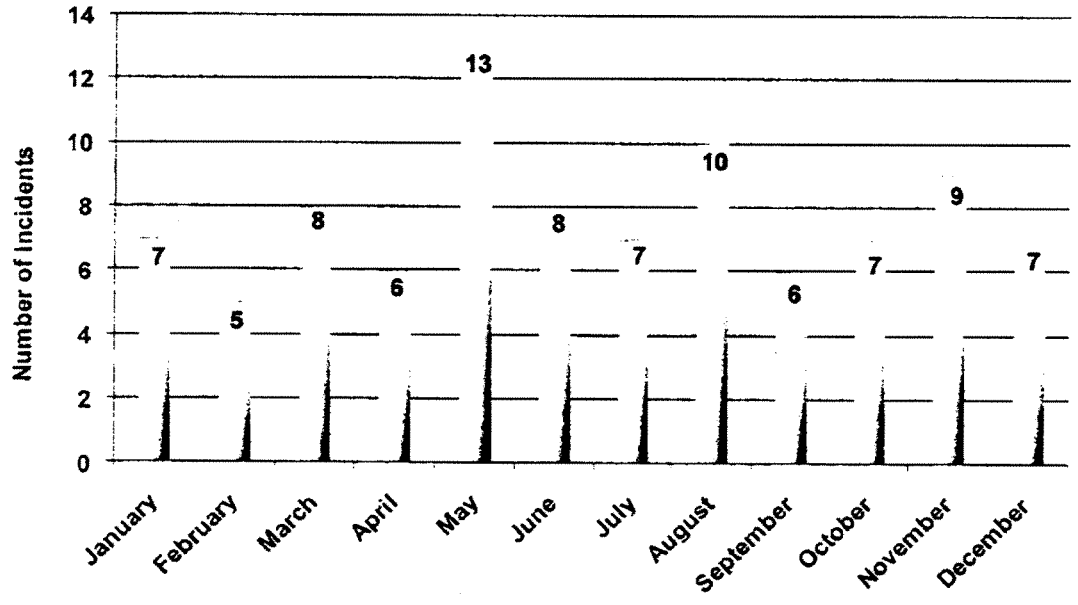
Figure 6.6 Animal Shooting Incidents by Day of the Week




## Animal Shooting Incidents by Month of the Year

Month of the year was available for all Animal Shooting Incidents. Figure 6.7 depicts the frequency of occurrence of all Animal shootings by month of the year.

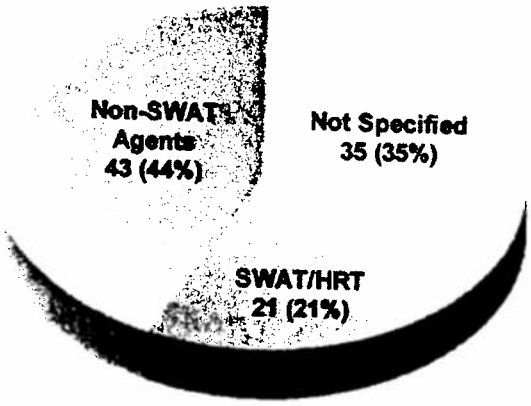
Figure 6.7 Animal Shooting Incidents by Month of the Year



## SWAT vs. Non-SWAT Agents Involved in Animal Shooting Incidents

In Figure 6.8, Agent shooters involved in Animal Shooting Incidents were categorized based on whether they were SWAT/HRT Operators, Non-SWAT Agents, or Not Specified.

Figure 6.8 SWAT vs. Non-SWAT Agents Involved in Animal Shooting Incidents




- Non-SWAT Agents: any Agent not assigned to SWAT or HRT at the time of the incident.
- Not Specified: Agents about whom there was insufficient information in the shooting incident report to make a determination.
- SWAT/HRT: all Agents who were active members of an FBI SWAT team or HRT, but not necessarily involved in a SWAT or HRT operation at the time of the incident.

## Number of SWAT Operations

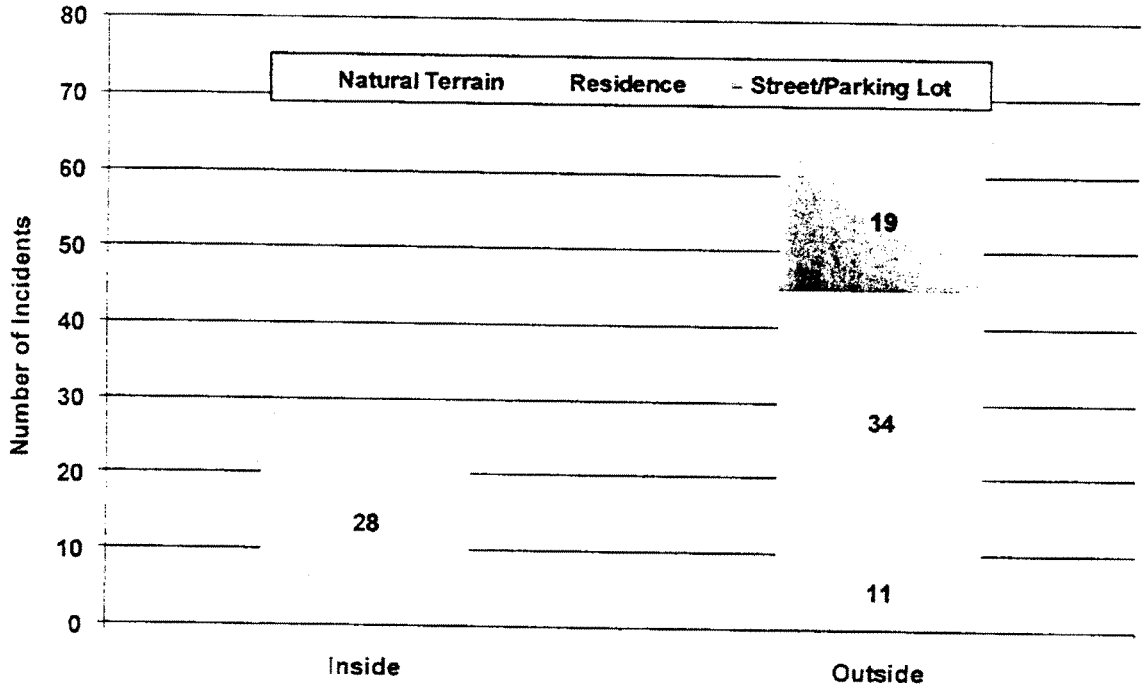
Based on the data available in the shooting incident reports, there were at least 4 of 93 (4.3%) Animal Shooting Incidents which occurred during SWAT operations.[1]

[1]This number should be understood to be a minimum number since it was not explicit in every shooting incident report whether the incident involved a SWAT team.

## Environment and Location for Animal Shooting Incidents

Environment and location information was available for 92 of 93 (98.9%) Animal Shooting Incidents. Figure 6.9 depicts the Environment (inside and outside) and Location for Animal Shooting Incidents for all animal types.

Figure 6.9 Environment and Location of Animal Shooting Incidents




Inside Environment

- Residence: single and multi-family homes, apartments, condominiums, and trailer homes.

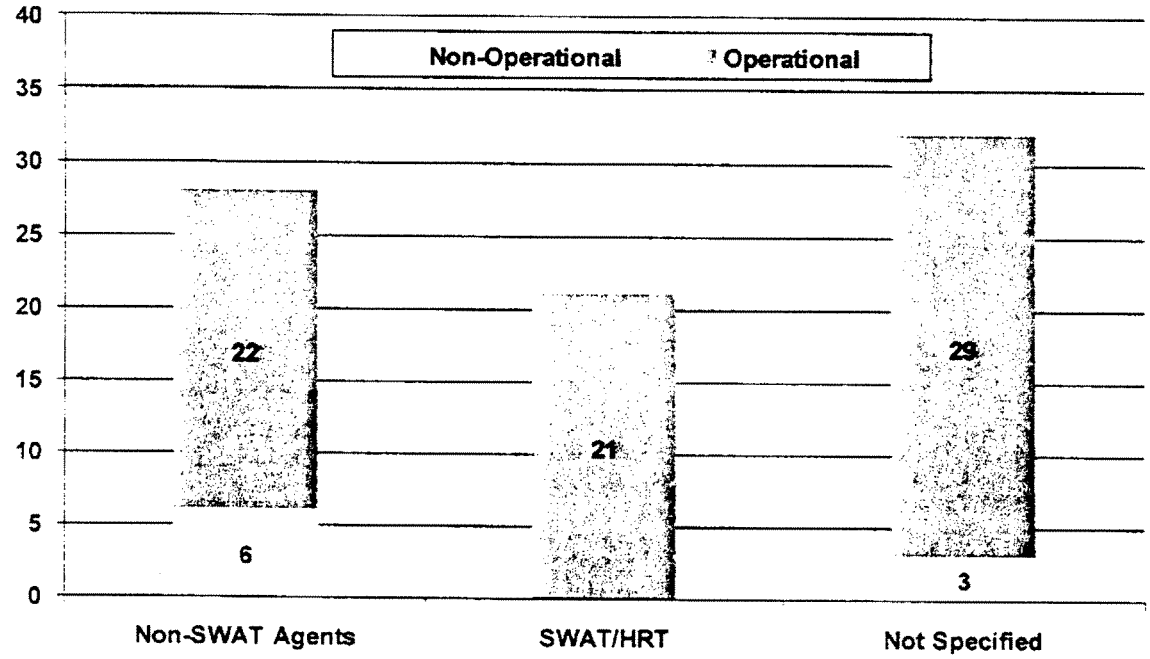
Outside Environment

- Natural Terrain: wooded areas, rural and farm land, and mountainous areas.
- Residence: the perimeter or yard immediately outside or in the vicinity of a residence.

## Operational Status for Agents Involved in Animal Shooting Incidents

Of the 99 Agents involved in an Animal Shooting Incident, 18 (18.2%) were not on duty at the time of the incident. Figure 6.10 depicts the on duty type of activity of the remaining 81 (82.6%) Agents at the time of the shooting.

Figure 6.10 Operational Status of On Duty Agents Involved in Animal Shooting Incidents




- Operational: any planned activity in which the shooter was acting in support of an investigation while on duty.
- Non-Operational: any unplanned situation in which the shooter was not acting in support of an investigation, either while on or off duty.

## Injuries Resulting from Animal Shooting Incidents

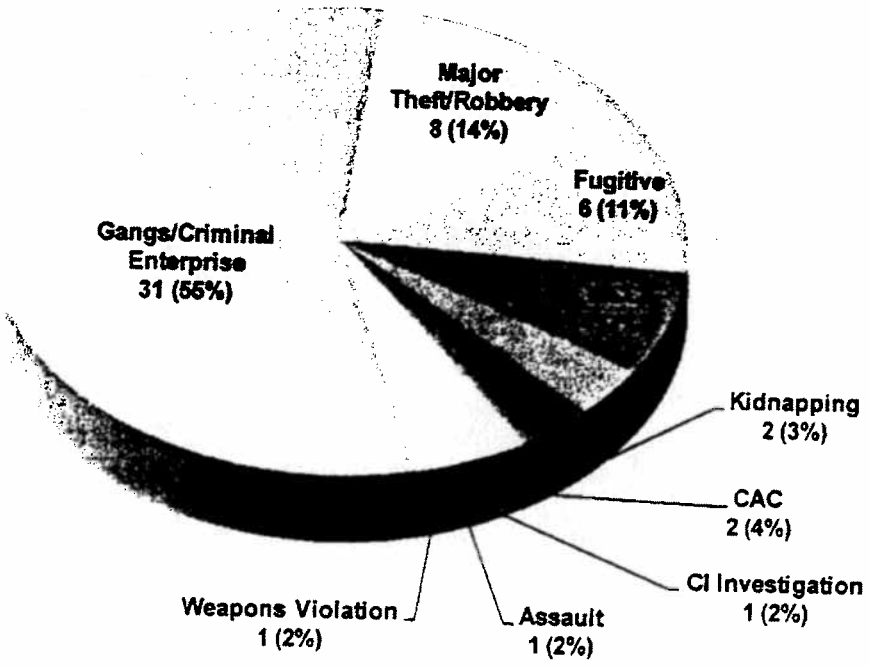
Of the 111 FBI and LEO shooters involved in Animal Shooting Incidents, seven shooters received injuries: One LEO and five Agents were injured by animal attacks and one Agent received a gunshot injury when another LEO fired at the attacking dog. There were no deaths of shooters resulting from Animal incidents.

## Type of Violation in Which Animal Shooting Incidents Occurred

Sufficient data were available in 58 Animal Shooting Incidents to identify the underlying nature of the crime or FBI classification under investigation when the shooting occurred. For those incidents in which there were multiple crimes or violations, only the primary crime or violation was counted. For instance, regardless of the reason why a subject had become a fugitive (drugs, bank robbery, etc.) the primary reason Agents were searching for the subject was because the subject was a fugitive from justice.

Figure 6.11 depicts the types of violations resulting in Animal Shooting Incidents. Each incident in which an Agent or LEO discharged their weapon counted as one incident even if more than one Agent/LEO fired their weapons.

Figure 6.11 Type of Violations in Animal Shooting Incidents



**Summaries of Animal Shooting Incidents Involving Special Agents**

The following summaries involving FBI Agents were taken from the 17-year period. Summaries of incidents were chosen to provide examples of the varied situations under which Animal Shootings have occurred.

- While driving to work, an Agent was stopped by an individual requesting assistance. The individual advised the Agent a young girl was being attacked by two dogs. The Agent and the individual attempted to rescue the girl, but the dogs quickly turned on and attacked the Agent. The Agent drew his/her weapon and fired one round, striking one of the dogs in the chest. The two dogs retreated; the injured dog died a short distance away.

- During the execution of an arrest warrant, a SWAT team breached the door to the target location. Immediately, a large dog exited the door and rushed towards the breacher. Another SWAT Agent fired one round into the dog's back from his/her Springfield Model 1911. The dog continued to rush towards Agents in the entry stack, resulting in another Agent firing one round into the dog. The dog fell to the ground and was euthanized by animal control personnel after the completion of the mission.

- An Agent was asked to assist in the location and capture of a tiger which had escaped from a local theme park. Several attempts had been made to tranquilize the tiger, without success. Fearing the tiger would make its way to a more populated area the decision was made to kill the animal. Because it was late evening and foggy, an FBI helicopter with the capability of Forward Looking Infra-Red (FLIR) was used to guide the Agent to the tiger. The plan was for the Agent, in communication with the helicopter and others, to flush the tiger towards a location where shooters would euthanize the animal. The Agent entered a clearing and observed the tiger enter the same clearing, moving towards the Agent's location. The Agent fired three slugs from a shotgun, hitting the tiger, but the tiger ran back into the surrounding wooded area. Through the use of night vision goggles, the Agent located the tiger in the wooded area. The tiger was stationary and, for officer safety, the Agent fired another slug, killing the tiger.

- An Agent stopped to assist two motorists who were trying to assist an injured deer lying in the median of the road. The Agent contacted the local sheriff's office and a deputy was dispatched to the scene. Before the deputy arrived, the deer attempted

to move into lanes of traffic. Fearing the deer would cause an accident, the Agent, with the assistance of an off-duty police officer, stopped traffic. Ensuring the area was safe, the Agent fired two shots from a shotgun, killing the deer. A short time later, the deputy arrived and coordinated the removal of the deer.

- A Task Force assembled to execute a search warrant on a single family residence in a drug investigation. An Agent and several Task Force Officers, including two uniformed officers, entered the residence and began to conduct a protective sweep to secure the site. A TFO approached a bedroom door and after discovering the door was locked yelled, "Police." The Agent approached the door and, fearing the subject was locked in the bedroom destroying evidence or arming himself, kicked at the door. The door opened and the Agent was immediately attacked by a large dog. The Agent tried to fend off the aggressive dog as the TFO, standing several feet away, fired one round from his 9 mm pistol, striking the dog. The dog continued to attack the Agent. The TFO quickly fired three more rounds, striking the dog in the chest and back. The dog continued to attack the Agent. A second TFO moved towards the dog and fired one round from his .45 caliber pistol. The round struck the dog in the chest, killing the animal. The Agent continued into the bedroom where the subject was located and secured. The Agent then realized he/she had been shot in the foot.

- During the execution of a search and arrest warrant at a residence in a drug investigation, two Agents and a police officer were tasked with providing perimeter security. Shortly after arriving at the residence and taking their positions on the perimeter, an aggressive dog approached the group. The dog growled and moved towards the perimeter team. One Agent, fearing the dog was going to attack, fired two rounds from his/her Glock Model 23. The officer fired one round. The dog was struck, but ran off and was not located.

- An Agent was waiting in a car in front of a friend's residence. The friend exited the residence, with two other individuals, leading a small dog on a leash. The Agent observed a large dog down the street rapidly approaching the friend's small dog. The large dog began behaving aggressively towards the small dog and appeared to the Agent to become more aggravated as the friend and two other individuals attempted to fend off the larger dog. Fearing the large dog was a threat and would attack, the Agent fired two rounds from his/her Glock Model 22, striking the dog. The injured animal was removed from the scene by local animal control authorities.

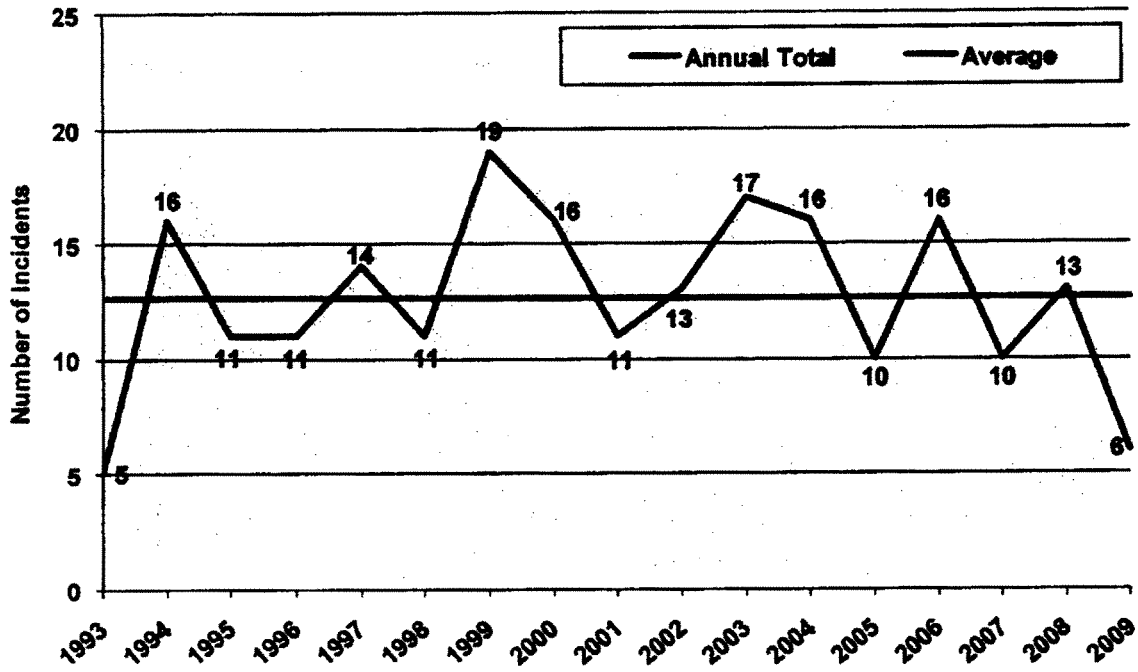
# VII. Unintentional Discharges

**Unintentional Discharges by Calendar Year Compared to the 17-Year Average**

Unintentional Discharges were defined as inadvertent or accidental discharges of one or more rounds without the intent of the shooter.

Figure 7.1 illustrates the number of Unintentional Discharges per calendar year compared to the average number of Unintentional Discharges over the 17-year period. The average number of Unintentional Discharges per year was 12.6, depicted by the red line in Figure 7.1.

Figure 7.1 Unintentional Discharges by Calendar Year



**A Note on Unintentional Discharges**

Any UD is unacceptable and poses a significant risk of harm. Considering Special Agents routinely handle and unholster weapons, there exists many "opportunities" for UDs. To put the annual average of 12.6 UDs per year in perspective, the opportunity for a UD needs to be considered. Opportunity includes, but is not limited to, the number of times Agents handle an unholstered weapon. Using a quantifiable event defines the opportunities available in which a UD could occur. The Pistol Qualification Course (PQC), the authorized firearms qualification session for all Agents, provides a known example during which Agents must unholster their weapons. Agents must pass the PQC four times annually. Pistols are drawn from holsters four times per PQC. For 2009, with an approximate Agent population of 13,360, pistols alone should have been drawn a minimum of 213,760 times. This minimum number does not account for the additional times throughout any given year in which Special Agents drew pistols or carried long guns, including: enhanced SWAT and HRT training, search warrant operations, arrests, and cleaning of firearms.

No UD is acceptable, but when placed into the context of the very broad calculations above, the numbers of UDs within the FBI were relatively very few.

## Unintentional Discharges by Field Office

There were 216 Unintentional Discharges during the 17-year review period. Fifty-one field offices reported 181 UDs. FBI Headquarters divisions accounted for 34 of 216 (15.6%) shooting incidents. Figure 7.2 depicts the range of UDs by field office, represented by the two letter identifier of the affected field office.

Figure 7.2 Unintentional Discharges by Field Office

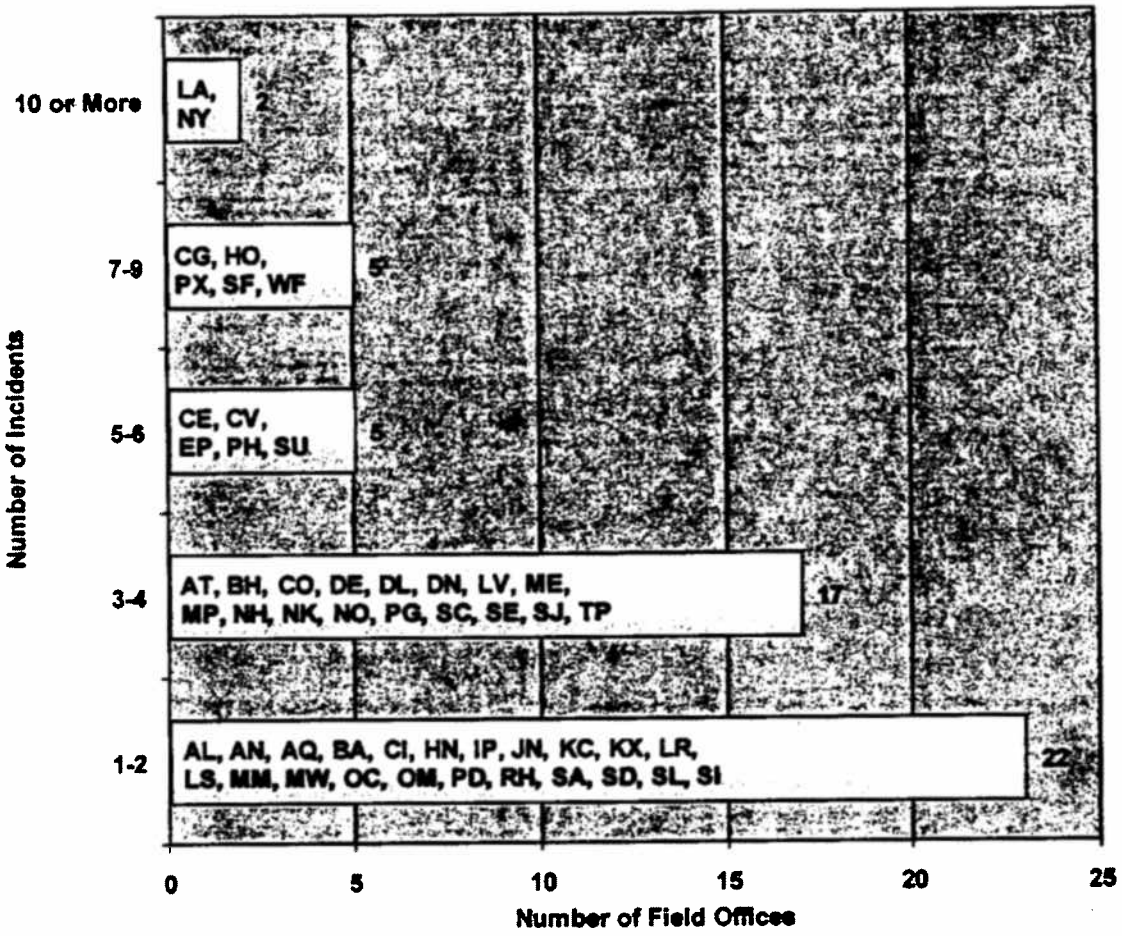


Table 7.1 displays the actual number of Unintentional Discharges for each field office during the 17-year review period.

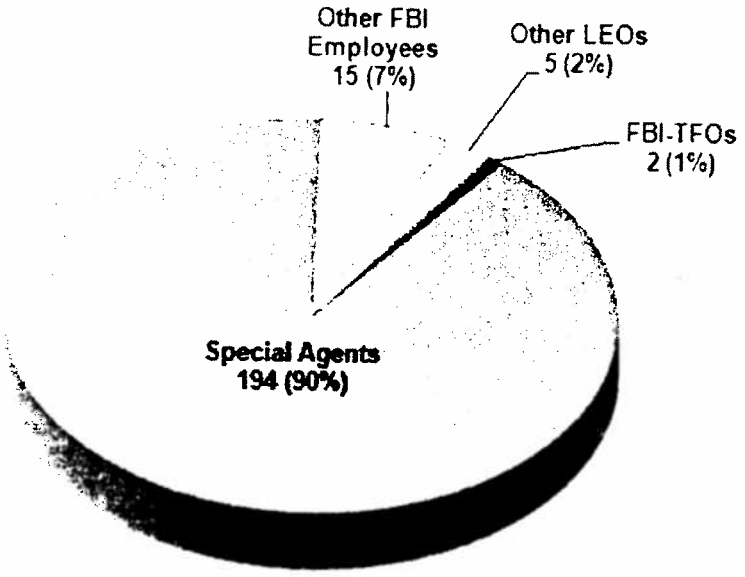
Table 7.1 Unintentional Discharges by Field Office

| FIELD OFFICE | Number of Incidents | FIELD OFFICE | Number of Incidents |
|---|---|---|---|
| Los Angeles | 14 | New Orleans | 3 |
| New York | 13 | San Juan | 3 |
| Houston | 8 | Seattle | 3 |
| Chicago | 7 | Albuquerque | 2 |
| Phoenix | 7 | Indianapolis | 2 |
| San Francisco | 7 | Kansas City | 2 |
| Washington Field | 7 | Little Rock | 2 |
| Philadelphia | 6 | Louisville | 2 |
| Salt Lake City | 6 | Miami | 2 |
| Charlotte | 5 | Omaha | 2 |
| Cleveland | 5 | Richmond | 2 |
| El Paso | 5 | San Antonio | 2 |
| Atlanta | 4 | San Diego | 2 |
| Birmingham | 4 | St. Louis | 2 |
| Dallas | 4 | Albany | 1 |
| Minneapolis | 4 | Anchorage | 1 |
| Pittsburgh | 4 | Baltimore | 1 |
| Sacramento | 4 | Cincinnati | 1 |
| Tampa | 4 | Honolulu | 1 |
| Columbia | 3 | Jackson | 1 |
| Denver | 3 | Knoxville | 1 |
| Detroit | 3 | Milwaukee | 1 |
| Las Vegas | 3 | Oklahoma City | 1 |
| Memphis | 3 | Portland | 1 |
| Newark | 3 | Springfield | 1 |
| New Haven | 3 | | |

## Shooters Involved in Unintentional Discharges

Figure 7.3 depicts the status of all shooters for all UDs. During the 216 UDs, 194 Special Agents, 15 FBI Employees, 5 LEOs, and 2 TFOs fired a weapon.

Figure 7.3 Shooters Involved in Unintentional Discharges

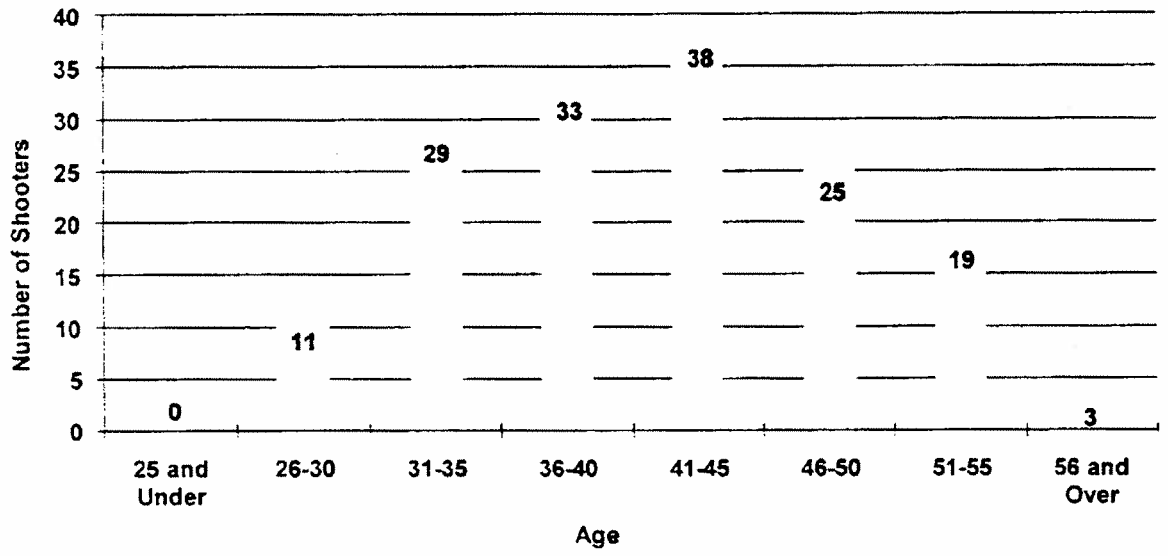



- Special Agents: FBI Special Agents, including supervisory or managerial personnel.
- Other FBI Employees: all non-Agent employees of the FBI (e.g., Technicians, New Agent Trainees, and Law Enforcement Specialists).
- Other LEOs: all other LEOs (local, county, state, and federal) not identified as TFOs.
- FBI-TFOs: all LEOs designated in the shooting incident report as an FBI TFO.

## Age and Time in Service of Agents Involved in Unintentional Discharges

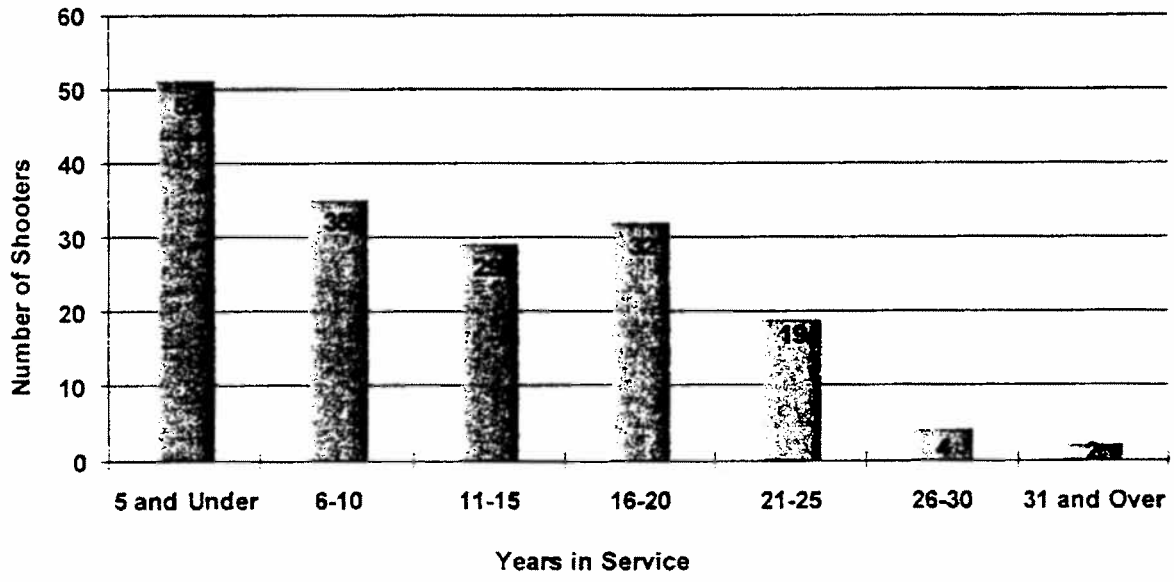
Age was available for 158 of 194 (81.4%) Agents involved in UDs. Figure 7.4 depicts the number of Agents by age group at the time of the UD.

Figure 7.4 Age of Agents Involved in Unintentional Discharges




Time in Service was available for 172 of 194 (88.7%) Agents involved in UDs. Figure 7.5 depicts the Agents' Time in Service.

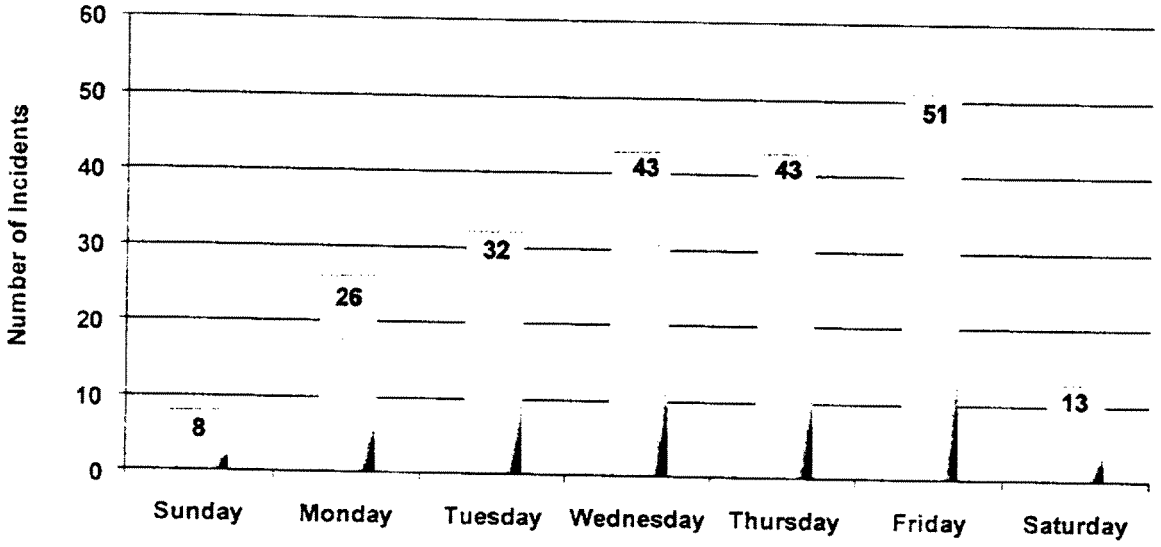
Figure 7.5 Time in Service of Agents Involved in Unintentional Discharges



## Unintentional Discharges by Day of the Week

Day of the week was available for all UDs. Figure 7.6 depicts the frequency of occurrence of all UDs by day of the week.

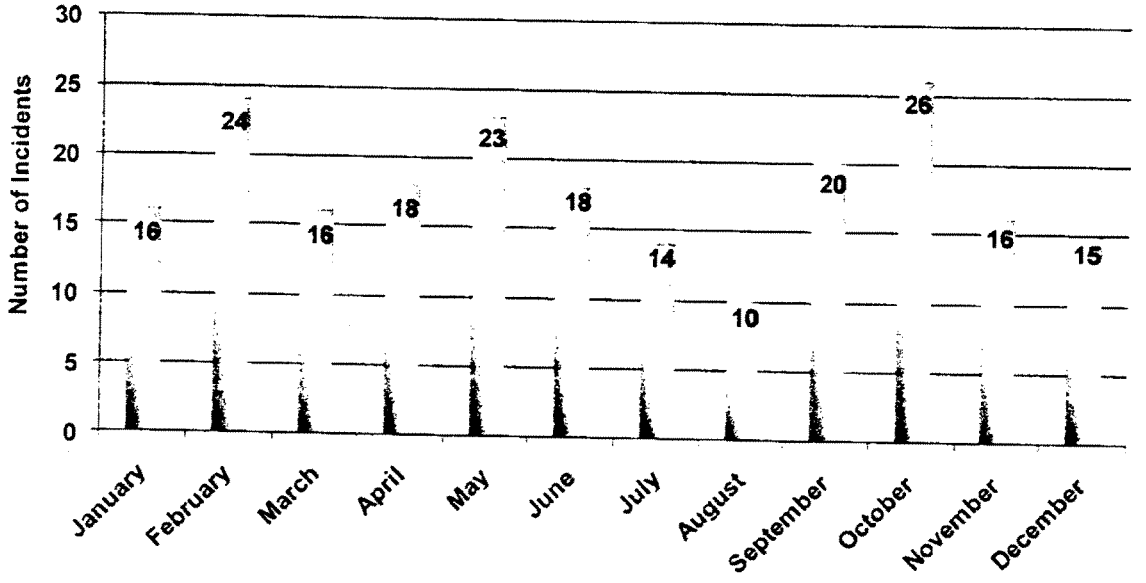
Figure 7.6 Unintentional Discharges by Day of the Week




## Unintentional Discharges by Month of the Year

Month of the year was available for all UDs. Figure 7.7 depicts the frequency of occurrence of all UDs by month of the year.

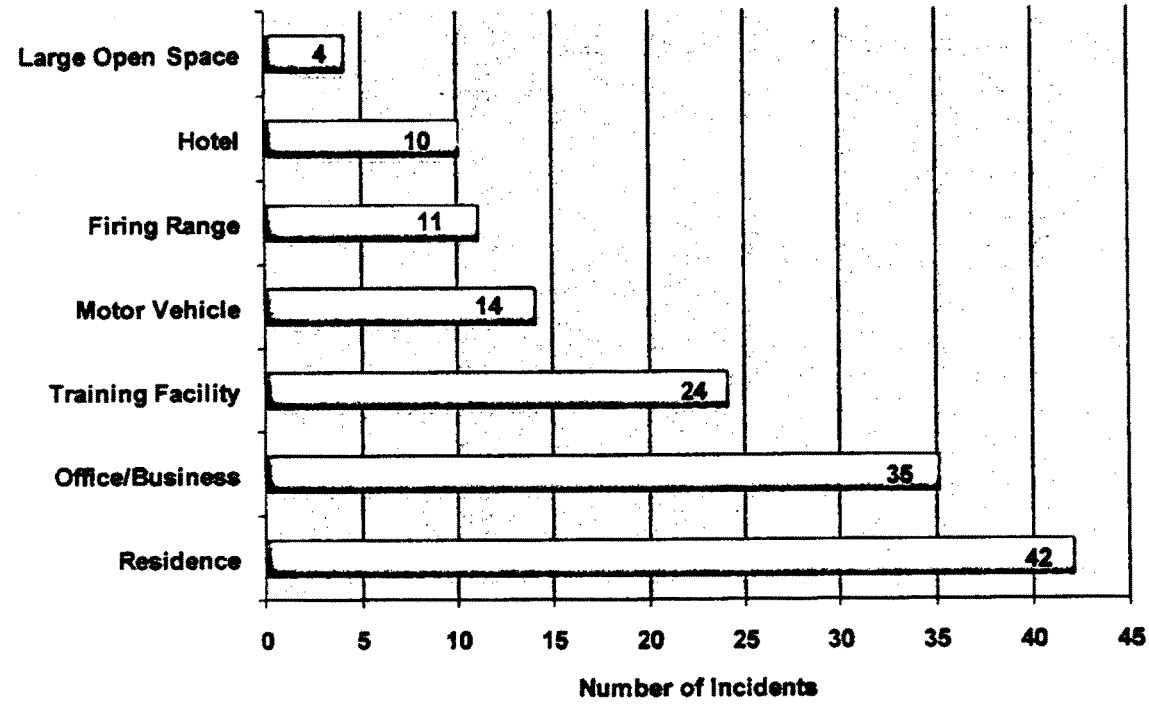
Figure 7.7 Unintentional Discharges by Month of the Year



## Environment and Location for Unintentional Discharges

Environment and location information was available for all UDs. Figure 7.8 depicts the number of UDs by location occurring in an inside environment.

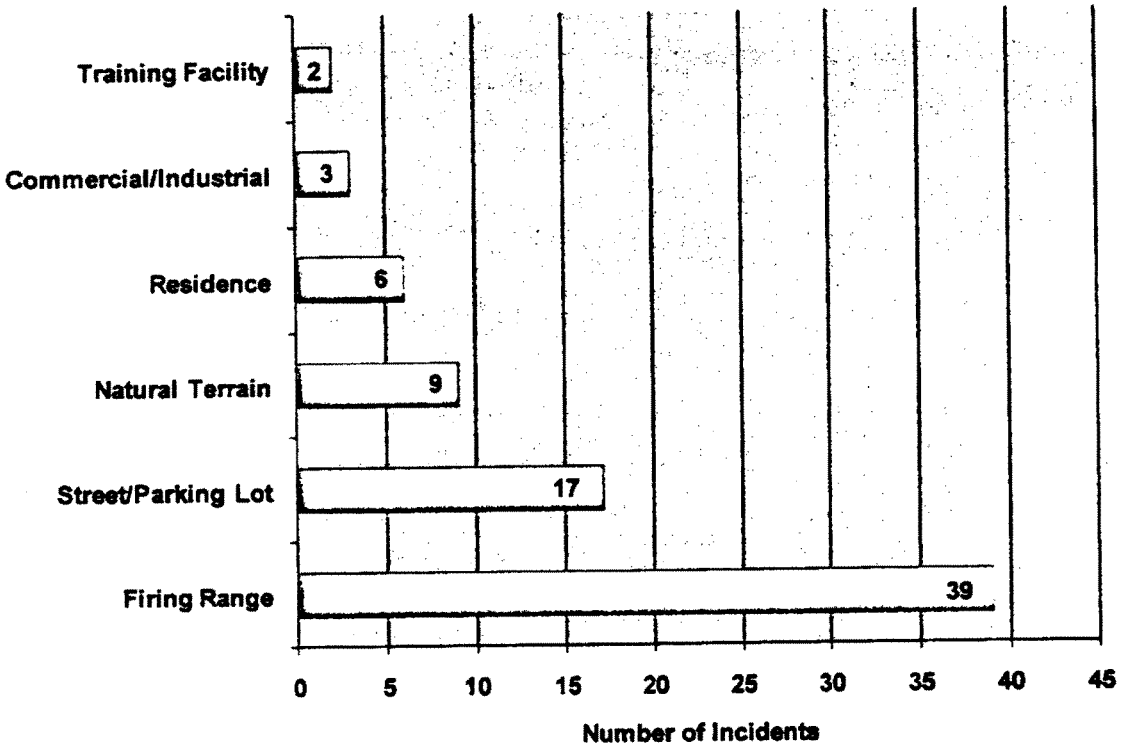
Figure 7.8 Inside Environment—Unintentional Discharges by Location




- Large Open Space: indoor parking garages, warehouses, indoor shopping malls, aircraft hangers, etc.
- Hotel: an establishment providing temporary lodging for a fee.
- Firing Range: includes law enforcement, military, and commercial ranges.
- Motor Vehicle: shooters inside a vehicle discharging a weapon either inside the vehicle or at a target outside the vehicle.
- Training Facility: any indoor law enforcement, military or commercial training facility, except indoor firing ranges.
- Office/Business: includes all commercial and government facilities where employees work or customers visit.
- Residence: single and multi-family homes, apartments, condominiums, and trailer homes.

Figure 7.9 depicts the number of UDs by location occurring in an outside environment.

Figure 7.9 Outside Environment—Unintentional Discharges by Location

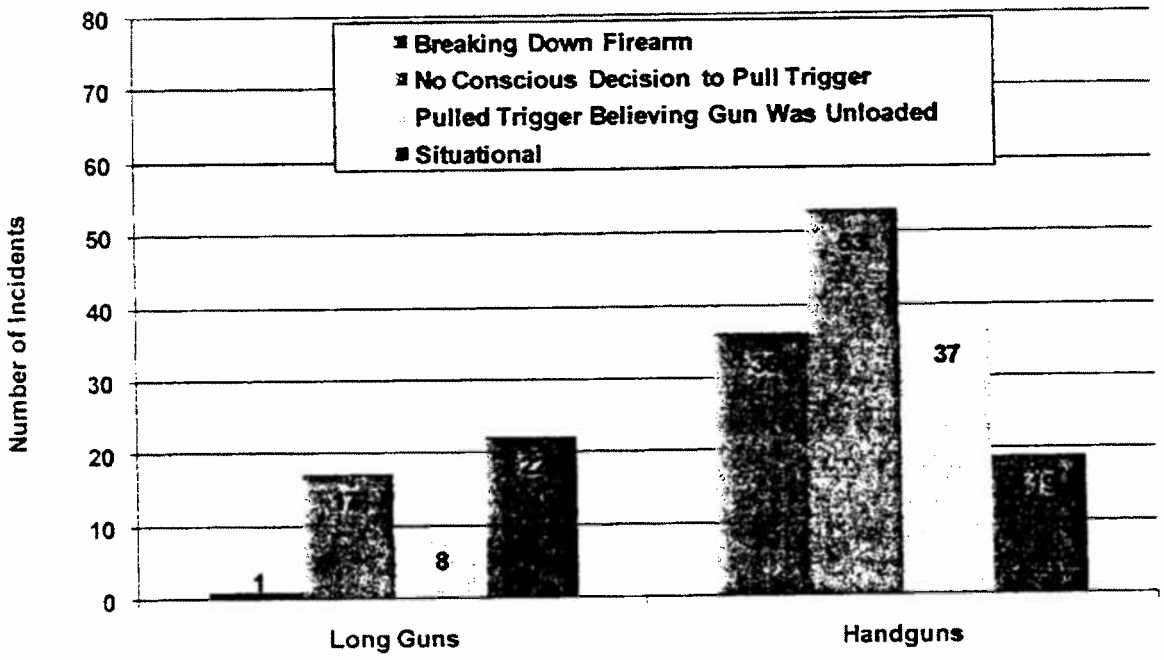



- Training Facility: any outdoor law enforcement, military or commercial training facility, but not outdoor firing ranges.
- Commercial/Industrial: most large, outdoor commercial facilities and areas such as rail yards, power stations, lumber yards.
- Residence: the perimeter or yard immediately outside or in the vicinity of a residence.
- Natural Terrain: wooded areas, rural and farm land, and mountainous areas.
- Street/Parking Lot: includes public space where vehicles routinely are driven or parked.
- Firing Range: includes law enforcement, military, and commercial ranges.

## Causes of Special Agent Unintentional Discharges

For the purpose of analysis, four categories were developed to capture the underlying cause of UDs. Figure 7.10 depicts the causes of UDs for Agents only. The chart further distinguishes between long guns (rifles, carbines, and shotguns) and handguns (revolvers and pistols).

Figure 7.10 Causes of Unintentional Discharges

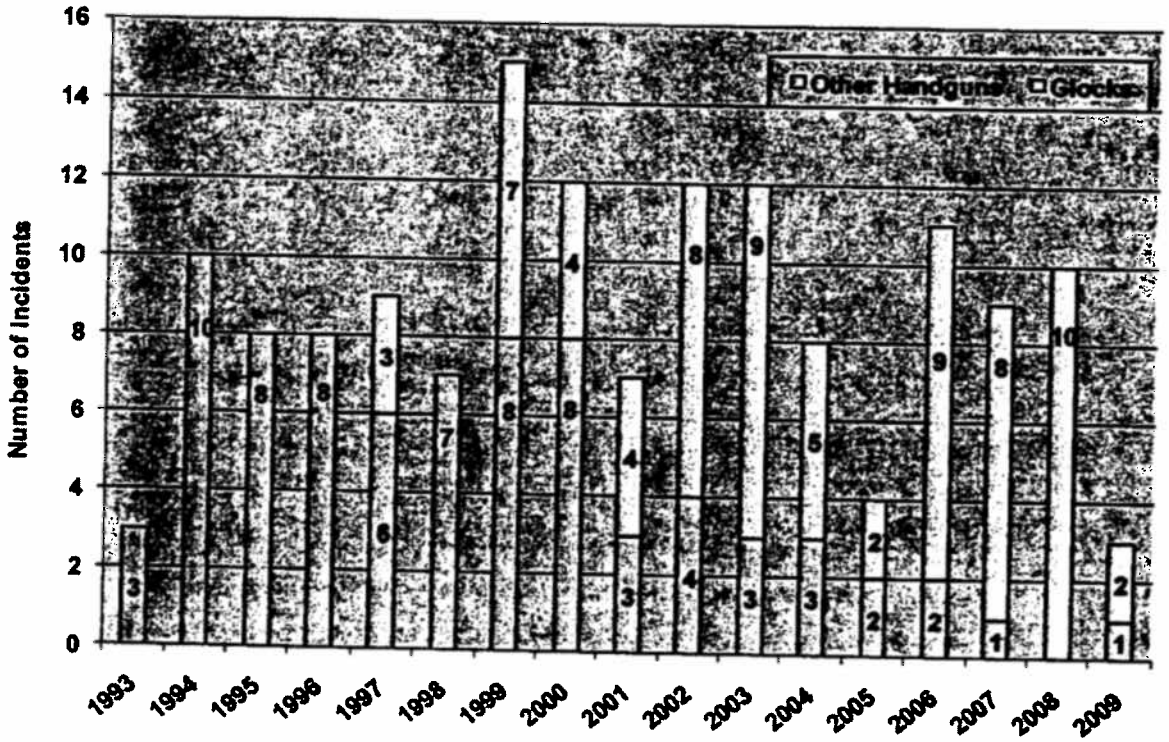



- Breaking Down Firearm: The shooter was intending to break down the firearm and did not intend to fire a live round (to include cleaning and safely storing the weapon).
- No Conscious Decision to Pull Trigger: The shooter did not recall pulling the trigger or could not explain how the weapon fired a live round.
- Pulled Trigger Believing Gun was Unloaded: Similar to Breaking Down Firearm, but for situations other than specifically doing so with the intention to disassemble the weapon (e.g., dry-firing).
- Situational: When some sort of outside stimulus caused the shooter to fire the weapon (e.g., hit by a vehicle).

## Unintentional Discharges by Handgun Types

In 1997, the FBI began an enterprise-wide transition to pistols manufactured by Glock. Figure 7.11 illustrates how the proportion of UDs involving Glock pistols has changed over time.

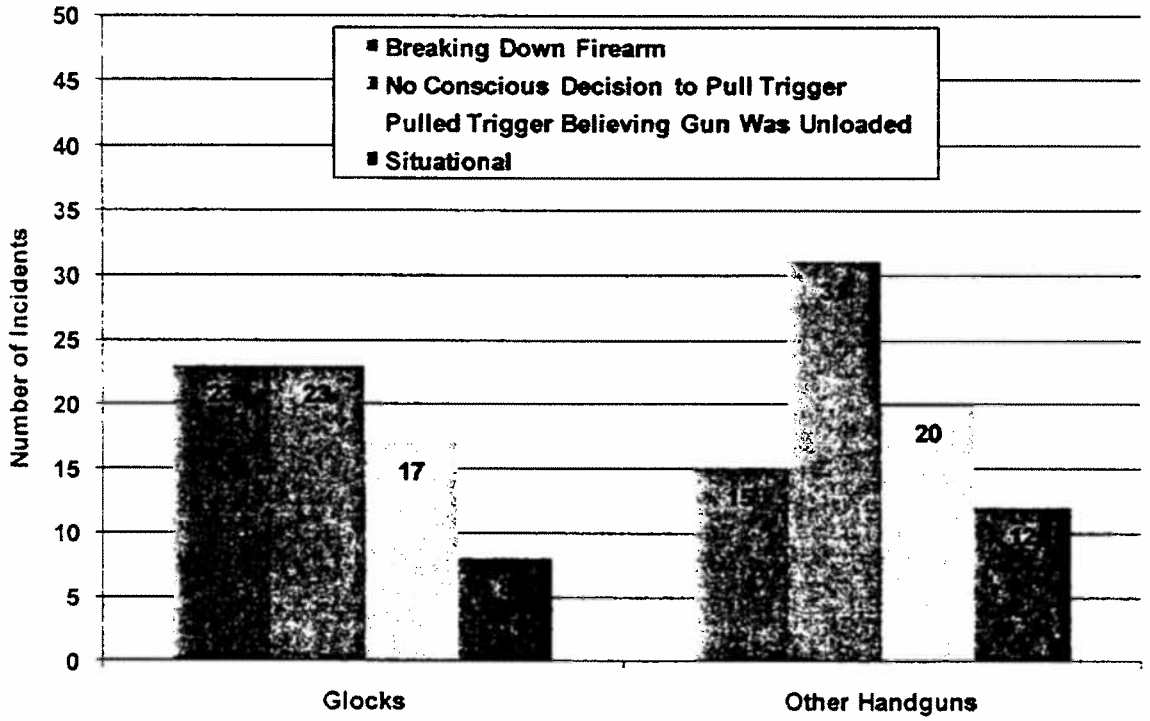
Figure 7.11 Unintentional Discharges—Glocks vs. All Other Handguns




A comparison to the Agent population helps put the above data into context. In 1994, the Agent population was approximately 9,780, the lowest number of Agents throughout the 17-year review period. There were ten UDs with handguns in 1994. In 2008, the Agent population was approximately 12,850, the highest number of Agents with the exception of 2009. There were ten UDs with handguns in 2008. Between 1994 and 2008, there was a population increase of approximately 31.4%. The proportion of UDs to Agent population in 1994 was 0.1% compared to 0.07% in 2008. As the Agent population has increased over time, UDs as a proportion of the population has decreased, despite the introduction of the Glock pistol.

Figure 7.12 illustrates the comparison of the causes of UDs between Glock pistols and all other handguns.

Figure 7.12 Causes of Unintentional Discharges—Glocks vs. All Other Handguns

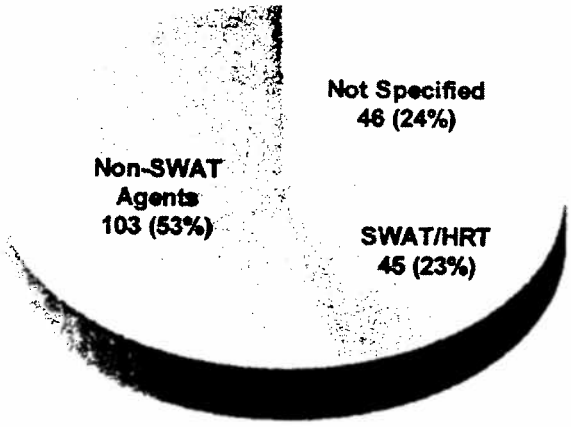



- Breaking Down Firearm: The shooter was intending to break down the firearm and did not intend to fire a live round (to include cleaning and safely storing the weapon).
- No Conscious Decision to Pull Trigger: The shooter did not recall pulling the trigger or could not explain how the weapon fired a live round.
- Pulled Trigger Believing Gun was Unloaded: Similar to Breaking Down Firearm, but for situations other than specifically doing so with the intention to disassemble the weapon (e.g., dry-firing).
- Situational: When some sort of outside stimulus caused the shooter to fire the weapon (e.g., hit by a vehicle).

**SWAT vs. Non-SWAT Agents Involved in Unintentional Discharges**

In Figure 7.13. Agent shooters involved in UDs were categorized based on whether they were SWAT/HRT Operators, Non-SWAT Agents, or Not Specified.

Figure 7.13 SWAT vs. Non-SWAT Agents Involved in Unintentional Discharges



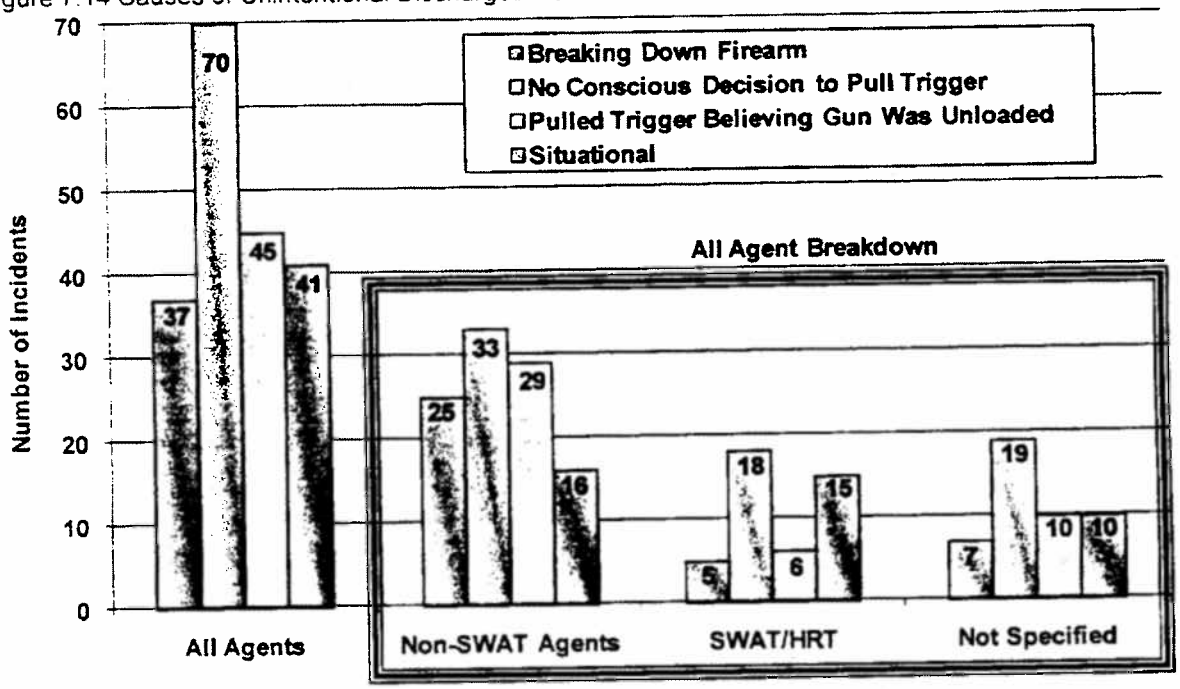

- Non-SWAT Agents: any Agent not assigned to SWAT or HRT at the time of the incident.
- Not Specified: Agents about whom there was insufficient information in the shooting incident report to make a determination.
- SWAT /HRT: all Agents who were active members of an FBI SWAT team or HRT, but not necessarily involved in a SWAT or HRT operation at the time of the incident.

In 2009, approximately nine percent of all Agents were SWAT operators, according to the SWAT Operations Unit (SOU). The demands of firearms training were much greater for SWAT and HRT operators than for Non-SWAT Agents. FBI SWAT teams conducted firearms training twice monthly until 2009, when the requirement was increased to three times per month. Additionally, SWAT teams were often deployed in field offices to handle a variety of operations, including arrests, protection details, and support for undercover operations. This increased the amount of time spent handling,

breaking down, and training with a firearm over that of a Non-SWAT Agent. Therefore, any conclusions drawn about the probability of a SWAT or HRT operator having a UD compared to a Non-SWAT Agent needs to consider these facts.

Figure 7.14 illustrates the comparison of the causes of UDs between SWAT/ HRT operators, Non-SWAT Agents, and Not Specified. The left side of the chart depicts the causes of UDs for all Agents. The three groupings of bars inside the box illustrate how the data for all Agents relates to the three personnel groups.

Figure 7.14 Causes of Unintentional Discharges—SWAT vs. Non-SWAT

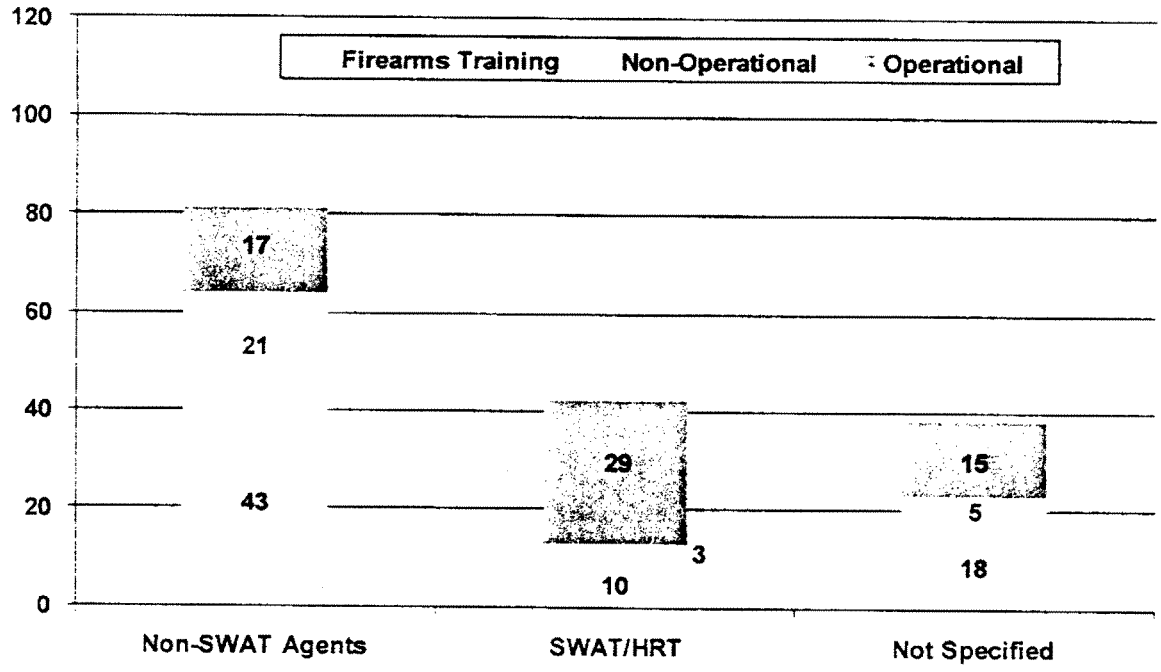



- Breaking Down Firearm: The shooter was intending to break down the firearm and did not intend to fire a live round (to include cleaning and safely storing the weapon).
- No Conscious Decision to Pull Trigger: The shooter did not recall pulling the trigger or could not explain how the weapon fired a live round.
- Pulled Trigger Believing Gun was Unloaded: Similar to Breaking Down Firearm, but for situations other than specifically doing so with the intention to disassemble the weapon (e.g., dry-firing).
- Situational: When some sort of outside stimulus caused the shooter to fire the weapon (e.g., hit by a vehicle).

## Duty and Operational Status for FBI Agents Involved in Unintentional Discharges

Of the 194 Special Agents involved in a UD, 33 (17.0%) were not on duty at the time of the incident. Figure 7.15 depicts the on duty type of activity of the remaining 161 (83.0%) Agents at the time of the shooting incident.

Figure 7.15 Operational Status of On Duty Agents Involved in Unintentional Discharges

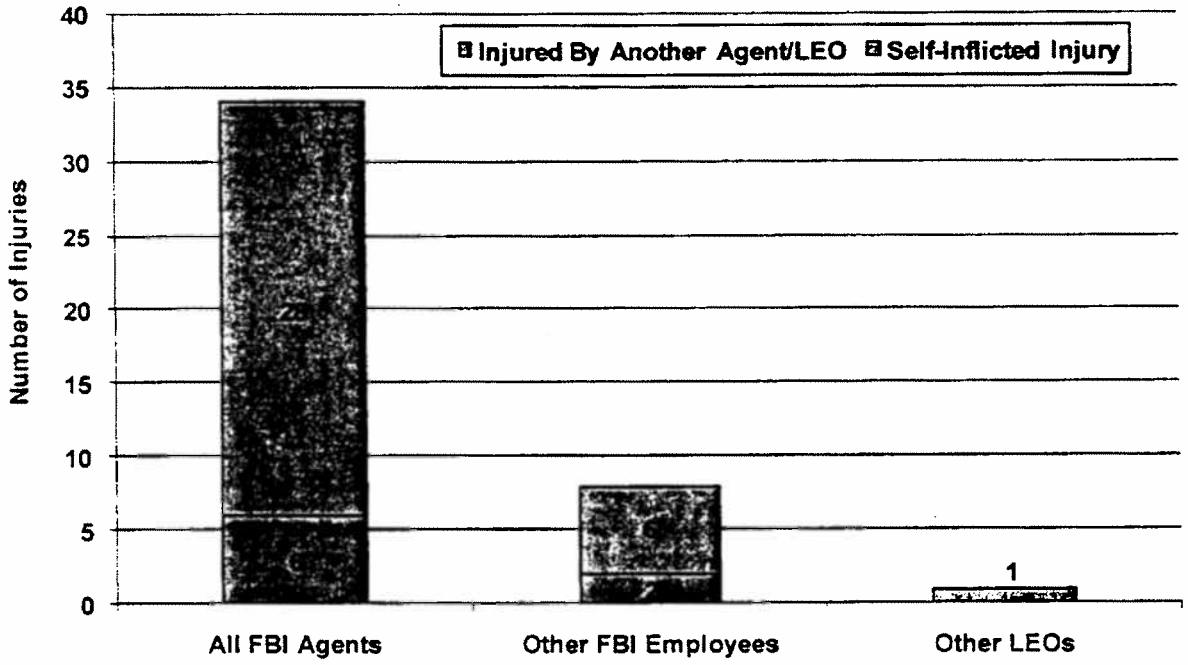



- Firearms Training: any qualification shoots or firearms training conducted at either an official FBI facility or any other firearms training site.
- Operational: any planned activity in which the shooter was acting in support of an investigation while on-duty.
- Non-Operational: any unplanned situation in which the shooter was not acting in support of an investigation, either while on or off duty.

### Injuries Caused by All Unintentional Discharges

Of the 216 UDs, 46 (21.3%) UDs resulted in an injury. The majority of these injuries were self-inflicted. Three subjects were injured by Agent UDs, which is not shown in the chart below. Figure 7.16 illustrates the injuries to Agents, LEOs, and Other FBI Employees caused by UDs. No deaths were attributed to UDs.

Figure 7.16 Injuries Caused by Unintentional Discharges



**Summaries of Unintentional Discharges Involving Special Agents**

The following summaries involving Special Agents were taken from the 17-year period. Summaries of incidents were chosen to provide examples of the varied situations in which UDs have occurred.

- Following a firearms qualification, an Agent decided to clean his/her Glock pistol at home. The Agent loaded the weapon, but engaged other Agents in conversation before leaving the range. The Agent then decided to clean the weapon at the range. Forgetting the weapon had been reloaded, the Agent pointed the weapon in a gun clearing barrel and pulled the trigger, discharging one round. No injuries were reported.

- During a felony car stop, an Agent exited a Bucar and gave verbal commands to the subject driver. Ignoring commands, the subject drove the vehicle towards the Agent. The Agent quickly moved to avoid being hit by the subject vehicle, but struck his/her extended gun arm on the door causing one round to be discharged into the subject's vehicle. No injuries were reported.

- Following the completion of a pistol qualification shoot, an Agent inserted a loaded magazine into his/her Glock pistol, but did not charge the weapon. Firearms training continued with the shotgun. After training was completed, the Agent retrieved his/her pistol. Forgetting he/she had earlier inserted a loaded magazine, the Agent pulled the slide and saw an empty chamber. The Agent released the slide forward, pointed the weapon down, and pulled the trigger, discharging one round. No injuries were reported.

- During the arrest of a fleeing subject, a pursuing Agent attempted to holster his/her pistol with one hand as he/she simultaneously reached for the subject with the other. As the Agent gripped the subject with one hand, the Agent's other hand tightened on the pistol, discharging one round. No injuries were reported.

- During a SWAT operation, SWAT Agents attempted to tear down a fence to gain entry to the target location. An Agent held an MP5 in his/her right hand with the safety disengaged, while using his/her left hand to pull down the fence. The Agent's right hand contracted and one round was discharged into the foot of a nearby Agent. The Agent was not aware he had discharged a round until it was discovered one round was missing from the magazine of the weapon after the operation.

- An Agent checked into a hotel room the night before a SWAT arrest. The Agent practiced dry-firing drills and completed function checks on two long guns and two pistols. Prior to retiring for the night, the Agent reloaded his/her Sig Sauer pistol and placed it on the night stand. Before climbing into bed, the Agent picked up the Sig Sauer pistol and, forgetting the weapon was loaded, aimed at the mirror in the room to conduct more dry-firing drills. The weapon discharged one round into the mirror. No injuries were reported.

- While driving his/her Bucar to assist in the surveillance of a Domestic Terrorism investigation, an Agent realized his/her personally-owned weapon was in the briefcase on the passenger seat. While continuing to drive, the Agent opened the briefcase, removed the pistol and attempted to place the pistol in the waistband of his/her pants. As he/she maneuvered the pistol into the waistband, the weapon discharged one round into the hip area of the Agent.

- An Agent was preparing to secure his/her Glock pistol with a trigger guard for the evening. The locking bar of the trigger guard was applied to the front of the trigger. As the Agent attempted to tighten the trigger guard, the pistol discharged one round. The Agent did not unload the weapon before applying the guard because he/she believed it would take too long to make the weapon usable if an emergency arose. No injuries were reported.

- While conducting surveillance on a residence, an Agent decided to begin disassembling his/her Glock pistol. The Agent ejected the magazine, but slid the magazine back into the weapon when the subject suddenly exited then re-entered the residence. The Agent turned his/her attention back to disassembling the pistol, and, believing the magazine had already been removed, pulled the trigger to remove the slide. The weapon discharged one round through the windshield and into a concrete structure. No injuries were reported.

- An Agent was providing a presentation on the FBI to middle school students. As part of the presentation on weapons used by the FBI, the Agent held a Smith and Wesson Model 13-3 aloft with the barrel pointed towards the ceiling. In order to demonstrate the rotation of the cylinder, the Agent pulled the trigger, discharging one round into the ceiling. The Agent had emptied the weapon before the presentation, but unintentionally left one round in the cylinder. No injuries were reported.

# VIII. Factoids

- Of the 188 Intentional Shooting Incidents, 73 (38.8%) incidents involved more than one Special Agent/LEO shooter. Forty-four of these 73 (60.3%) Intentional Shooting Incidents involved only multiple Special Agents firing weapons (no other LEO shooters).

- In five of the 188 (2.7%) Intentional Shooting Incidents, more than one subject discharged a weapon at law enforcement personnel.

- Of the 367 Special Agents who discharged a firearm in an Intentional or Animal Shooting Incident, 72 (19.6%) Special Agents reported making use of cover and/or concealment while firing their weapons.

- Of the 188 Intentional Shooting Incidents, there was an exchange of gunfire between Special Agent/LEO shooters and subjects in 58 (30.9%) incidents.

- Of the 367 Special Agents who discharged a firearm in an Intentional or Animal Shooting Incident, five (1.4%) were carrying a ballistic shield at the time of the incident.

- Of the 188 Intentional Shooting Incidents, ten cooperators (Confidential Human Sources) and seven Undercover Employees (UCEs) were known to have been *present at the scene* in 14 (7.4%) separate shooting incidents.

- Of the 188 Intentional Shooting Incidents, 29 (15.4%) were identified as SWAT operations and three (1.6%) were identified as HRT missions. Two of these shooting incidents involved both FBI SWAT and HRT operating on the same mission.

- The typical penalty received by Special Agents for an Unintentional Discharge: letter of censure, three days suspension, and remedial firearms training.